DAILY INFORMATION BULLETIN

ISSUED BY GOVERNMENT INFORMATION SERVICES
BEACONSFIELD HOUSE, HONG KONG. TEL.: 842 8777

Wednesday, May 3, 1995

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Government statement on CFA

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The following is a Government statement issued after the LegCo debate on the Court of Final Appeal today (Wednesday):

"The Government's position has been clearly stated by the Chief Secretary and the Attorney General in their speeches. We have not the slightest doubt that establishing the Court of Final Appeal (CFA) before 1997 is in the best interests of the people of Hong Kong, and that the only realistic way to do this is on the basis of the 1991 agreement.

"We are naturally disappointed that Mr McGregor's motion was not endorsed by LegCo.

"However, we are encouraged by the strong support that LegCo members gave to the idea of setting up the CFA as soon as possible, in alignment with the Joint Declaration and Basic Law. This is, of course, exactly what we are proposing to do.

"As the acting Chief Justice has reiterated today, it is important that the CFA should be set up in Hong Kong as soon as possible.

"If the CFA is not set up before 1997, there will be a judicial vacuum for several months before that date (when cases will not have time to be heard by the Privy Council) and for at least a year afterwards (until the Special Administrative Region sets up the CFA).

"The litigants involved (no matter how few they may be) have a right to be heard. It would also be detrimental to the Hong Kong legal system if it is deprived of decisions of the highest judicial authority, vital to the evolution of jurisprudence for Hong Kong.

"Furthermore, public and international confidence in Hong Kong's legal system would also be seriously undermined. Uncertainty is already having a damaging effect. There is clear evidence that contracts are being drawn up which avoid resort to Hong Kong courts in the event of dispute by providing for arbitration overseas - see, for example, the comments by Japanese Consul-General."

End/Wednesday, May 3, 1995

Early meeting on CFA urged

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The Governor, the Rt Hon Christopher Patten, today (Wednesday) said he hoped that it was possible to hold another expert meeting of the Joint Liaison Group as soon as possible to try and resolve the Court of Final Appeal issue.

The Governor was speaking to the media after a visit to the North District.

"We all thought that we had reached an agreement in 1991 and that's why we are surprised that having implemented that agreement faithfully in the bill that we passed to the Chinese side a year ago, we still haven't got their thumbs up for the bill," he said.

He noted that the Legislative Council was debating the issue today.

"It is a very important debate. We will be listening closely to what Legislative Councillors have to say," he said.

"I very much hope that Chinese officials will be listening to what the community in Hong Kong, businessmen in Hong Kong, the Chamber of Commerce for example, and businessmen outside Hong Kong are saying about the importance of this issue to our prosperity and stability."

In reply to a question on press reports about suggestion to "impose some kind of authority on top of the CFA", the Governor said: "I cannot conceive of us under any circumstances agreeing to something in talks which was against the letter and spirit of the Joint Declaration and the Basic Law. I repeat, they are absolutely clear about the independent judicial authority of Hong Kong, about the final jurisdiction in Hong Kong courts and absolutely clear as well about the continuance of the Common Law."

End/Wednesday, May 3, 1995

Transcript of Governor's media session

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The following is a transcript of the Governor's media session after visiting North District:

Governor: It's nice to be back in North District. The last official visits I made were in 1993. One for a general district visit like this, the other to see the consequences of the flooding. On those two occasions, the issues on which I was being most impressed were the building of the North District Hospital and I am delighted to see that that has started and is proceeding well and we hope that the hospital will be completed in 1997 and open in 98. There were two schools which the District Board were very concerned about and they've been completed. As for the flooding, part one of .. and training project, the work on the river, part one will start a little later this year and then we will get on with part two and three as rapidly after that as possible. Today, once again people were expressing, understandably, concerns about the flooding and were also expressing their anxieties about the Sha Tau Kok Road which will obviously have to carry a lot more traffic after the opening of the Northeaster New Territories Landfill. It does look as though the dualling of the road is lagging unfortunately behind the completion of the landfill project. So I take a very clear message from the district board that we've got to put our finger out on the road and get on with improving the road as rapidly as possible because soon there will be a lot more traffic on it, taking refuse up to the landfill dump.

Question: I've seen newspaper reports saying that actually China is not going to give the Court of Final Appeal final decision on some matters, especially on those politically sensitive issues. They are going to superimpose some kind of authority on top of the Court of Final Appeal. How do you react to that ? Do you think that it is true ?

Governor: Clearly, it's important for us to discuss these issues in confidence and try to reach agreement on them. We all thought we've reached an agreement in 1991 and that's why we are surprised that having implemented that agreement faithfully in a bill that we passed to the Chinese side a year ago, I repeat, a year ago, we still haven't got their thumbs up for the bill. We don't want to have an argument about this, we don't think there should be an argument about it. We think that the terms of the agreement and the terms of the Joint Declaration and the Basic Law are absolutely clear. Under the Joint Declaration and the Basic Law, Hong Kong, the Special Administrative Region of Hong Kong is guaranteed its own independent judicial authority with the powers of final adjudication and it's promised a continuation of the Common Law. If anyone was to suggest the sort of things which you mentioned, they would clearly fly in the face of those agreements. So clearly, the sooner we get on with the implementation into law of the 1991 agreement the better. It's not an arcane issue. It's not an issue which is just of concern to a limited number of lawyers or politicians. You think of the number of foreign businessmen who've talked about it recently. On the Chief Secretary's visit to Europe, the subject came up again and again. It was mentioned once more yesterday by the American Consul General in a speech that he gave in Hong Kong. It's been mentioned by the Japanese Consul General, mentioned by American businessmen, Japanese businessmen, German businessmen. It's an issue which goes right to the heart of Hong Kong's prosperity as an internationally recognised financial and business centre. So we're not looking for an argument. We just want to get on with the job and get the court set up as rapidly as possible.

Question: How can the Government guarantee judicial independence during the negotiation ?

Governor: Well, the Joint Declaration and the Basic Law are quite clear about the independence of the judiciary and I assume that no one is suggesting that Chinese officials would want to resile from that, would want to abandon that because were it the case it would be very serious for Hong Kong and I cannot believe that it would ever be the case.

Question: But the papers are saying that the Chinese side has made such a request during the JLG talks. If they really suggest so, what do you think Britain will do in order to stop them doing so ?

Governor: I think that the important thing for us to do is to get on with the expert talks on the CFA. We had a meeting last week. We asked for an early follow-up meeting. We wanted another meeting this week. I very much hoped that it will be possible to hold another meeting as soon as possible and to try to resolve the issues which are being discussed. What surprises us, I repeat, is that we believe and the whole community believes that an agreement was reached - a clear and explicit agreement - in 1991. The whole community also believes that both sides wish to continue to work within the terms of the Joint Declaration and the Basic Law. That's certainly the position of Hong Kong and it's certainly the position of Britain. And I assume and hope that it's the position of China too.

Question: Are you saying that Britain is determined to stop China from doing so through those talks?

Governor: What I am saying is that I cannot conceive of us under any circumstances agreeing to something in talks which was against the letter and spirit of the Joint Declaration and the Basic Law. I repeat, they are absolutely clearly about the independent judicial authority of Hong Kong, about the final jurisdiction in Hong Kong courts and absolutely clear as well about the continuance of the Common Law. The rule of law doesn't mean, just in case anybody should ever suggest it, that if you don't like what judges say, you have a second or third or fourth or fifth referee until you get the decision you want.

Question: We know the time is running short...

Governor: Yes, it is.

Question: But if the experts meeting has no result, will the government put the bill to the Legco before the end of the Legco year ?

Governor: We want, which is why we've been so patient, we want to proceed if we possibly can with agreement all round. We've worked for as broad a measure of support within the community as possible. That is why we've taken our time. We've given the Chinese side a year, repeat, a year to look at the Bill. It takes quite a long time to draft a bill as complicated as the one that's been put forward. It shouldn't take a year to read bill.

Question: Do you think there is a deadline for both sides to talk about the CFA again ?

Governor: I never like talking about deadlines. They make good headlines, but I don't think they make for a helpful negotiating atmosphere. But everybody knows what the realities in Hong Kong are and everybody knows that time is not our friend on this issue. The Legislative Council are debating it today. It is a very important debate. We'll be listening closely to what Legislative Councillors have to say, and I very much hope that Chinese officials will be listening to what the community in Hong Kong, businessmen in Hong Kong, the Chamber of Commerce for example, and businessmen outside Hong Kong are saying about the importance of this issue to our prosperity and stability.

Question: If the Legco votes down the 1991 agreement, what can the government do?

Governor: I don't think that it makes very much sense, given that I have enough problems to deal with anyway, to answer questions about hypothetical problems, so I very much hope that Legco will endorse the legislative proposals when we eventually put them forward.

Question: But in your personal opinion, do you think that the 1991 agreement should be voted down?

Governor: In my personal opinion ? Well, first of all I am not paid to have personal opinion. I am the Governor of Hong Kong. Any opinion you get is the governor's opinion. Secondly of course, I don't think that. The 1991 agreement was a good agreement and I stand wholeheartedly behind it. Anything else?

Question: There is another report saying the Government has considered seconding some officials to the preparatory committee which is to be set up early next year. What level should the officials be?

Governor: Well, what we're looking forward to doing is talking to Chinese officials about ways we can work with the preparatory committee and help the preparatory committee to do its job in laying the foundations as successfully as possible for the Special Administrative Region Government and administration. We're keen to help in every reasonable way we can, and the sooner we can start talking about that the better. But we haven't yet got into the business of putting forward specific proposals, though I would like to. It's the sort of thing that I would much enjoy talking to Director Lu Ping about when he is in Hong Kong. It's the sort of thing that I am sure the Chief Secretary will enjoy talking to him about, with her senior officials when he is in Hong Kong. I imagine he wants to talk about these things, but who knows? Thank you very much.

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Acting Chief Justice on CFA

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In response to press queries about reported comments made on the Court of Final Appeal (CFA) by Mr Anthony Neoh, the acting Chief Justice, Mr Justice Power, reiterated today (Wednesday) the importance of setting up the CFA before July 1, 1997.

"It is a matter of crucial importance that the CFA be set up well before July 1997," the acting Chief Justice said.

"The CFA will be the apex of the future judicial system. If it is not set up before 1997, there must inevitably be a judicial vacuum causing uncertainty and delay."

The acting Chief Justice said whatever the number of cases to come before the CFA, three main problems would emerge in the absence of a CFA.

"First, criminal cases will have to be held up. Persons pursuing appeals, particularly those not on bail, will have to wait much longer for their appeals to be finally determined simply because there will be no final appellate court," he said.

"The second problem relates to civil matters, particularly commercial disputes," he added.

"If there is no CFA, there will be no early resolution of commercial disputes which must affect the confidence of the business community in the administration of justice.

"The third problem arising from the vacuum will be the interruption of the flow of authoritative decisions on test cases which give guidance to the legal profession and the community generally."

The acting Chief Justice reiterated the point made by Sir Ti Liang Yang that it took time to set up the CFA and that the Judiciary would need up to 15 months before the CFA was able to function properly.

End/Wednesday, May 3, 1995

Public transport facilities for people with a disability

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The Governor, the Rt Hon Christopher Patten, is delighted to note that since 1992, the public transport operators have made their transport services more accessible to the vast majority of people with a disability.

Speaking at the Governor's third summit meeting with transport operators and representatives of people with a disability held this morning (Wednesday), Mr Patten said this was significant as it had taken other countries many years for the same development to take place.

The Governor heard progress reports given by the local transport operators, noting that more plans had been drawn up for the coming year.

He was pleased that the rail corporations had completed a number of trial schemes for improving the stations to facilitate travel for those with mobility difficulties and sight or hearing impairment, and that these schemes would be extended to more stations.

He noted that ferry piers and vessels had now largely been made wheelchair accessible, and people with a disability could obtain assistance at the piers. Improvements have also been made in trams.

The Governor heard that special passenger-friendly features had been adopted by the local bus companies for their new bus fleets. These would help not only those with obvious physical disabilities but would also benefit the elderly, parents with prams and young children.

He was delighted to hear that more improvements would be put in place in the future. He noted that it was very important to continue to build on the progress already achieved while at the same time giving transport operators time to resolve financial, technical and operational obstacles.

The Governor said it was very important to maintain a direct, constructive and on-going dialogue between the public transport operators and the disabled community.

The Governor summed up the meeting with the following points for further action:

* the guide book on public transport for the disabled would be updated;

* the rail corporations would evaluate their various trial schemes and expand their existing improvement programmes;

* a scheme would be drawn up for new low floor buses to be put into service on a trial basis;

* Rehabus services would be further expanded;

* a further summit would take place in a year's time to review progress.

Speaking at the same forum, the Secretary for Transport, Mr Haider Barma, said from a policy and planning point of view, it was important that the needs of the disabled were taken into account in the design and provision of new transport facilities.

"But, realistically, we also need to recognise and appreciate the constraints which face us.

"For example, I am sure the bus companies do recognise the problem for the wheelchair users. They are also keeping a close eye on the development of new bus models which will be wheelchair accessible. But changes involving the replacement of a bus fleet cannot be achieved overnight," he said.

Mr Barma said public transport operators in Hong Kong had a responsibility to carry some 10 million passengers around the city everyday.

"In that process they are trying their best to ensure that those with a disability are not denied the opportunity to use public transport. A carefully balanced approach needs to be taken.

"But what is encouraging is the determination to press ahead and experiment," he said.

Mr Barma added that over the past year, the Transport Branch had held meetings with transport operators and disabled groups to review plans and to explore what more could be done.

"We are delighted to be a partner to continue to co- ordinate, establish standards, and work out an agreed implementation programme.

"This concerted effort is extremely important, and all parties should work together," he said.

The Secretary for Health and Welfare, Mrs Katherine Fok, reported that since 1992, scheduled Rehabus routes increased by 20 per cent from 34 to 41 routes. Also, the Dial-A-Ride Service had gone up by 30 per cent in the number of passenger trips. She added that she intended to bid for more resources to expand these services further.

Commenting on the Disability Discrimination Bill, which was introduced into the Legislative Council today, Mrs Fok said the Bill would provide a means of redress if reasonable requests from disability groups were not met by equally reasonable response.

"We hope to see all parties working constructively towards a practical and balanced programme of change to enhance the accessibility of public transport.

"We aim through the Bill to achieve a fair balance between the needs of disabled people and the rest of the community," she said.

Following the meeting, the Governor toured an exhibition and demonstration of buses with passenger- friendly features. A private passenger car and a motor tricycle specially modified for use by disabled drivers were also displayed.

End/Wednesday, May 3, 1995

Governor visits North District

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The Governor, the Rt Hon Christopher Patten, was briefed and saw some of the latest developments in North District today (Wednesday).

He started the visit at a vantage point for an overview of the North East New Territories Landfill in Ta Kwu Ling. The huge landfill is being developed under the Strategic Waste Disposal Plan and will start receiving waste in July.

The Governor then visited Kan Tau Wai Village in Ta Kwu Ling and Tang Chung Ling Ancestral Hall in Lung Yeuk Tau, Fanling.

Mr Patten showed great interest in the ancestral hall, which was built in 1525 to honour the founding ancestor of the Tangs. Its shape and main features have remained essentially the same as originally constructed.

He later toured the Shek Wu Hui Complex in Sheung Shui - the first air-conditioned public market in the New Territories built by the Regional Council.

Before concluding his visit, Mr Patten met with district board members and local community leaders at North District Community Centre.

The Governor was accompanied during his visit to North District by the Director of Home Affairs, Mr Joseph W P Wong; the North District Officer, Mr Timothy Tong; and the North District Board Chairman, Mr Tang Kwok-yung.

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Temporary accommodation offered to tenants

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Tenants of a Fuk Wa Street flat in Sham Shui Po have been offered temporary accommodation in a transit centre in Ma On Shan after electricity supply to their premises was cut off before the owner repossesses the premises.

The tenants sought help today (Wednesday) from the Sham Shui Po District Officer, Ms Linda Lai, who explained that the assistance was being offered to the tenants despite the fact that the premises was not a bedspace apartment.

Ms Lai said the Home Affairs Department's Licensing Authority conducted detailed inspections of the premises in March and found that it was being rented out on a room basis.

She pointed out that the operator of the premises was informed in writing by the Licensing Authority on March 13 that the premises was outside the scope of the Bedspace Apartments Ordinance.

Nevertheless, she advised the tenants with financial difficulties to approach the Social Welfare Department for assistance, which may include compassionate rehousing in deserving cases.

Ms Lai added that three cases had been referred by the Social Welfare Department to the Housing Department for consideration, with one case having been approved for compassionate rehousing while the two others still under consideration.

In response to the tenants' complaint on termination of their electricity supply, Ms Lai advised them to report the matter to the police as this might constitute a case of harassment under the Landlord and Tenant (Consolidation) Ordinance.

A convicted offender would be liable to a fine of $500,000 and, on subsequent conviction, to imprisonment for 12 months.

Meanwhile, Ms Lai assured that she would liaise with the China Light and Power Company to see if electricity could be restored to their premises as soon as possible.

The meeting, arranged by the district office, was also attended by representatives from the Social Welfare Department and the Police.

End/Wednesday, May 3, 1995

ExCo members visit Customs and Excise

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Five unofficial members of the Executive Council this (Wednesday) afternoon visited the Customs and Excise Department and had a close look at the work of the Customs Drug Investigation Bureau.

The members were Baroness Dunn, Ms Rosanna Wong, Professor Edward Chen, Professor Felice Lieh-mak and Mr John Gray.

The Executive Council party first visited the Customs and Excise Headquarters at Harbour Building and were met by the Commissioner Mr Don Watson and Deputy Commissioner Mr Lawrence Li on arrival.

They were briefed on the functions and responsibilities of the department by the Commissioner and other directorate officers.

The members then went to the Customs Drug Investigation Bureau on the 10th floor, Rumsey Street Car-Park Building in Central.

They were briefed by Senior Superintendent (Drugs), Mr Chow Kwong, on the work of the bureau and the measures taken to combat the importation of drugs into the territory.

The members were told the Customs and Excise Department had achieved quite a satisfactory result in interdicting the importation of illicit drugs last year. Over 1,100 kilograms and 167,000 tablets of drugs were seized.

A new team will commence operation early next year to enforce additional control measures on chemical precursors used in manufacturing narcotic drugs and psychotropic substances.

After the briefing, the members saw some of the exhibits of drug seizures by Customs officers.

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Two New Territories lots to Let

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

Located in Sai Tso Wan Road, Area 16, Tsing Yi, the first lot has an area of 2.34 hectares for storing empty containers.

The tenancy is for three years, renewable quarterly.

The second lot is situated at Fung Shue Wo Road, Area 8, Tsing Yi, having an area of 2,710 square metres for open storage of goods including licensed or unlicensed vehicles, but excluding containers, container tractors and trailers and scrap yard.

The tenancy is for two years, renewable quarterly.

Closing date for submission of tenders for two lots are noon on May 19.

Tender forms, tender notice and conditions may be obtained from the District Lands Office, Kwai Tsing, and 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 the offices.

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Hong Kong Monetary Authority money market operations

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	$ million	Time (hours)	Cumulative change ($million)
Opening balance in the account	2,231	0930	+310
Closing balance in the account	1,311	1000	+310
Change attributable to :		1100	+320
Money market activity	+326	1200	+338
LAF today	-1,246	1500	+338
		1600	+326

LAF rate 4.25% bid/6.25% offer TWI 118.2 *-0.3* 3.5.95

Hong Kong Monetary Authority

EF bills		EF notes/Hong Kong Government bonds				
Terms	Yield	Term	Issue	Coupon	Price	Yield
1 week	5.72	19 months	2611	6.90	100.75	6.48
1 month	5.70	22 months	2702	7.50	101.69	6.59
3 months	5.75	30 months	3710	7.25	101.07	6.89
6 months	5.85	36 months	3804	6.90	99.85	7.08
12 months	6.17	59 months	5003	7.75	101.08	7.62

Total turnover of bills and bonds - $ 16,572 million

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SUPPLEMENT

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Chief Secretary on Court of Final Appeal
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Following is the speech by the Chief Secretary, the Hon Mrs Anson Chan, in the Legislative Council motion debate on the Court of Final Appeal (CFA) today (Wednesday):

Mr President,

Introduction

All of us know that one of the key elements of Hong Kong's success has been the rule of law and judicial independence. Both the Joint Declaration and the Basic Law specifically provide for the continuation of these systems beyond 1 July 1997, with one important change. Appeals from the courts of Hong Kong may currently be made to the Privy Council in London, but this arrangement must cease not later than 1 July 1997. Both the Joint Declaration and the Basic Law state that the power of final adjudication of the Hong Kong Special Administrative Region (HKSAR) shall be vested in the Court of Final Appeal (CFA) of the Region, which may as required invite judges from other common law jurisdictions to sit on it.

Early Establishment of the CFA

The Joint Declaration and the Basic Law both provide that the CFA would be in operation in Hong Kong after 30 June 1997. But after the Joint Declaration was signed in 1984, it became clear to us that it would be much more sensible to set it up before 1997. If this was not done, there would be a period both before and after 30 June 1997 when it would not be possible to seek a final adjudication. Before 30 June 1997, because cases can take up to a year to be heard by the Privy Council. After that date, because it would obviously take the SAR Government some time to set up the CFA. That was why we began negotiations with the Chinese side in 1988.

The 1991 JLG Agreement

In September 1991, after the subject had been discussed by the two Prime Ministers in Peking, we reached an agreement in the Joint Liaison Group (JLG) on the early establishment of the CFA before 1997, including an agreement on the composition of the Court. According to this agreement, the CFA, in every sitting, should be composed of the Chief Justice, 3 permanent Hong Kong judges, who could be either local or expatriate, and 1 non-permanent judge selected from either a list of non-permanent Hong Kong judges or from a separate list of judges from other common-law jurisdictions.

Unfortunately this agreement did not meet with universal approval. In December 1991, this Council passed a motion in favour of greater flexibility in the appointment of overseas judges to the CFA. This motion was based on the assertion that the 1991 JLG agreement was inconsistent with the Joint Declaration and the Basic Law. However, this assertion which has been repeated today by Mr Martin Lee is not correct. The Attorney General will elaborate on the legal arguments later. All I will say now is that it is frankly inconceivable that the 1991 agreement would have been made if either Government had believed it to be inconsistent with the Joint Declaration and the Basic Law. We believed at that time, and we still firmly believe now, that the agreement is fully in accordance with the Joint Declaration and the Basic Law.

Much has happened since December 1991. The Chinese side have made it clear, both publicly and privately, that they are not prepared to re-negotiate the 1991 agreement, and that a CFA set up on any other basis will not survive 1997. But, so far as I am aware, there is universal agreement that we should if at all possible set the CFA up before 1997. Accordingly, the Administration remains convinced that it would be in the best interests of Hong Kong to stand by our commitment to establish the CFA before 1997 on the basis of the 1991 agreement. We therefore strongly support Mr Jimmy McGregor's motion.

Mr Moses Cheng and Mr Martin Lee have both proposed deleting the last part of the motion which refers to the 1991 JLG agreement. As I have said, the Administration is committed to establishing the CFA on the basis of the 1991 agreement. Not only is the agreement consistent with the Joint Declaration and the Basic Law, but it is, as Members of this Council know well, the only realistic basis on which the CFA can be set up before 1997. It is, in other words, the only basis for the early establishment of the CFA that both Mr Cheng and Mr Lee - and, I am sure, other Members of this Council - wish to see. So the ex-officio members will vote against both these amendments, and I call upon other members of the Council to do the same.

<u>The present position</u>

Mr McGregor's motion urges the Government to set up the CFA at the earliest opportunity. That is, and has always been, our aim. As members will know, we have drafted a CFA Bill, which we handed to the Chinese side on 5 May last year. We also sought the views of the legal profession on the draft Bill last November. Both the Bar Association and the Law Society supported the establishment of the CFA before 1997. Both also suggested a number of technical amendments to the Bill. We considered these very carefully, and accepted some of them. These we handed to the Chinese side in January.

Since receiving the draft Bill, the Chinese side have asked us a total of 28 questions, in 4 batches. We answered them all fully and promptly. The experts of the two sides met on 24 March this year and again on 27 and 28 April. At the latest round of expert talks we made progress. We gave the Chinese side further amendments to the draft Bill in response to suggestions and comments that they had made at the previous round of talks. The Chinese side at last produced a full and clear statement of their outstanding concerns, some of which we were able to deal with on the spot. Both sides welcomed the progress that had been made and agreed that the momentum achieved should be maintained. We proposed that a further expert meeting should take place as soon as possible, but the Chinese side were unable at that stage to agree to a specific date. We are now awaiting confirmation from them of when they will be ready for the next meeting.

Way forward

So that is where we are now. We are committed to introducing the CFA Bill into this Council, in order to implement the 1991 agreement and establish the CFA before 1997. We would like to have introduced the Bill in February, but we have deferred doing this, in order to give the Chinese side as much time as we reasonably can to study the Bill and confirm that they are content with it. They have had the Bill for almost a year now.

The time constraints facing us are very real. Because appeals to the Judicial Committee can take up to a year to be heard, it is important that the CFA should be operating by about July 1996. And the Judiciary will need at least a year after the Bill is enacted to put the practical arrangements in place and to have the CFA up and running. They will have to fit out the premises for the Court, select and appoint the judges - both in Hong Kong and from overseas, draw up detailed rules of procedure and enshrine them in subsidiary legislation. This all means that the CFA Bill must be enacted before the end of the current session. We recognise, of course, that Honourable Members will wish to have a reasonable amount of time to study this important Bill. So we must introduce the Bill into this Council as soon as we possibly can.

This timetable is not one we have invented to put pressure on the Chinese side, or indeed on Members of this Council. It simply reflects what needs to be done if we are to meet our obligations under the 1991 agreement and establish the Court before 1997. If we fail to meet this timetable and the Bill is not enacted by the end of this session, it will need to be introduced into the new session of LegCo. But the new LegCo will not meet until October, and, as Members know, the first month or so of each session is devoted largely to the debate on the Governor's Policy Address. Even if we introduced the Bill at the first possible opportunity, it is not realistic to imagine that it would be enacted before the beginning of 1996, at the very earliest. This would mean a delay of at least 6-9 months. It would then be very difficult to set the CFA up before 1 July 1997.

This delay would simply not be acceptable. We would be rightly criticised for not meeting our obligations under 1991 agreement. And we would already be in a situation where appeals going to Privy Council would not be heard before 30 June 1997. That is why, if the Chinese side do not tell us very soon that they are content with the draft Bill, we will have to face the difficult decision of whether to continue to wait for Chinese agreement, or whether to introduce it into this Council anyway in order to meet our obligations under the 1991 agreement and to set up the CFA as soon as possible before 1997, and to do what we believe best for the people of Hong Kong. We hope, naturally, that we do not have to make this decision. And we still believe that, although the time available is now very limited, it should be sufficient to allow us to complete our work in the expert group talks, provided that both sides are willing to work positively and quickly in a spirit of good-will and co-operation.

But the stakes are high. Delaying the Bill beyond the end of this session would mean losing the continuity that the 1991 agreement was meant to provide. We would then be facing the problem of a judicial vacuum that we have worked so hard to prevent. But that, to my considerable astonishment, seems to be what Mr Simon Ip is proposing.

Some have argued that it does not matter much if there is no CFA before 1997 because the number of cases likely to come before it is small and because the Chinese side have said that the SARG will set the CFA up on 1 July 1997. The Administration cannot agree. The fact is that I have said before, if the CFA is not set up before 1997, there will be a judicial vacuum at the apex of our judicial system. This would seriously undermine public and international confidence in Hong Kong. Honourable Members will be aware that the business community, both in Hong Kong and overseas, have expressed considerable concern about this problem. And this concern is being translated into action. It is clear that, as the Japanese Consul-General has pointed out this week, increasing numbers of investors are now insisting on disputes over their contracts being litigated outside Hong Kong or being subject to arbitration, so that they do not come within the jurisdiction of the Hong Kong courts. In other words, one of the key reasons for Hong Kong's success as a premier business location is being undermined.

Nor is that all. A failure to set the CFA up before 1997 would affect the people of Hong Kong in more direct ways. It would mean denying justice to the litigants involved. As a fundamental matter of principle, this would be wrong, no matter how few of them there may be. Test cases which need the most authoritative decisions from the highest court would also have to wait, and Hong Kong's legal system would be deprived of the important points of law that arises from these cases. And, of course, there would be complete uncertainty over when and on what basis the CFA would be established by the HKSAR after 1 July 1997.

I find it hard to believe that this is what Mr Simon Ip wants. Yet that is the risk we would be running if his amendment was passed. Whilst we will continue to work very hard for an agreement in the JLG, we cannot guarantee that we will get one in the timeframe available.

Conclusion

The issue before this Council today is a simple one, but a very important one. It is an issue that must be faced and faced squarely now. Do we, or do we not, want a CFA set up before 1997? The Administration's answer is an unequivocal "yes". We are fully convinced that a CFA established before 1997 is in the best interests of the people of Hong Kong. As a party to the 1991 Agreement, and from subsequent public statements, this view is shared by the Chinese side. And, as I have already pointed out, the only realistic way to do this is on the basis of the 1991 agreement. There is nothing to be gained by further delay.

I therefore strongly urge the Members of this Council to support Mr McGregor's motion. That will give the people of Hong Kong, and international investors, a clear signal that this Council is committed to the rule of law, and that its Members are prepared to do their part in ensuring continuity in the judicial system in Hong Kong during the transition in 1997.

End/Wednesday, May 3, 1995

AG on Court of Final Appeal

* * * * *

Following is the speech by the Attorney General, the Hon Jeremy Mathews, in the Legislative Council motion debate on Court of Final Appeal today (Wednesday):

Mr President,

There are few current issues, if any, that are of more importance to our legal system and to the rule of law than the establishment of the Court of Final Appeal. The legal and at times passionate debate this afternoon and this evening there are eloquent testimony to that. The Chief Secretary has spoken earlier of the overwhelming need to establish the court as soon as possible. The speeches today have demonstrated that there is a clear consensus in this Council on that point.

There is also a clear consensus that the court must be established in alignment with the Joint Declaration and the Basic Law. However, there is agreement now, as there was in December 1991 as to whether the Court of Final Appeal should also be consistent with the agreement reached in the Joint Liaison Group in September 1991. Before I address the arguments against that agreement, let me make it quite clear that the Hong Kong Government cannot responsibly ignore or advise this Council or the community to treat as non-existent an international agreement binding on the two sovereign powers responsible for our transition.

Those who disagree with the 1991 JLG Agreement, rely on two main arguments. The first is that they consider the 4 plus 1 composition of the court, provided for in the JLG agreement, as a poor composition. They would like the court to have greater flexibility to invite overseas judges to sit on the court. That may be so. But the inescapable fact is that the JLG agreement cannot be renegotiated, as we have made plain on more than one occasion. Moreover, the 4 plus 1 composition is a perfectly acceptable way of implementing the provisions of the Joint Declaration and the Basic Law that provide for judges from other common law jurisdictions to sit on the Court of Final Appeal. It will enable the court to benefit from the experience of eminent overseas judges in particular cases, and will assist in maintaining the links between our own legal system and other common law jurisdictions. There is no merit, there is no merit, in rejecting the JLG agreement simply because some would prefer the court to be able to invite more than one overseas judge to hear any particular case.

Several members have commented on the quality of the judges of the Court of Final Appeal by way of comparison with the judges of our present Court of Appeal. Their remarks may be regarded by some as being somewhat derogatory. I strongly deprecate any remarks which may have the effect of cheapening or devaluing the Court of Appeal. Such remarks are inappropriate, since they may have the effect of lowering the public's confidence in our courts. Some members have pointed out that the judges of the Court of Final Appeal are likely to be drawn from the Court of Appeal. They suggest that the absence of a Court of Final Appeal should not therefore create any problem as the Court of Appeal will simply act as the highest appellent court. Mr President, this argument is seriously fraud. In other common law jurisdictions, it is usual for the judges of the highest court to be drawn from the court below, so that judges and the Privy Council are drawn from the English Court of Appeal. That does not mean that those jurisdiction could simply do without the highest court. The strength of the judiciary in any jurisdiction depends not only on the quality of its judges, but also on the system of appeals. The existence of an appellate court above the first court of appeal makes it possible for points of law of public importance to be identified precisely for the legal arguments about them to be fully refined and for the second appellate court to reach a decision that create a binding precedent for lower courts including the first court of appeal. It is therefore quite wrong to suggest that the Court of Appeal would be an adequate substitute for a Court of Final Appeal.

Legality of JLG agreement

The second objection to the 4 plus 1 composition is based on the assertion that it is inconsistent with the Joint Declaration and the Basic Law. Were this so, it would indeed be wrong to implement the JLG agreement. The Administration and this Legislative Council should on no account support any breach of those vital documents. But what is the basis for the assertion of such a breach?
Let me set out some of the arguments.

Arguments against

First, some rely on the use of the plural "judges" in the Joint Declaration and the Basic Law and say that the 4 plus 1 agreement does not allow "judges", but only one judge, to sit on the court. This is a superficially attractive argument, but it is wrong. The provision in the Joint Declaration and the Basic Law is to be interpreted as meaning that in the cases that it hears the court may invite overseas judges. The 4 plus 1 formula satisfies this meaning. Under that formula, the court can invite overseas judges (in the plural) to sit on the court, albeit not more than one for each case. Even Professor Wade, whose opinion was relied upon by opponents of the 4 plus 1 formula in December 1991, concedes this point as Mr Simon Ip has pointed. And since he pointed it out some time ago, I'll repeat it for you. In his latest opinion Professor Wade says this -

> "While I see the force of the argument based on the use of the word "judges" in the plural in Article 82 of the Basic Law, I do not think it is conclusive, since it would be natural to use the generic plural so as to leave the number of overseas judges open, to be prescribed by a further law under Article 83, and the plural need not necessarily mean a plurality on any one occasion."

A second argument used to impugn the legality of the 4 plus 1 composition is a reference to the "spirit" of the Joint Declaration and the Basic Law. Mr President, as any lawyer knows, when a person relies on the "spirit" of a document it is a clear indication that he or she is on weak ground and cannot rely on any express provision that assists his or her argument. In the case of the Court of Final Appeal, we are told the "spirit" of the Joint Declaration and the Basic Law is the high degree of autonomy granted to the Hong Kong Special Administrative Region, plus the guarantee of judicial independence and of continued links with the rest of the common law world. It is then argued, by some, that the 4 plus 1 formula is in breach of this spirit. But there is absolutely nothing in the 4 plus 1 formula that prejudices Hong Kong's high degree of autonomy, judicial independence or continued links with other common law jurisdictions. The argument based upon the spirit of the Joint Declaration and the Basic Law therefore has no substance.

A third argument against the 4 plus 1 formula is that the JLG has no power to amend the Joint Declaration. This argument depends, of course, on the assumption that the 4 plus 1 formula is not consistent with the Joint Declaration, an assertion that I have already demonstrated to be false.

On analysis, the arguments that the 4 plus 1 formula is inconsistent with the Joint Declaration and the Basic Law prove to be ill-conceived. May I remind members that the JLG agreement was entered into by representatives of the two Governments that signed the Joint Declaration. Let me repeat and emphasise what the Chief Secretary said earlier in this debate, that it would have been unthinkable, inconceivable for any government to have entered into the JLG agreement unless it was satisfied that it was fully consistent with the Joint Declaration.

Arguments in favour

Mr President, I now turn to arguments in favour of the JLG agreement. Recently, the British government has taken the unusual step of issuing a statement, approved by Ministers, setting out the reasons why the 4 plus 1 formula is not inconsistent with the Joint Declaration and the Basic Law. This reads follows.

Both the Joint Declaration and the Basic Law are, in respect of the Court of Final Appeal, framework provisions which are intended to be fleshed out by more detailed legislative provisions. In particular they leave the detailed composition and workings of the CFA to be defined at a later date. They do not specify, for example, the number of judges who are to sit in the CFA. It does not follow that all such matters are left to the unfettered discretion of the court itself. It is clearly contemplated that they will be the subject of further legislative provision. Let me remind members that Article 83 of the Basic Law provides that:

> "The structure, powers and functions of the courts of the Hong Kong Special Administrative Region at all levels shall be prescribed by law."

The British Government's statement also rejects the argument that there is any special significance in the use of the word "judges" (in the plural) in the Joint Declaration and the Basic Law. I have already dealt with that point. The statement also refers to the Vienna Convention on the Law of Treaties.

Article 31 of the Vienna Convention codifies customary international law for the interpretation of treaties. This applies to the Joint Declaration, since as members know it is an international agreement, registered (under Article 102 of the UN Charter) with the UN Secretariat. Article 31(3)(a) of the Vienna Convention provides that, in interpreting a treaty, there shall be taken into account, together with the context -

"any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions."

As I have said, the Joint Declaration is an international treaty, and the JLG agreement is a subsequent agreement between the parties to that declaration. Those parties, Britain and China, clearly interpret the Joint Declaration in a way that permits the 4 plus 1 composition.

As I have said, the Vienna Convention applies to the Joint Declaration which provides in Section III of Annex I for the establishment of the CFA. Article 82 of the Basic Law is virtually identical to that provision in the Joint Declaration. It sets out the same general principle about the composition of the court, leaving the precise scope of the power to invite overseas judges to be defined by implementing legislation. Article 82 of the Basic Law was designed to implement the provision in the Joint Declaration, and it should therefore be interpreted in the same way.

Conclusion

The assertion that the JLG agreement is in breach of the Joint Declaration and the Basic Law is therefore not correct. As the motion before this Council suggests, it is perfectly possible to establish the Court of Final Appeal in alignment with the Joint Declaration and Basic Law and in general conformity with the JLG agreement of September 1991. In fact, the establishment of the court must be achieved in this manner in order for the Court to be able to survive the transfer of sovereignty.

The proposal to amend the Letters Patent

The Hon Simon Ip has proposed that, prior to the enactment of the CFA Bill, the Government should consider seeking the incorporation of a provision in the Letters Patent containing the relevant wording of Article 82 of the Basic Law. I have to advise Members that there is no merit in this proposal.

As a matter of law, there is no need to amend the Letters Patent in order for the CFA Bill to be enacted in Hong Kong. This legislature already has the necessary power. The only purpose of the proposal is, as Mr Ip has explained, so that the Bill, if enacted, would be subject to the new provision in the Letters Patent. This would provide an opportunity for a challenge to be made in our courts in respect of the constitutionality of the 4 plus 1 composition of the court set out in the legislation.

I do not need to remind members that for nearly four years there has been a heated debate within the legal profession of Hong Kong as to whether or not the 4 plus 1 composition of the court is consistent with Article 82 of the Basic Law. We in the Administration and the British Government are confident that it is. Mr Ip in effect suggests that the Administration should have the courage of its convictions and allow its view to be tested in the courts. But the real question is not one of blind courage, but rather of wisdom and the public interest. Is it wise to establish a Court of Final Appeal in such a way that the constitutionality of its composition is immediately open to challenge in the courts?

Let me set out for members what that means. If it were so established, any party to an appeal to the Court of Final Appeal, and any other person with a sufficient interest to do so, could challenge the composition of the court. An application could be made to the High Court for a declaration as to the validity of the legislation and for an injunction to prevent the Court of Final Appeal from exercising its jurisdiction. Whatever the decision of the High Court, the losing party would have a right of appeal to the Court of Appeal, and then there could be an appeal to the Court of Final Appeal. The Court of Final Appeal would be asked to decide on the lawfulness of its own composition! If it were to decide it was not lawfully constituted, then it follows logically that its own decision would be invalid! If it were to decide that it was lawfully constituted, the proceedings before the court could be heard, only after months of devastatingly embarrassing uncertainty about the court's legality. I have to ask is this the sort of legal quagmire that this Council is prepared to devise? Is that in the public interest?

It has been suggested that courts are frequently asked to decide on their own jurisdiction. But those jurisdictional questions are completely different from the one now being considered. Courts are sometimes asked to decide whether they have jurisdiction over a particular case. They may occasionally be asked to decide whether a particular tribunal was properly constituted. For example, a few years ago the courts had to decide whether a magistrate had been lawfully appointed. But in such a situation, a higher court was deciding on the lawfulness of a lower court. In the case of the Court of Final Appeal, there will be no higher court which could decide the issue. I knew of no precedent, in any jurisdiction, for deliberately establishing a court of final appeal in a way that is designed to make its composition open to legal challenge.

Mr President, the Court of Final Appeal will be at the apex of our legal system. The eyes of the world will be upon it, including those who need to decide whether to invest in Hong Kong, to do business here, or have their disputes litigated here. We need the court to build up its international reputation as soon as possible. We need the rule of law to be buttressed by a court that is strong and free from any legal uncertainties. But that would not happen if Mr Ip's proposal were adopted.

Conclusion

Mr President, several members have referred to certain newspaper articles which appeared today. Members will not be surprised if I say that I do not intend to comment on newspaper articles. The particular article to which Members refer purport to give an account of proceedings in an expert group of the JLG which gives me the additional opportunity to remind members of the proceedings of the JLG are confidential. But I can understand the concern that Members have expressed, their deep concern. In response I would like to remind them that both the Joint Declaration and the Basic Law clearly state that the Hong Kong SAR would be vested with independent judicial power including that of final adjudication and the common law system will be maintained. Clearly Mr President any proposal that breach the provisions of the Joint Declaration and the Basic Law would be unacceptable to the Government, the British Government, and I am sure the Chinese Government.

Mr President, I have dealt with the legal issues at some length in order to assure members that the arguments for opposing the 1991 JLG Agreement have no force. The real issue for this Council is that described by the Chief Secretary. There can be no question at all that it is overwhelmingly in the public interest for the Court of Final Appeal to be set up before 1997, and on the basis of the 1991 JLG Agreement which provides the only assurance for avoiding a judicial vacuum and uncertainty.

Support for Mr McGregor's motion will be a powerful re-affirmation by this Council of its commitment to the rule of law of which the Court of Final Appeal is the most potent symbol. I support Mr McGregor's motion and strongly urge members to do the same.

End/Wednesday, May 3, 1995

SEM on employment policy
* * * * *

Following is the speech by the Secretary for Education and Manpower, Mr Michael Leung, in the Legislative Council motion debate on employment policy today (Wednesday):

Introduction

Mr President,

I would like to comment on both the motion by Dr Huang and the amendment motion by Mr Tien and in the process respond to a number of points of concern raised by members this afternoon.

The primary concern of Dr Huang's motion is what the Government should do to enhance the employment opportunities of local workers in light of the increasing difficulty in seeking employment. Members are also concerned about the recent rise in the unemployment rate.

Let me start by stating our commitment: no matter what the unemployment rate is, we are always mindful of the need to safeguard and to improve the employment opportunities of local workers.

The Administration cannot support the motion because we do not consider it right to terminate our labour importation policy, nor do we see the need to legislate to give priority to local workers in employment.

Nature of Hong Kong's employment policy

Our basic employment policy is to ensure that there is a stable, well-trained and well-motivated workforce to support the economic growth of our community. This policy comprises different elements which are formulated to meet the changing needs of the economy and in the best interests of Hong Kong. These include the provision of training and retraining, provision of employment services, promotion of health and safety at work, safeguarding employees' compensation and promoting harmonious labour relations. Of these, the provision of employment services and training and retraining have always been geared towards the policy objective of enhancing the employment opportunities of local workers.

Hong Kong's economic success owes much to our hardworking people and our free market system. Entry of foreign nationals to work in Hong Kong is nothing new. From the very beginning, expatriates brought in managerial expertise and professional knowledge. The rapid and large scale development of our manufacturing industry in the fifties and sixties could not have happened without the arrival of large numbers of people with capital and talents from China. Then in the seventies and eighties, foreign domestic helpers arrived to fill vacancies no longer sought by local workers.

At a time of rapid economic expansion and restructuring, we introduced the importation of labour schemes as short-term measures to relieve temporary bottlenecks in our local labour market and to build our new airport and related projects. These schemes are all carefully designed and controlled to ensure that both the types and quantity of the imported workers are strictly confined to those sectors of industry facing genuine shortage of local workers. Many operators in these sectors would not have been able to maintain their business operations and to support their existing local workforce without these schemes especially at times of critical labour shortage. Clearly it is not in the interest of local workers to see the closing down of such businesses. Moreover, Members will wish to note that the policy of importation of labour includes not just admitted under the general schemes and also overseas professionals and foreign domestic workers. Surely, the community will not wish to see to be deprived of the services of these people.

Thus, the importation of labour policy has by no means gone against our efforts to enhance employment opportunities for local workers. On the contrary, it has served to complement what we have been doing. It will not be therefore right to call for its termination without thoroughly and carefully reviewing its value in the context of our overall employment policies and our economy.

Unemployment rate

We are of course aware that the overall unemployment rate has recently risen during the last few months. The latest rate of 2.8% (or in absolute terms, some 68,000 people out of a total workforce of nearly three million) has prompted discussions in the public arena that in order to contain the unemployment rate, we should discontinue our importation of labour policy now. This, I am afraid, is not the appropriate way to take.

The rise in the unemployment rate is due largely to the recent moderations in the expansion of some service sectors such as retailing and restaurants, which in turn gave rise to a reduced take-up of workers released from the manufacturing sector. However, more than three-fifths of the unemployed workers in the first quarter of this year have been unemployed for less than three months. This suggests that, in most cases, the unemployment has not been prolonged. Moreover, of those unemployed, over one third have left their jobs to find better ones, rather than being laid off. We should also note that, of those workers now in employment, manpower utilisation has been maintained at a very high level, as shown by the persistently low underemployment rate of around 1.5%, the latest figure being the lowest in recent years at 1.4%.

That said, the Government fully appreciates the recent public concern about a greater number of workers becoming unemployed, and is sympathetic to the genuine difficulties faced by these workers who have to adapt themselves to perhaps entirely new job requirements. We will therefore do all we can in our existing employment policy to help those workers -

First, to extend our job placement services and assistance;

Second, to step up training and re-training courses, tailor-made in particular for the needs of such workers;

Third, to strengthen monitoring and control of the labour importation schemes; and

Fourth, to increase and step up enforcement action against illegal workers.

Importation of Labour

As I have said on many occasions, the labour importation policy is built upon the premise of giving priority in employment to local workers and preventing displacement of local workers by imported workers. We will conduct a thorough review of the operations of the General Labour Importation Scheme before proceeding with the next allocation which is not due until early 1996. The purpose is to ensure that it does work according to its intended purpose, and to improve the effectiveness of the various safeguards for deterring abuses. We will study carefully the employment situation of different sectors and recommend appropriate changes to such things as quota allocation criteria and mechanism. Further improvements to the monitoring procedures will also be considered, including the possibility of involving both employers and employees in the process. Both this Council and the Labour Advisory Board as well as employer and employee associations and bodies will be fully consulted on the review, which should be completed before the end of this year.

Feasibility of introducing legislation to accord priority to local workers in employment

The second part of the Motion proposes to examine the feasibility of introducing legislation to accord priority to local workers in employment. As we have explained to the Manpower Panel last month, we do not see any need to legislate for such purpose. We already have sufficient administrative safeguards under our importation policy to ensure that priority of employment will be given to local workers. The way ahead is to strengthen the effectiveness of such measures. This we will examine in our review.

Moreover, Hong Kong's economic success, and its continued success, hinges largely on the effective operation of our free market economy. By enacting legislation to intervene with the employers' freedom of choosing suitable employees and the employees' freedom of choosing jobs will unnecessarily hamper the free market mechanism. As such, it will only tarnish Hong Kong's reputation as a world-renowned international business centre, and risk discouraging both existing and potential investors from pursuing their business plans in Hong Kong. This is indeed a price which Hong Kong as a whole cannot afford to pay. Lastly, even if such legislation were proved necessary and feasible, it will be extremely difficult if not impossible to have it enforced effectively, without at the same time causing serious disruption to the labour market, damaging our harmonious labour relationship, and unnecessarily restricting the freedom of choice.

Integration of existing Local Employment Service and Employees Retraining Scheme

But apart from the employment problems facing local workers, the Government is equally concerned about the same problem facing employers. Both parties should therefore be brought together to communicate with each other direct to resolve this paradoxical problem through mutually agreed means.

We have therefore started this process through our Pilot Job Matching Programme launched on the first of April this year through an integration of the existing services of the Local Employment Service (LES) and the Employees Retraining Board. At five selected offices, actual job vacancies from employers are being matched with unemployed persons at or over 30 years of age registered at these offices. We give active employment and counselling services to these job-seekers and make direct job referrals. The Employees Retraining Board is also arranging tailor-made retraining courses to strengthen their adaptability. So far the Programme has registered 286 people and has successfully placed 81 of them in jobs with monthly wages ranging from $4,000 to $11,000.

Formulation of a comprehensive employment policy

The third part of the Motion calls upon the Government to formulate a comprehensive employment policy which should include special employment assistance for the older displaced workers, middle-aged women and the disabled and a long-term manpower training programme. May I just remind Members and reassure Members that our present employment policy is already quite comprehensive and sufficiently well-placed to enhance the employment opportunities of local workers.

One important aspect of this policy is to maintain a level of labour standards comparable to those of countries with comparable economic development and socio-cultural backgrounds. Employment assistance and job placement services as well as manpower training and retraining facilities are two important elements under this broad policy objective. In this regard, we abide fully by the relevant International Labour Conventions which, in brief, advocate the establishment of a system of free public employment agencies and an active employment policy designed to promote full and freely-chosen employment with a view to stimulating economic growth and overcoming unemployment.

At the working level, the Labour Department provides a network of free public employment agencies through its Local Employment Service for able-bodied job-seekers and the Selective Placement Service for the physically and mentally disabled ones. The Employment Service of the Hong Kong Council of Social Service, provides free employment assistance to the socially maladjusted.

In addition, we have a series of special services to cater for the special needs of specific groups of workers. For displaced workers, we have the Employees Retraining Scheme set up in 1992 to provide these workers with suitable retraining courses to facilitate their re-entry into the active workforce. For unemployed work persons over 30, we have launched the Pilot Job Matching Scheme I have just mentioned. For elderly job-seekers, the priority services for job-seekers aged 50 and above is available in all the LES. Finally, for disabled job-seekers, the Labour Department provides specialised placement services to those wishing to seek jobs in the open labour market and organises a wide range of promotional activities to enhance public awareness of the working ability of the disabled.

A long-term manpower training programme

Turning to the policy on manpower training, it has long been Government's goal to provide a well-trained workforce to meet the demands of our dynamic economy. We are seeking to achieve this:

* by providing an appropriate system of tertiary and continuing education;

* by providing a comprehensive system of technical education and vocational training;

* and by retraining displaced workers through the Employees Services Retraining Board

We always endeavour to ensure that our training policy is flexible and adaptable to the needs of the labour market especially those arising from the restructuring of our economy. On retraining, we will work with the Employees Retraining Board to maintain the successful placement rates of 60-70% for its retrainees who are active job-seekers.

Conclusion

While we share with Members of this Council the concern about the recent unemployment problems, we have strong reservations about the proposals to terminate the importation of labour policy and to introduce legislation to give priority in employment to local workers. These are just not the solutions to the problems in question. Adopting such radical measures without assessing their consequences will have a detrimental impact on our economy, leaving our local workers much worse off than before.

The way ahead should therefore be to make a balanced assessment of the situation in our labour market and our economy, and to draw up practical and effective ways to help ease the employment difficulties facing our local workers in certain sectors.

Hong Kong's success owes much to the formulation and effective implementation of a comprehensive and well-co-ordinated employment policy in tune with the latest economic and social developments. As with any other policies, there is always room for improvements. We in the Government will continue to work with this Council and all employer and employee associations and bodies to introduce suitable improvements to our employment policy in the best interests of the public. For the reasons I have already given earlier, we cannot therefore support this motion.

I turn now to the amendment motion. Mr Tien's amendment to the motion comprises two parts. First, it adds to it the concern about recruitment difficulties facing employers on top of that facing employees in the original motion. Second, instead of asking for a termination of the importation of labour policy and legislation to give priority in employment to local workers, it asks Government to review and formulate a comprehensive employment policy to help resolve the different difficult problems experienced by both employers and employees. This points to a rational and prudent approach in handling the most contentious labour issues ahead of us, and is thus worthy of support.

As the notion of 'employment' is essentially a relationship between employers and employees, any territory-wide labour problems in our economy will invariably involve both employers and employees. The Amendment Motion has thus made up for the deficiency of the original motion by presenting the complete picture of the employment situation facing us today.

To review and formulate an employment policy by striking a balance between different interests of employers and employees in the light of the overall labour situation in the economy has been the Government's long-established policy in dealing with employment-related issues. We would continue to work with Members of this Council and other concerned parties along this approach.

The amendment motion also highlights 'retraining' as a particularly important aspect of our employment policy to be reviewed. This view is fully shared by the Government. As explained earlier, the mismatch of skills and experience arising from our economic restructuring process is in fact the major underlying cause of the paradoxical problem of employers not getting the staff they need and employees unable to find jobs. The provision of suitable retraining programmes to facilitate the displaced local workers to re-enter workforce has proved to be the most practicable and effective means of redressing this imbalance. This is also why we have included arrangements for retraining on top of the proactive employment services of direct job referrals. Of course, we will work with the Employees Retraining Board closely to upkeep the quality of the retraining programme and the success rate of retrainees in seeking jobs upon completion of such courses. We will of course also welcome views from Members on how to improve the Scheme further.

For these reasons and with the remarks I have just made, the Administration support Mr Tien's Amendment Motion.

End/Wednesday, May 3, 1995

Inland Revenue (Amendment) (No. 2) Bill 1995

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Following is the speech by the Financial Secretary, the Hon Sir Hamish Macleod, in moving the second reading of the Inland Revenue (Amendment) (No. 2) Bill 1995 in the Legislative Council today (Wednesday):

Mr President,

I move that the Inland Revenue (Amendment) (No. 2) Bill 1995 be read the second time.

This is the first of the three Bills which the Secretary for the Treasury and I will introduce this afternoon to give effect to the revenue proposals in this year's Budget.

The Bill now before Members has two main purposes. First, it seeks to introduce a number of salaries tax concessions to benefit both the taxpaying population in general and specific target groups. Secondly, it seeks to specify the minimum records which a business must keep for tax purposes, and to increase the maximum penalty for non- compliance. These proposals have already been fully covered in my Budget Speech and in the Budget Debate. I shall therefore be brief this afternoon.

Salaries tax concessions

Let me first deal with the proposed salaries tax concessions. Briefly, the Bill proposes to improve existing benefits in three ways.

* First, the Bill increases most salaries tax allowances (notably, the single, married person, first and second child, and dependent parent/grandparent allowances) by 10%, slightly above the rate of inflation.

* Secondly, it increases substantially the allowances for those with extra financial responsibilities. Specifically, it doubles the allowance for taxpayers who look after a dependent parent or grandparent at home and increases by 25% the single parent allowance.

* Thirdly, it introduces a new disabled dependent allowance for taxpayers who support a disabled dependent, whether at home or elsewhere in Hong Kong. This new allowance will be in addition to existing allowances (for example, married person, child or dependent parent) received by the taxpayer in respect of the disabled family member in question.

We estimate that the total cost of these salaries tax concessions will amount to $1.2 billion in 1995-96 and $7.7 billion in the period up to 1998-99.

These proposals seek a prudent balance between leaving money in the pockets of taxpayers, especially those with extra financial responsibilities, and maintaining healthy reserves, whilst at the same time taking into account the impact on inflation. I believe that these proposals do represent a reasonable balance and I hope that Members will be able to support them.

Business records

Let me turn now to the proposals on business records. The Bill specifies in greater detail the records which a business must keep to enable its assessable profits to be readily ascertained and increases the penalty for non- compliance from $5,000 to $100,000. These proposals are intended to encourage compliance and to enable the Commissioner of Inland Revenue to detect tax evasion more effectively. Again, I hope that they will receive Members' support.

Mr President, with these remarks, I commend the Bill to Members.

End/Wednesday, May 3, 1995

Public Entertainment and Amusement Bill 1995

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Following is the speech by the Secretary for Recreation and Culture, Mr James So, in moving the second reading of the Public Entertainment and Amusement (Miscellaneous Provisions) Bill 1995 in the Legislative Council today (Wednesday):

Mr President,

I move the Second Reading of the Public Entertainment and Amusement (Miscellaneous Provisions) Bill 1995.

The Bill's aims are to achieve two objectives. Firstly, to repeal the Commissioner for Television and Entertainment Licensing's (CTEL) wide discretionary power to grant, or refuse the grant of, a public entertainment permit under the Places of Public Entertainment Ordinance. This is to remove any possible inconsistency with the Bill of Rights Ordinance. Secondly, to amend the definition of amusement ride in the Amusement Rides (Safety) Ordinance to place legislative control on certain manually driven amusement devices such as multi- axis chairs which may be potentially dangerous.

CTEL issues about 3,200 permits every year to various types of public entertainment in accordance with the provisions of the Places of Public Entertainment Ordinance. In discharging this duty, CTEL has rarely turned down applications on the ground of objections to the form and content of the entertainment. Despite this, we are proposing to abolish the permit system to remove any possible inconsistency with the Bill of Rights Ordinance.

The proposed removal of the permit system is part of the Government's continued efforts to give effect to its commitment to promote freedom of expression. The abolition of the permit system will also simplify the existing dual licensing system for public entertainment by making the Urban Council and the Regional Council the sole Licensing Authorities. In future, an organiser of a public entertainment will only need to obtain one licence from the Licensing Authority to comply with the hygiene, fire and building safety requirements for the venue. These requirements are mainly to ensure the safety of participants.

Mr President, I would like to emphasise that the removal of the permit system does not mean that we will lose control over live public performances. Objectionable public performances will continue to be controlled by section 12A of the Summary Offences Ordinance, under which it is an offence to take part in, provide or manage any public live performance of an indecent, obscene, revolting or offensive nature. Police officers acting under a warrant can enter premises where it is suspected that such a performance is or may be taking place, conduct a search and seize articles related to the performance. In fact, the permit system cannot be an effective safeguard against impromptu indecent public entertainments anyway and enforcement action by the Police was relied upon in the past.

The Bill also amends the Amusement Rides (Safety) Ordinance to put amusement devices like multi-axis chairs, which are solely driven by human power but carry potential danger, under comprehensive safety control. However, Members can rest assured that simple and safe mechanical devices found in children's playgrounds like swings, slides and see-saws are not caught by this amendment. Subject to the passage of this amendment, the design, installation, repair, operation, as well as operating personnel in charge of multi-axis chairs will be subject to the extensive and stringent safety measures prescribed in the Amusement Rides (Safety) Ordinance.

Mr President, I now wish to summarise the main provisions of the Bill.

Clause 2 proposes to revise and update the definition of "entertainment" under the Places of Public Entertainment Ordinance. Outdated forms of entertainment like exhibition of abnormal persons or animals will be removed from the definition whereas a new form of entertainment, i.e. laser projection display, will be included.

The Secretary for Recreation and Culture is empowered under clause 5 to amend the list of entertainments in the Schedule by regulation as well as to determine the circumstances under which licence conditions can be waived, cancelled, added or varied, and the circumstances under which fees can be waived or reduced. An Amendment to the schedule would normally be made at the request of and in consultation with the Licensing Authority.

Clause 6 repeals section 8 of the Places of Public Entertainment Ordinance, which deals with the permit system for public entertainment.

To give effect to the relevant recommendations in Mr. Justice Bokhary's report on the Lan Kwai Fong incident, Clause 8 empowers the Licensing Authority to impose licence conditions, including conditions as regards crowd control measures and the provision of first aid services to better ensure the safety of participants in public entertainment events.

Clauses 11 to 12 add a new schedule to the Amusement Rides (Safety) Ordinance so as to define "amusement ride" to include manually driven devices which are capable of revolving through more than 90 degrees, including multi- axis chairs. The Secretary for Recreation and Culture is empowered to amend the new Schedule by regulation.

Mr President, the removal of the permit system on Bill of Rights grounds and the amendment to the Amusement Rides (Safety) Ordinance are proposed in response to public demands for promoting freedom of expression and public safety, respectively. I hope that the Bill will gain the support of Members of this Council.

Mr President, I beg to move.

End/Wednesday, May 3, 1995

Estate Duty (Amendment) Bill 1995

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Following is the speech by the Secretary for the Treasury, Mr K C Kwong, in moving the second reading of the Estate Duty (Amendment) Bill 1995 in the Legislative Council today (Wednesday):

Mr President,

I move that the Estate Duty (Amendment) Bill 1995 be read the second time.

The Bill before Members seeks to adjust the schedule of asset values for the purpose of assessing estate duty so as to offset the effect of inflation on the value of relatively small estates. Specifically it increases, from $5.5 million to $6 million, the level below which no duty is payable and adjust the bands correspondingly above this threshold. Thus estate duty will be payable at 6% on estates between $6 million and $7 million; 12% for estates between $7 million and $8 million; and 18% on estates over $8 million.

We estimate that the cost of these concessions will amount to $20 million in 1995-96 and $100 million in the period up to 1998-99.

These proposals will help to relieve the tax burden on smaller estates at a relatively modest cost. I hope that Members will be able to support them.

End/Wednesday, May 3, 1995

Dutiable Commodities (Amendment) Bill 1995

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Following is the speech by the Secretary for the Treasury, Mr K C Kwong, in moving the second reading of the Dutiable Commodities (Amendment) Bill 1995 in the Legislative Council today (Wednesday):

Mr President,

I move that the Dutiable Commodities (Amendment) Bill 1995 be read the second time.

The Bill before Members seeks to increase the specific duty rates on tobacco and hydrocarbon oils by 8%, in line with inflation in 1994. This is consistent with our overall budgetary strategy whereby we aim to maintain the revenue yield in real terms from the various sources of revenue to ensure financial stability.

In the particular case of tobacco duty, we also believe that there is a need to increase duty rate in order to maintain the deterrent effect of the duty on smoking. We will work together with the Customs and Excise Department to ensure that the success of the Task Force in tackling cigarette smuggling is maintained in the future.

We estimate that these proposals will generate additional revenue of $560 million in 1995-96 and $2.6 billion in the period up to 1998-99.

Mr President, with these remarks, I commend the Bill to Members.

End/Wednesday, May 3, 1995

Disability Discrimination Bill
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Following is the speech by the Secretary for Health and Welfare, Mrs Katherine Fok, in moving the second reading of the Disability Discrimination Bill in the Legislative Council today (Wednesday):

Mr President,

I move that the Disability Discrimination Bill be read a second time.

With the introduction of this Bill, we are taking a major step forward in achieving our goal of integrating people with a disability into our community. It will require everyone to give them an equal opportunity - a fair chance - to participate fully in the community and it will provide them with the legal means to obtain redress against discrimination, harassment and vilification. It gives the same protection and support to their families and carers as well.

The areas of life in which discrimination and harassment will be unlawful include - employment; education; transport; access to buildings and services; and participation in partnerships, professional organisations, clubs and sports. In short, the Bill is comprehensive in its scope. This is important if integration is to be a reality. But, equally important, the Bill is balanced in its approach. It gives people with a disability a means of redress, while ensuring that the interests of the community as a whole are also taken into account.

In future, it will be unlawful to treat a person with a disability less favourably than others because of their disability, in circumstances that are materially the same. But, on the other hand, employers will not have to hire a certain quota of people with a disability. Building owners will not have to change existing buildings - unless they plan to carry out major additions or alterations. Transport operators will not have to make existing buses, ferries or trams more accessible. This is because the Bill provides for two key exemptions: "unjustifiable hardship" and "genuine occupational qualification" which covers "inherent requirements of the job".

The first means that building owners or transport operators, for example, could defeat a claim of discrimination by proving that it would cause them " unjustifiable hardship" to make special arrangements to meet the needs of a person with a disability.

The second means, for example, that where a person could not meet the requirements of a particular job because of his or her disability, the employer would not be breaking the law in deciding not to hire him or her.

The District Court and the Equal Opportunities Commission will play important complementary roles in enforcing the provisions of the Bill. The Equal Opportunities Commission is to be set up under the Sex Discrimination Bill which was introduced into this Council on 26 October last year. Members will know something of the power of the proposed Commission as set out in that Bill. But it is worth repeating the main points. The Commission will receive and investigate complaints of discrimination. We envisage most cases being settled through conciliation. Where this fails, complainants will be able to take their cases to the District Court.

The Equal Opportunities Commission will issue Codes of Practice for each sector so that all parties involved will have practical guidelines to follow regarding how they are expected to behave. The Commission will, of course, consult groups representing people with a disability and the sector concerned in drafting these codes. The Codes will be laid before this Council before coming into effect. When considering a case under this law, the court will have to take into account any relevant provisions in the Codes when making its judgment. These Codes of Practice will provide practical guidelines to help the different sectors in the community to comply with the Bill. Since employment is a major and complex area which we need to get right, we propose, in line with the Sex Discrimination Bill, that the employment provisions in the Bill should not come into effect until the relevant Code of Practice has been issued. The Bill also provides that, for five years, employers with fewer than five employees will be exempted. This is another example of how we are trying to achieve a balanced approach.

Disability discrimination legislation is a relatively new approach the world over. In Hong Kong, we continue to believe that the best way to achieve our goals for people with a disability is for the Government, for disability groups and those who may be affected by the Bill to work together to make it work. And it will work best, if everyone aims to improve life for people with a disability progressively, over time and with reasonable requests being met by reasonable responses. We want to see the law and public education complementing each other. We want to see them bringing about conciliation not confrontation, co-operation not conflict. I hope I can count on Members of this Chamber to support what we are aiming to achieve by introducing this Bill.

Mr President, I move that the debate on the motion be now adjourned.

End/Wednesday, May 3, 1995

Hong Kong Arts Development Council Bill

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Following is the speech by the Secretary for Recreation and Culture, Mr James So, in resumption of the second reading of the Hong Kong Arts Development Council Bill in the Legislative Council today (Wednesday):

Mr President,

I would first like to thank Members of the Bills Committee, especially its Chairman, Mrs. Selina Chow, for their hard work and thorough examination of the Bill. In the course of this exercise, we have maintained very close liaison with the HKADC and the rest of the arts community to gather their views. We have discussed these views exhaustively with members of the Bills Committee. We have responded positively to the ideas put forward. As a result, we have now reached an agreement with the Bills Committee and the arts community on a package which broadly meets the aspirations of the arts community and includes significant improvements over the original Bill. I hope this Bill will now receive the full support of this Council.

Mr President, I would now like to outline briefly the three major elements of the agreed package.

First, in response to the strong desire of some sectors of the arts community and the Bills Committee, the Government has agreed to include explicit references to film art and arts criticism in appropriate clauses of the Bill. Whilst the Bill is enabling in nature and does not exclude any art forms from the scope of the HKADC, the proposed amendments I am going to move during the Committee Stage will give specific recognition to the contribution of film art to the local arts scene alongside other art forms such as visual, literary and performing arts. Arts criticism will also be appropriately recognised.

Secondly, we have agreed to amend the clauses dealing with the composition of the Council to provide for the membership to include persons drawn, one each, from nine specified categories of the arts. Furthermore, we have introduced a mechanism whereby organisations representing those categories may each nominate one person for consideration by the Governor for appointment as a member of the HKADC. These measures will ensure that the HKADC will have a good range of expert advice representing a wide cross section of the arts interests available to it, together with strong and credible link to the arts community. However, it should always be remembered that the HKADC's role is to develop the arts for the benefit of the community as a whole. The latter's interests must also be represented and this will be done by the other nine non official members who will be appointed by the Governor from the community at large.

We believe that this creates a proper balance in the non-official membership of the Council. However, since we also need to accommodate four ex officio members, these changes have resulted in the need to increase the size of the Council's membership from 20 to 22 in total.

These changes have been worked out and agreed by all parties concerned after many rounds of detailed discussions. They have produced a practical and workable solution to a difficult problem. I would like to thank both the Bills Committee and the arts community for their contributions to this process.

In order to help the arts community in the selection of nominees, the Government has prepared a set of guidelines, on which we have consulted the HKADC, the arts community and the Recreation and Culture Panel of this Council. We have now analysed the feedback obtained and have fine tuned the guidelines accordingly. We are now working out an implementation programme. We have already issued the guidelines and it is our intention to issue the implementation plan when it is ready, so that the arts community can start organising themselves and preparing for the nomination process to start once this Bill is passed into law.

The third element of the package which I want to discuss is the method of meeting the calls that have been made for the operations of the HKADC to be more open and transparent in future. During the final stage of our discussions with the Bills Committee, the Honourable Christine Loh proposed a series of amendments to the Bill to require Council meetings to be opened to the public, except in certain circumstances. Let me state here firmly that the Government is totally opposed to these proposed amendments. We believe them to be inappropriate, unnecessary, inflexible and motivated by broad political objectives rather than by the particular needs of the arts community. We have stated that whilst we have no objection in principle to the concept of Council meetings being open, we believe strongly that this matter should be addressed by the HKADC administratively through the use of standing orders, rather than by enshrining such provisions in the law. This is the norm for all other statutory bodies including the Legislative Council, the two Municipal Councils, and the District Boards.

To agree to Miss Loh's amendment would be to subject the HKADC to additional and unnecessary restriction to those of other statutory bodies. It may also imply mistrust of the HKADC. And I see no justification in fettering the HKADC in this way. Miss Loh's proposal would also have potentially far-reaching implications for other statutory and advisory bodies in Hong Kong. Her proposed amendments are not germane to the HKADC Bill. It is therefore not appropriate to consider them in the context of this Bill.

Mr President, the objectives of achieving open and transparent operations for the HKADC can be met fully by adopting suitable standing orders. In this regard, I am happy to inform this Council that the present HKADC has already decided to open its meetings to the public shortly and has already considered a set of draft standing orders covering this area. These were agreed by the HKADC as a positive and constructive response to Miss Loh's concern. These standing orders have since been issued and will be formally adopted by the HKADC at its next meeting on 11 May.

In the light of this, there is no valid reason for Miss Loh to continue to press for her amendments. Indeed, I am surprised that she should be insisting on moving these amendments, especially since as the current Vice Chairman of the HKADC, she is fully aware that the HKADC has twice voted to reject her proposal to make the holding of open meetings of the Council a legal requirement.

Mr President, I do not wish to reply in great detail to the points that Miss Loh has just made. We have discussed this issue exhaustively and come up with the solution that meets our needs, those of the arts community and of the HKADC. The time has come to heal any wounds caused by the recent disagreements, to go forward and to do the important work required of the HKADC.

The only small point I would like to make is that our Standing Orders which has been adopted by the HKADC are as it happens not based on Miss Loh's proposal but on the tried and true methods adopted by, among others, the Legislative Council itself.

Mr President, with these remarks, and subject to the Committee Stage amendments proposed by the Administration, I commend the Hong Kong Arts Development Council Bill to Members for approval. But I oppose to the Hon Miss Christine Loh's proposed amendments.

End/Wednesday, May 3, 1995

Academic and professional qualifications for civil servants

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Following is a question by the Hon Simon Ip Sik-on and a reply by the Secretary for the Civil Service, Mr Michael Sze, in the Legislative Council today (Wednesday):

Question :

In view of the Government's recent announcement that recognition of academic and professional qualifications for civil service employment will be broadened, will the Government inform this Council whether it has any plans to recognise only those academic and professional qualifications, when employing professional officers for professional posts, which are recognised by their relevant professional bodies in the territory for private practice?

Reply :

Mr President

Let me make it clear at the outset that the announcement referred to in this question was about appointment criteria for posts requiring a general degree. The announcement did not relate to criteria for appointment to posts in the professional grades in the civil service. It is not our intention to change arrangements in respect of professional qualifications which are matters for the relevant professional bodies; arrangements which are well-established and preserved in Article 142 of the Basic Law.

As for general degrees, we have removed previous reference in our recruitment advertisements to British degrees. The guiding elements of our assessment of non-Hong Kong qualifications are as follows :-

(a) we must be absolutely satisfied that the qualification in question is at least as good as the comparable Hong Kong qualifications for the purpose of recruitment to the civil service;

(b) we examine each qualification on a case-by-case basis. We may accept some qualifications but not others from a University. And we may accept a certain qualification only if received after a certain date in a case where the standard of a course has been raised above our threshold between one academic year and the next;

(c) no preference is given to qualifications from a particular country or group of countries. We use the same test for all qualifications. However, we have had difficulties in the past assessing qualifications from some countries. And it was for this reason that we recently enlisted the help of the Hong Kong Council for Academic Accreditation. Since its founding in 1990 the Council has built up an extensive network of international contacts with accreditation bodies and academic institutions. With the Council's help we are strengthening our system and believe we will shortly have the information necessary to recognise at least some degrees from non-English speaking countries that we have not felt able to recognise in the past. I expect this to include some qualifications obtained in China.

(d) Accepting such qualifications will allow those who have obtained them to participate in the civil service recruitment process, provided of course they are Hong Kong residents. They will need to pass other tests, including basic physical fitness and language proficiency in Chinese and English, as well as a rigorous assessment of suitability and potential in competition with other applicants.

The steps we are taking to strengthen our assessment of non-Hong Kong degrees are a response to the still small but growing number of Hong Kong youngsters going abroad to study, not just to traditional destinations in the Commonwealth and North America, but to universities in this region.

End/Wednesday, May 3, 1995

Treatment for terminal renal failure

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Following is a question by Dr the Hon Huang Chen-ya and a reply by the Secretary for Health and Welfare, Mrs Katherine Fok, in the Legislative Council today (Wednesday):

Question :

As patients with terminal renal failure have to receive Erythropoietin injections as a treatment for anaemia, will the Government inform this Council :

(a) of the number of patients with terminal renal failure at present; of these, how many have to receive such injections;

(b) of the average annual expenditure on such treatments over the past three years;

(c) whether any patients are required to pay for the injections; if so, what the number of such patients is; and

(d) if the answer to (c) is in the affirmative, whether consideration will be given to adopting other kinds of medical treatments for patients who cannot afford to pay for the injections; if so, what the costs of such kinds of treatment are?

Reply:

Mr President,

As at 31 December 1994, about 2,000 patients suffering from end stage renal failure were provided with dialysis treatment in our public hospitals, of whom some 320 were receiving Erythropietin injections. The average annual expenditure incurred by the Hospital Authority in providing such injections over the past three years is $3.13 million.

About half of the 320 renal patients receiving Erythropoietin injections are contributing towards part or full cost for their treatment. This has been a historical practice when new treatment modalities using expensive drugs were launched in our public hospitals.

In line with the policy that no one should be prevented from obtaining adequate medical treatment through lack of means, patients who cannot afford Erythropoietin injections can apply for waivers through the medical social workers. Furthermore, we are conducting a comprehensive review in conjunction with the Hospital Authority to rationalise the fee structure in public hospitals.

Patients who suffer from anaemia could be given other types of treatment such as periodic blood transfusion, the overall cost of which is much less than Erythropoietin injection. The type of treatment to be used should however be determined by the medical needs of patients as well as the efficacy of the treatment modality prescribed.

End/Wednesday, May 3, 1995

Govt examining report on causes of juvenile crime

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Following is a question by the Hon James To and a reply by the Secretary for Security, Mr Peter Lai, in the Legislative Council today (Wednesday):

Question:

Regarding the Research Report on the Social Causes of Juvenile Crime which has recently been completed, will the Government inform this Council of the policy to be adopted and the amount of additional resources to be allocated to ameliorate the present serious situation of juvenile delinquency?

Reply:

Mr President,

The research into the social causes of juvenile crime, commissioned by the Fight Crime Committee and undertaken by the Social Sciences Research Centre of the University of Hong Kong, has recently been completed. The Fight Crime Committee was apprised of the findings of the research at its meeting last Saturday. The conclusions of the research project are wide-ranging, covering educational, social service, police, and correctional services aspects of our policy. These will be examined by the concerned policy branches and departments in detail in the coming months, with a view to recommending specific courses of action. It is the Administration's intention to make public the research report as soon as possible, so as to obtain feedback from this Council, other concerned boards and committees, and the community generally as part of this detailed examination process. Until this examination is completed, it is not possible to quantify the precise resource implications.

End/Wednesday, May 3, 1995

Promotion of Basic Law

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Following is a question by Dr the Hon Tang Siu-tong and a reply by the Secretary for Home Affairs, Mr Michael Suen, in the Legislative Council today (Wednesday):

Question :

In view of the fact that the territory's sovereignty will revert to China in less than three years, will the Government inform this Council whether :

(a) it has formulated any publicity plan to promote widely the Basic Law among the public in a systematic manner; if so, what the details of the plan are; if not, why not;

(b) the Education Department will include the provisions of the Basic Law in the secondary school curriculum before 1997; if so, what the progress is; and

(c) non-government organisations may seek financial assistance from the Committee on the Promotion of Civic Education to promote civic education activities relating to the theme of "the reversion of the territory's sovereignty to China and the promotion of the Basic Law"?

Reply :

The importance of the Basic Law is well recognised by the Government. Efforts are made to promote awareness of the Basic Law in the context of school education, in our promotion of Civic Education and also our training for civil servants.

The Committee for the Promotion of Civic Education is responsible for the promotion of civic education in Hong Kong. This involves enabling the public to have a better understanding of the social, political, economic and legal systems under which Hong Kong is governed. An important objective for the Committee, therefore, is to promote public awareness of the Basic Law and the guarantees that it provides for Hong Kong's systems and way of life.

The Committee participates in Basic Law programmes. It has, since 1991, sponsored through its Community Participation Scheme, a number of worthwhile Basic Law projects put forward by community groups and Non- Government Organisations. Another such project will receive the Committee's sponsorship in 1995/96 and other bids are welcome.

With the Basic Law due to come into effect in a little over two years, the Committee intends to step up its promotional efforts in co-operation with other groups and the media. Ideas being considered include producing a series of three-minute television programmes introducing the Basic Law.

In the context of school education, the Basic Law has been included in the secondary school curriculum since 1990 in subjects like Social Studies, Economic and Public Affairs, Government and Public Affairs. The Education Department has also developed a teaching kit on the Joint Declaration and the Basic Law to assist teachers in presenting the two documents at secondary school level.

End/Wednesday, May 3, 1995

Experience for appointment of departmental heads

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Following is a question by Dr the Hon Samuel Wong and a reply by the Secretary for the Civil Service, Mr Michael Sze, in the Legislative Council today (Wednesday):

Question :

Following the recent announcement of the next appointment to the post of Commissioner for Transport, the new appointee said on television that she had no previous experience in transport matters but that she was willing to learn. In this connection, will the Government inform this Council :

(a) whether it is now the policy to treat D6 posts as training posts; and

(b) how long on average an appointee with no previous specialist experience is expected to take to learn sufficiently about the subject so as to properly discharge his or her duties as a head of department requiring specialist or attributes?

Reply :

Mr President,

It is certainly true that Mrs Lily Yam Pui-ying, who had been announced to be the next Commissioner for Transport, has no direct experience in transport matters. What she has is a great deal of experience relevant to the duties of Commissioner for Transport. To require directly relevant professional experience for appointments to Head of Department positions would make it a very inflexible system. If anything we need to move in the direction of a more open directorate.

In the transport field we have seen time and again that issues can become items of heated public debate very quickly and that political sensitivity presentational skills in addition to management capabilities are key attributes in the Commissioner for Transport. It was for that very reason that the post was designated as an Administrative Officer post in 1981.

As to the two specific elements to this question :

(a) First, let me say that it is neither our policy nor practice to treat D6 posts as training posts. Our policy, as always, is to find the best officer for the job. It is however often the case that officers selected to fill such posts are those with potential to rise higher, and to that extent, the experience gained in D6 posts will provide valuable training for the future; and

(b) as to how long it would take on average for an appointee with no previous specialist experience to settle into the post, this depends very much on the officer and the post in question. Given that the main attributes of a Head of Department are leadership, the management of resources, political acumen, and presentational skills it should come quite naturally to an appointee from the Administrative Service who would have acquired these qualities from broad range of postings he or she would have had. We would expect such an officer to "hit the ground running" and be fully effective within a short time.

End/Wednesday, May 3, 1995

1996-97 Budget consultation

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Following is a question by the Hon Fred Li Wah-ming and a reply by the Financial Secretary, the Hon Sir Hamish Macleod, in the Legislative Council today (Wednesday):

Question :

It was reported that in his recent meeting with the Chinese Foreign Minister, the British Foreign Minister indicated that the Hong Kong Government would consult the Chinese government on the 1996-97 Budget. In this connection, will the Government inform this Council -

(a) whether the Government has changed its stand regarding its reiterations that there was no need to consult the Chinese side on the 1996-97 Budget; and

(b) if the answer to (a) is in the affirmative, what are the reasons for changing its previous stand; and what the specific mechanism for consultation will be?

Reply :

Mr President,

I am glad to be able to reassure Mr. Li that the answer to the first part of his question is 'No'. As I have already made clear on the record, in response to media enquiries on 20 April, there was no truth whatsoever in the news report that there had been a change in our stance over discussions with China over the 1996-97 Budget.

We have handed over to the Chinese side a detailed programme of proposed activities. One stage of this programme involves a Chinese team observing the planning and preparation process for the 1996-97 Budget. A later stage involves consultations on the 1997-98 Budget.

We hope to hold further meetings with the Chinese side at mutually convenient times as soon as possible.

As there is no change in our position, the second part of Mr Li's question does not apply.

End/Wednesday, May 3, 1995

Volatile organic chemicals in drinking water

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The following is a question by Dr the Hon Huang Chen-ya and a written reply by the Secretary for Works, Mr James Blake, in the Legislative Council today (Wednesday):

Question:

Given that the chemical solvent tetrachloro-ethylene has been found to cause leukaemia and bladder cancer, will the Government inform this Council of the respective levels of the following volatile organic chemicals :

(a) tetrachloroethylene
(b) trihalomethanes
(c) benzene
(d) dichloroethylene
(e) dichloroethane

detected in the territory's drinking water in the past five years?

Reply :

Mr President,

The Water Supplies Department carries out extensive quality monitoring of treated water supply in Hong Kong on an on-going basis in accordance with the recommendations as set out in the World Health Organization's (WHO) Guideline Values for Drinking Water Quality.

Over the past five years, more than 1500 water samples have been taken from the supply and distribution network including consumer taps for analysis of trace of organics with the aid of sensitive analytical instruments. The monitoring records indicated that the concentrations of tetrachloroethylene, trihalomethanes (chloroform, bromoform, dibromochloromethane and dichlorobromomethane), benzene, 1,1-dichloroethene, 1,2-dichloroethene and 1,2-dichloroethane in treated water supply were consistently well below the guideline values laid down by the WHO. According to WHO the concentrations of these organic compounds in drinking water at such levels should not pose any threat to public health over a lifetime consumption.

End/Wednesday, May 3, 1995

Noise nuisance at the airport railway station

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The following is a question by Dr the Hon Huang Chen-ha and a written reply by the Secretary for Works, Mr James Blake, in the Legislative Council today (Wednesday):

Question:

Regarding the prevention of noise nuisance at the airport railway station at Cheung On Estate (Tsing Yi North), will the Government inform this Council:

(a) whether it is planned to adopt a design of total enclosure or other noise prevention facilities for the airport railway station at Cheung On Estate; if not, what the reasons are;

(b) of the respective construction costs of noise prevention measures for total enclosure and semi-enclosure designs and their respective effects in reducing the noise level; and

(c) whether the Government will consider further consulting members of the Kwai Tsing District Board, Area Committees and Mutual Aid Committees and Legislative Council member of the district concerned about the noise prevention facilities at the Tsing Yi North airport railway station?

Reply:

Mr President:

(a) The criteria for the design of the Airport Railway with respect to the environment were established in the Airport Railway (AR) Environmental Impact Study(EIS), the final report of which has been endorsed by Environmental Protection Department and the Advisory Council on the Environment. The EIS has assessed the worst case operating noise of the AR on the basis of rolling stock noise, train length, operating speed and frequency and the distance separation of the AR from sensitive receivers. The noise prevention facility recommended by the EIS and ultimately to be adopted for the northern side of the AR viaduct facing Cheung On Estate is the provision of a 1.4m high absorptive track side barrier extending from the western end of the Tsing Yi Station to a point 180m long.

The EIS has not recommended total enclosure for the Tsing Yi viaduct facing Cheung On Estate as the proposed 1.4m high barrier incorporating acoustically absorbent materials should be able to reduce the AR operating noise at Cheung On Estate to be within the legal criteria, i.e. 60 dB(A)Leq (30 min) under the Noise Control Ordinance.

In addition, MTRC has also reviewed the design of the turnback siding which had originally planned to be located at the viaduct opposite the West Cheung On Estate. It has now decided to move the alignment of this particular side track (120m in total) away from the residential blocks(from A to B in the location map attached) and construct it in tunnel. This will further reduce the noise impacts on the West Cheung On Estate.

Apart from the above noise prevention measures, a number of other measures will be adopted for other parts of the western end of Tsing Yi Station. These will eventually include a cover over the upper railway tracks between Tsing Yi Station and Tsing King Road and an extended height barrier of 3.8m on the southern side of the viaduct nearest to St. Paul's village. In short, the noise impacts in respect of the AR design and construction have been and will continue to be closely monitored.

(b) The Mass Transit Railway Corporation does not have a cost estimate nor an assessment of the effect of a total enclosure for the AR viaduct facing Cheung On Estate as there has been no need to utilise this measure in accordance with the EIS recommendation. It is also impossible to give a standard rate as each AR section is different. The long tunnel at one end and the Tsing Yi Station at the other would present significant ventilation problems if the design of total enclosure were to be adopted. Very approximately, the cost for the particular AR section involved would probably exceed HK$200 million.

It is impossible either to give a direct dollar per meter price for the design of a semi-enclosure, but the recommended 1.4m high absorptive barrier will be the most cost-effective solution for the Tsing Yi viaduct facing Cheung On Estate. According to the EIS, with this barrier in place, the AR operating noise at Cheung On Estate would be able to meet the legal requirement under the Noise Control Ordinance.

(c) MTRC and Government have already discussed on various occasions with many different parties concerned on issues related to the noise prevention facilities at the Tsing Yi North AR Station, eg. meetings with the Kwai Tsing District Board, its various sub-committees and Area Committees concerned respectively in December 1993, March 1994, as well as January, February and April this year. The Kwai Tsing District Office has assisted in these consultations and will continue to arrange various forums for affected local residents to air their views and concerns over the construction and operation of the AR in the district. Indeed, I understand that another meeting with the Hon Mr Lee Wing Tat and representatives of the Mutual Aid Committee of Cheung On Estate has been scheduled to be held on 8 May. Members can therefore be assured that further consultations and briefing sessions with groups concerned will continue to be conducted as and when appropriate.

End/ Wednesday, May 5, 1995

Mainland women giving birth in HK

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Following is a question by the Hon Cheung Man-kwong and a written reply by the Secretary for Security, Mr Peter Lai, in the Legislative Council today (Wednesday):

Question:

Regarding the question of pregnant Chinese women who enter the territory with two-way permits or by illegal means and give birth to babies, will the Government inform this Council :

(a) of the respective numbers of such babies born in the territory, as well as the proportion of such births to the total numbers of babies delivered in each of the public hospitals in the past three years;

(b) of the respective numbers of the babies mentioned in (a) who have obtained the right of abode in the territory in the past three years; whether the remaining ones, who did not have the right of abode, were all sent back to Mainland China;

(c) whether medical and educational facilities have been increased accordingly to cater for such newly increased population, so that the resources and standards of the local medical and educational services will not be affected; and

(d) of the ways to tackle the problem of pregnant Chinese women coming to the territory for childbirth, which the Administration has undertaken to discuss with the Chinese authority concerned; what progress has been made so far?

Reply:

Mr President,

(a) The number of children born to such women in the past three years is as follows : -

Period	Children born to II mothers	Children born to Two-way Permit Holders
1992	2,232	4,606
1993	2,634	6,208
1994	2,324	6,943
Total	7,190	17,757

The percentage of deliveries by Chinese women who entered Hong Kong by two-way permits or by illegal means over the total deliveries in public hospitals is about 15%, 19% and 18.5% for 1992, 1993 and 1994 respectively. A detailed breakdown by hospital is at Annex.

(b) Not all such children have automatic right of abode in Hong Kong. Their resident status will depend on the resident status of their father. Our statistics show that during the past 3 years the number of such children granted permission to stay is as follows:

Year	Children born to Il mothers Granted stay	Children born to Two-way Permit Holders Granted stay
1992 (Feb to Dec)*	1,902	4,233
1993	2,453	6,035
1994	2,231	6,725

* No statistics are available before February 1992.

All those who were not granted permission to stay were repatriated as a matter of policy.

(c) The Government is committed to provide school places to all children who are eligible for public sector places, including children born to Chinese women who are granted permission to stay. They have, therefore, been taken into account in projecting the need for education facilities. The facilities and services for children born to local residents will not be affected. Provision of hospital services to two way permit holders and illegal immigrants giving birth in Hong Kong have been made from existing resources through improved efficiency and productivity without affecting the quality of care for other patients.

(d) We believe that the solution lies in tackling the problem at source. There is already good co-operation with the Chinese authorities in tackling the problem of illegal immigration into Hong Kong. As regards those who enter Hong Kong on two way permits, we have raised the problem with the Chinese authorities during the Annual Border Liaison Meeting in February this year. The Director of Immigration has also raised this with the Director of the Bureau of Exit-Entry Administration of the Public Security Ministry during his recent visit to China. The latter indicated that consideration would be given to adopting measures to try to curb the trend. Such measures may include postponing the issue of two-way permits to women at an advanced stage of pregnancy.

Annex

Percentage of Deliveries by Chinese Mothers in the Total Deliveries of TwelveHospitals from 1991 to 1994

Hospital	1992			1993			1994		
	CM	TD	%	CM	TD	%	CM	TD	%
CMC	234	2404	9.7%	409	2633	15.5%	430	2529	17.0%
KWH	1017	5173	19.7%	1794	5338	33.6%	1651	5237	31.5%
PMH	838	4436	18.9%	950	4198	22.6%	1006	4419	22.8%
PWH	1207	7939	15.2%	1565	7943	19.7%	1618	7885	20.5%
QEH	1101	6906	15.9%	1306	6618	19.7%	1258	6153	20.4%
QMH	281	1023	27.5%	213	941	22.6%	114	772	14.8%
TMH	529	5454	9.7%	840	5965	14.1%	924	6508	14.2%
TYH	392	2871	13.7%	746	5069	14.7%	734	4806	15.3%
UCH	~207	3457	~6.0%	235	3537	6.6%	255	3511	7.3%
PYNEH#				62	343	18.1%	361	3281	11.0%
POH	91	516	17.6%	90	486	18.5%	103	498	20.7%
OLMH	~308	2058	~15.0%	~305	2031	~15.0%	~348	2325	~15.0%
Total	6205	42237	14.7%	8515	45102	18.9%	8802	47924	18.4%

CM : Deliveries by Chinese Mothers
TD : Total Deliveries
: PYNEH Start from 15 October 1993
~ : approximate figure

CMC Caritas Medical Centre
KWH Kwong Wah Hospital
PMH Princess Margaret Hospital
PWH Prince of Wales Hospital
QEH Queen Elizabeth Hospital
TMH Tuen Mun Hospital
TYH Tsan Yuk Hospital
UCH United Christian Hospital
PYNEH Pamela Youde Nethersol Eastern Hospital
POH Pok Oi Hospital
OLMH Our Lady Maryknoll Hospital

End/Wednesday, May 3, 1995

Setting up of taxi stands
* * * * *

Following is a question by the Hon Roger Luk Koon-hoo and a written reply by the Secretary for Transport, Mr Haider Barma, in the Legislative Council today (Wednesday):

Question:

Will the Administration inform this Council :

(a) of the existing policy regarding the setting up of taxi stands;

(b) whether there are plans to increase the provision of taxi stands in the urban areas; and

(c) what measures are being taken to tackle the problem of taxis waiting for fares on the roadside at many locations (e.g. Wan Chai, Mong Kok etc), thereby illegally occupying and using a traffic lane as a taxi stand and creating unnecessary traffic congestion?

Reply:

Mr President,

Taxi stands are provided at locations where passenger demand for taxi services is high. Before a taxi stand is set up, various factors are taken into account, including local traffic conditions, road space and capacity, the width of pavements and road safety.

At present, there are 104 taxi stands in the urban areas. Most of these are located adjacent to public transport interchanges, major business and shopping centres or large housing estates. There are plans to provide about 10 more taxi stands in the coming 12 months.

To enhance traffic circulation busy roads are designated as restricted zones where boarding and alighting are prohibited at certain times of the day. Even at locations where such restrictions do not apply, taxi drivers are not allowed to wait for a fare on a roadside except at a taxi stand. Offenders are liable to fixed penalty tickets or prosecution. Indeed, in recent months the Police launched a number of blitz operations at locations where malpractices were common.

End/Wednesday, May 3, 1995

Sewage extension work along South Bay Road

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Following is a question by the Hon Jimmy McGregor and a written reply by the Secretary for Works, Mr James Blake, in the Legislative Council today (Wednesday):

Question :

Will the Government inform this Council when the sewage extension work which has been going on for the past two years in South Bay Road will be completed and whether this road will then be left undisturbed with no further road openings for a reasonable period of time?

Reply :

Mr President,

The sewer extension work along South Bay Road is part of the HK Island South Master Plan aimed to improve the sewerage infrastructure and water quality in the Island South region. Based on present rate of progress, the Drainage Services Department anticipates that the works will be completed around the end of September 1995.

The Highways Department has also arranged to resurface the road, starting in March this year, to dovetail in with the drainage works. After the completion of the road resurfacing works by October 1995, there will be a one year mandatory restriction on road openings, except for emergencies or other unforeseen circumstances.

End/Wednesday, May 3, 1995

Government clinics to be designated no smoking areas

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Following is a question by Dr the Hon Lam Kui-chun and a written reply by the Secretary for Health and Welfare, Mrs Katherine Fok, in the Legislative Council today (Wednesday):

Question:

Since smoking in government clinics is not a statutory offence, the Director of Health may only carry out the anti-smoking policy through the co-operation of the smokers to observe the instructions given by the staff in such clinics. In this regard, will the Administration inform this Council :

(a) whether consideration will be given making smoking in government clinics a statutory offence as in other public places such as MTR compartments and cinemas, and

(b) what measures the Administration will put in place to effectively prohibit smoking in government clinics if the status quo is maintained?

Reply :

An amendment to the Smoking (Public Health) Ordinance is proposed which will empower heads of government departments and non-government organisations to designate any part(s) of the premises under their control as no smoking areas. Offenders will be liable to prosecution and a maximum penalty of a fine at $5,000 (Level 2).

It is expected that this amendment will be introduced into the Legislative Council on 10 May 1995. Subject to the amendment being passed, the Director of Health intends to designate the public areas of government clinics as no smoking areas. Meanwhile, clinics have been administratively designated as no smoking areas. Although clinic staff cannot take legal action against people who smoke there, they can and do ask offenders to stop.

End/Wednesday, May 3, 1995

Semi-private beds in government hospitals

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The following is a question by the Hon Vincent Cheng Hoi-chuen and a written reply by the Secretary for Health and Welfare, Mrs Katherine Fok, in the Legislative Council today (Wednesday):

Question:

Regarding the introduction of semi-private beds in the hospitals managed by the Hospital Authority, will the Administration inform this Council:

(a) of the level of subsidy per bed provided by the Government for semi-private beds in hospitals under the Hospital Authority;

(b) of the breakdown of costs for room, food, nursing, surgical fees, theatre/operation fees, drugs and dressings, laboratory charge, diagnostic tests for such beds; and

(c) whether further pilot studies are being contemplated; if so, what are the details, including the location of the hospitals and the projected level of fees?

Reply :

The level of subsidy provided by Government for the 39 beds in two hospitals presently operating in the semi-private room pilot scheme is between 40 and 60 per cent. The daily maintenance fee for a semi-private room in Ruttonjee Hospital is $600 per day. For Tsan Yuk Hospital, it is $800 for a double room and $1,200 for a single room. The fee is inclusive of room charges, consultations, meals, drugs, medical investigations and treatment.

Since the level of medical treatment provided to all patients is identical, the operating cost for semi-private beds is essentially the same as for general ward beds, except for a marginal increase in meal and electricity charges as a result of better "hotel" services. The components of the operating cost are as follows :

(a)	medical services (including the cost of medical and nursing staff, depreciation on medical equipment and other related expenses)	70%

(b)	patient support services (including the cost of radiology, pathology and pharmacy)	15%
(c)	hotel services (including the cost of food, accommodation and administration)	15%

A further 18 semi-private beds are planned to be provided under the pilot scheme in Grantham Hospital on Hong Kong Island in the summer of 1995. The daily maintenance fee will reflect the same 40-60 per cent Government subsidy.

End/Wednesday, May 3, 1995

Warships bounded by Marine Department regulations

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

Question :

As it was reported that a US Navy submarine collided with a cargo vessel in Hong Kong waters in mid March, will the Government inform this Council :

(a) Whether the submarine was carrying nuclear weapons at the time of collision; if so, whether the Government has any contingency plan in case of nuclear leakage; and

(b) Whether it is aware of the activities of submarines in Hong Kong waters and able to restrict such activities so as to prevent submarines from colliding with other vessels and ensure water-course safety?

Answer :

(a) United States Government policy is neither to confirm nor to deny the presence of nuclear weapons on board any specific United States warship. The United States authorities have, however, advised that it is not currently the practice for attack submarines, such as the one involved in the collision, to carry nuclear weapons.

The British Forces, and the Hong Kong Government, have detailed contingency plans to deal with the very unlikely event of a release of radioactive material from a warship in Hong Kong waters. The plans include measures both to control the incident and to protect the health and safety of the public. These contingency plans are exercised on a regular basis.

(b) The Hong Kong Government is informed in advance of all planned visits to Hong Kong by nuclear powered warships. These warships, like all vessels using Hong Kong waters, are bound by Marine Department regulations, which are designed to ensure the safety of sea traffic, and by the International Regulations for the Prevention of Collision at Sea. They are assigned to dedicated anchorages, well away from centres of population and busy sea areas.

End/Wednesday, May 3, 1995

Use of mobile telephones while driving

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The Following is a question by Dr the Hon Lam Kui-chun and a written reply by the Secretary for Transport, Mr Haider Barma, in the Legislative Council today (Wednesday):

Question:

There is a comparative study in the United States showing that drivers who regularly use car phones are more frequently involved in traffic accidents than those who do not use car phones. Since using mobile telephones while driving is commonplace in the territory, will the Administration inform this Council:

(a) whether the Administration has any information to show whether the above phenomenon also exists in the territory;

(b) if the answer to (a) is in the negative, whether the Administration will consider conducting a similar study and making a report to this Council; and

(c) if the answer to (a) is in the affirmative, whether the Administration will consider introducing legislation to ban the use of mobile telephones while driving motor vehicles?

Reply:

Mr President,

(a) The Administration does not have data on the frequency of use of car phones by drivers. Police investigations into traffic accidents have concluded that the use of mobile phones whilst driving have been a contributory cause of accidents on only 2 to 3 occasions each year. Details are annexed.

(b) The Administration will continue to monitor the situation and seek relevant information, including research and other studies, from overseas sources.

(c) The Administration has no plans to legislate to ban the use of mobile telephones by drivers. However, motorists may be prosecuted for careless driving if the use of a mobile telephone is proven to have caused a traffic accident.

The Road Users' Code advises drivers to stop their cars at a safe place if they need to use their mobile phones. This message is also repeated in on-going road safety publicity programmes and, for example, has also been included in the Road Safety Quarterly and in the leaflet "Safety Tips for Road Users".

Annex

Accidents caused by the Use of
Mobile Phones whilst Driving

Accidents	1991	1992	1993	1994
Fatal	0	0	0	0
Serious	0	0	1	1
Slight	2	3	1	2
Total	2	3	2	3

End/Wednesday, May 3, 1995

Supermarkets in public housing and HOS estates

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The following is a question by the Hon Fred Li Wah-ming and a written reply by the Secretary for Housing, Mr Dominic Wong, in the Legislative Council today (Wednesday):

Question:

The report on the study of supermarkets released by the Consumer Council indicates that of the total number of 106 supermarkets in 236 public housing estates and Home Ownership Scheme (HOS) estates in the territory, 80% are run by two large consortia, while supermarkets in remote areas such as New Territories North and Island South are even monopolised by a single operator. In this connection, will the Government inform the Council:

(a) of the criteria adopted by the Housing Department in planning the number of supermarkets in each public housing or HOS estate;

(b) of the number of public housing and HOS estates with only one supermarket, together with the locations of these estates;

(c) of the number and the locations of public housing and HOS estates with no supermarket, resulting in the residents having to use the supermarkets in nearby public housing or HOS estates; and

(d) what long-term measures the Housing Department will put in place to encourage competition and prevent consortia from monopolising the operation of supermarkets in public housing and HOS estates, so as to safeguard the interests of consumers living in public housing and HOS estates?

Answer

Mr President,

When the Consumer Council conducted the survey in March 1994 on which its report was based, 106 out of a total of 236 public rental housing or Home Ownership Scheme (HOS) estates had one or more supermarkets. By April 1995, there were 123 supermarkets in 243 estates, of which about two-thirds were operated by two major chain-store operators. The remainder were run by smaller chain-store operators or individual retailers.

Answers to the four specific points raised are:

(a) The Housing Department has guidelines for planning the number of supermarkets in public rental housing and HOS estates. In general, an estate with a population below 10,000 is unlikely to generate sufficient business to attract a supermarket operator, and no such provision is made. A supermarket measuring between 400m2 and 800m2 is normally provided in a new estate with a population of between 10,000 and 30,000. Two supermarkets may be provided if the population exceeds 30,000. Factors other than population, such as the number of supermarkets in the vicinity of the estate, are also taken into account in determining the number of supermarkets to be provided.

(b) A list of public rental housing and HOS estates with one supermarket is at Annex 1.

(c) A list of public rental housing and HOS estates with no supermarket is at Annex 2.

(d) The Housing Department lets commercial premises to supermarket operators by open tender, and will allow new operators to join provided they can offer a satisfactory service to residents. This practice is supported by the Consumer Council. In fact, major chain-store operators do not monopolise the operation of supermarkets in public rental housing and HOS estates, but also face competition from other operators and individual retailers. There is no evidence to show that the two large operators charge higher prices in supermarkets located in geographical districts where they have a larger market share. Indeed, if any operator is found to be abusing its dominating position or adopting a high pricing policy, the Housing Department will take appropriate action and may not renew the tenancy agreement of the operator concerned. Hence, the interests of consumers living in estates are adequately protected.

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Annex 1

Public housing estates with one supermarket

1. Apleichau Estate
2. Chak On Estate
3. Cheung Ching Estate
4. Cheung Hang Estate
5. Cheung Shan Estate
6. Cheung Wah Estate
7. Cheung Wo Court
8. Ching Lai Court
9. Ching Wah Court
10. Choi Ha Estate
11. Choi Wan(1) Estate
12. Choi Yuen Estate
13. Chuk Yuen South Estate
14. Chun Shek Estate
15. Fu Heng Estate
16. Fu Shan Estate
17. Fu Shin Estate
18. Fung Tak Estate
19. Fung Wah Estate
20. Hau Tak Estate
21. Heng On Estate
22. Hin Keng Estate
23. Hing Man Estate
24. Hing Wah(2) Estate
25. Hong Tin Court
26. Ka Fuk Estate
27. Kai Yip Estate
28. Kam Ying Court
29. Kin Sang Estate
30. King Lam Estate
31. Kwai Fong Estate
32. Kwai Hing Estate
33. Kwai Shing W. Estate
34. Kwong Fuk Estate
35. Kwong Tin Estate
36. Kwong Yuen Estate
37. Lai Kok Estate
38. Lai Yiu Estate
39. Lee On Estate
40. Lei Cheng Uk Estate
41. Lei Muk Shue Estate
42. Lei Tung Estate
43. Lek Yuen Estate
44. Lok Wah N. Estate
45. Lung Hung Estate
46. Lung Poon Court
47. Mei Lam Estate
48. Mei Tung Estate
49. Nam Cheong Estate
50. On Kay Court
51. On Ting Estate
52. Pak Tin Estate
53. Ping Shek Estate

54. Po Lam Estate
55. Pok Hong Estate
56. Sam Shing Estate
57. Sha Kok Estate
58. Shan King Estate
59. Shek Kip Mei Estate
60. Shek Wai Kok Estate
61. Shui Pin Wai Estate
62. Shun Tin Estate
63. Siu Hong Court
64. Siu Lun Court
65. Siu Sai Wan Estate
66. Sui Wo Court
67. Sun Chui Estate
68. Sun Tin Wai Estate
69. Tai Hang Tung Estate
70. Tai Hing Estate
71. Tai Ping Estate
72. Tai Wo Estate
73. Tai Yuen Estate
74. Tak Tin Estate
75. Tin Ma Court
76. Tin Ping Estate
77. Tin Shui Estate
78. Tin Yiu Estate
79. Tsing Yi Estate
80. Tsui Lam Estate
81. Tsui Ping Estate
82. Tsui Wan Estate
83. Tsui Yiu Court
84. Tung Tau Estate
85. Wah Fu(1) Estate
86. Wah Kwai Estate
87. Wah Ming Estate
88. Wan Tau Tong Estate
89. Wan Tsui Estate
90. Wo Che Estate
91. Wong Tai Sin Estate
92. Yau Oi Estate
93. Yin Lai Court
94. Yiu On Estate
95. Yiu Tung Estate
96. Yue Tin Court
97. Yue Wan Estate

Annex 2

Public housing estates with no Supermarket

1. Chai Wan Estate
2. Cheung Kwai Estate
3. Cheung On Estate
4. Cheung Sha Wan Estate
5. Ching Nga Court
6. Ching Shing Court
7. Ching Tai Court
8. Choi Fa Estate
9. Choi Hung Estate
10. Choi Po Court
11. Choi Wan (II) Estate
12. Chuk Yuen North Estate
13. Chun Man Court
14. Chun Wah Court
15. Chung Ming Court
16. Chung Nga Court
17. Fu Keung Court
18. Fuk Loi Estate
19. Fung Chuen Court
20. Fung Shing Court
21. Hiu Tsui Court
22. Ho Ming Court
23. Homantin Estate
24. Hong Lam Court
25. Hong Nga Court
26. Hong Pak Court
27. Hong Wah Court
28. Hong Ying Court
29. Hung Hom Estate
30. Jordan Valley Estate
31. Ka Lung Court
32. Ka Tin Court
33. Kai Tai Court
34. Kai Tsui Court
35. Kam Hay Court
36. Kam Lung Court
37. Kam On Court
38. King Lai Court
39. King Ming Court
40. King Nga Court
41. King Shan Court
42. King Tin Court
43. King Tsui Court
44. Ko Chiu Road Estate
45. Ko Yee Estate
46. Kwai Chung Estate
47. Kwai Hong Court
48. Kwai Shing (East) Estate
49. Kwai Yin Court
50. Kwong Lam Court
51. Kwun Tong (LYMR) Estate
52. L. Ngau Tau Kok (I) Estate
53. L. Ngau Tau Kok (II) Estate
54. L. Wong Tai Sin (1) Estate
55. Lai King Estate
56. Lai On Estate

57. Lam Tin (I) Estate
58. Lam Tin (II) Estate
59. Lok Nga Court
60. Lok Wah South Estate
61. Lung Tin Estate
62. Lung Yan Court
63. Ma Hang Estate
64. Ma Tai Wai Estate
65. May Shing Court
66. Ming Nga Court
67. Model Housing Estate
68. Nam Shan Estate
69. Ngan Wan Estate
70. North Point Estate
71. On Shing Court
72. On Yam Estate
73. Pang Ching Court
74. Po Hei Court
75. Po Lai Court
76. Po Nga Court
77. Sai Wan Estate
78. San Fat Estate
79. San Wai Court
80. Sau Mau Ping (I) Estate
81. Sau Mau Ping (II) Estate
82. Sau Mau Ping (III) Estate
83. Shan Tsui Court
84. Shatin Pass Estate
85. Shek Lei (II) Estate
86. Shek Pai Wan Estate
87. Shek Yam Estate
88. Shun Chi Court
89. Shun On Estate
90. Siu Hei Court
91. Siu Hin Court
92. Siu Kwai court
93. Siu Lung Court
94. Siu On Ccourt
95. Siu Pong Court
96. Siu Shan Court
97. So Uk Estate
98. Tak Nga Court
99. Tin King Estate
100. Tin Oi Court
101. Tin Wang Court
102. Tin Yau Court
103. Ting Nga Court
104. Tsz Ching Estate
105. Tsz Man Estate
106. Tsz Oi Estate
107. Tsz On Estate
108. Tung Chun Court
109. U. Ngau Tau Kok Estate
110. U. Wong Tai Sin Estate
111. Un Chau Street Estate
112. Valley Road Estate
113. Wang Fuk Court
114. Wang Tau Hom Estate

115. Wo Lok Estate
116. Wong Chuk Hang Estate
117. Wu King Estate
118. Yan Ming Court
119. Yan Shing Court
120. Yan Tsui Court
121. Yat Nga Court
122. Yau Tong Estate
123. Yee Ching Court
124. Yee Kok Court
125. Yee Nga Court
126. Yee Tsui Court
127. Ying Ming Court
128. Yu Ming Court
129. Yue Fai Court
130. Yue On Court
131. Yue Shing Court
132. Yuen Long Estate
133. Yuet Lai court
134. Yuk Po Court

End/Wednesday, May 3, 1995

False and incorrect information given by voters

* * * * *

The following is a question by the Hon Eric Li Ka-cheung and a written reply by the Secretary for Constitutional Affairs, Mr Nicholas Ng, in the Legislative Council today (Wednesday):

Question:

The Boundary and Election Commission (Registration of Electors) (Functional Constituencies and Election Committee Constituency) Regulation stipulates that any person who provides false and incorrect information upon registration as a voter with the Registration and Election Office is liable to a fine of $5,000 and imprisonment for 6 months. In this connection, will the Government inform this Council of the respective numbers of persons convicted of breaching this regulation in each of the past three years together with the numbers of people convicted who were fined and those who were imprisoned?

Reply:

The Boundary and Election Commission (Registration of Electors) (Functional Constituencies and Election Committee Constituency) Regulation only came into operation on 15 December 1994. This Regulation deals with the registration of electors for the Legislative Council functional constituencies and Election Committee constituency. Since the Regulation's coming into operation, there has not been any complaint concerning the provision of false and incorrect information by electors for the functional constituencies and the Election Committee constituency. Nor has there been any conviction for the relevant offence.

Prior to December 1994, legal sanction against false registration in functional constituencies was contained in the Legislative Council (Electoral Provisions) (Registration of Electors and Appointment of Authorized Representatives) Regulations. (The Regulations did not cover Election Committee constituency as it did not exist then.) During the three years immediately preceding December 1994, there was no complaint concerning false registration in functional constituencies; nor was there any conviction for the relevant offence.

There is similar legislation dealing with false registration in geographical constituencies. Before March 1994, the relevant legislative provisions were set out in the Electoral Provisions (Registration of Eectors) Regulations. The provisions are now contained in the Boundary and Election Commission (Registration of Electors) (Geographical Constituencies) Regulations. During the past three years, the Police and the ICAC dealt with a total of 55 cases concerning false registration for geographical constituencies. Following investigation, it was concluded that there was no evidence to substantiate the allegations for 21 of the cases. Action on a further 25 cases has stopped, either because the allegations were subsequently withdrawn, or because there was insufficient information for the concerned departments to pursue the cases further. Investigation on the remaining 9 cases is still continuing.

End/Wednesday, May 3, 1995

Overseas education allowance for civil servants' children

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Following is a question by the Hon Emily Lau and a written reply by the Secretary for the Civil Service, Mr Michael Sze, in the Legislative Council today (Wednesday):

Question:

Regarding the overseas education allowance for children of civil servants, will the Administration inform this Council:

(a) when and why the allowance was introduced;

(b) how many children are currently benefiting receive from the allowancebenefit;

(c) of the number, ranks and term of service of the civil servants concerned who are in receipt of the allowance; and

(d) how much it will cost in total in 1995-96 to send these children to receive education in United Kingdom?

Reply:

Mr President,

My replies to the four questions raised are as follows :-

The Overseas Education Allowance Scheme was introduced in 1963 to enable children of overseas officers to continue education in their country of origin. In 1972, the scheme was extended to local officers on grounds of parity.

In 1994-95, 3683 children were in the scheme.

Within the time and resources available, we have not been able to identify the ranks of all the civil servants concerned. The number and ranks and terms of service of the civil servants concerned, broken down into salary bands, are as follows:

Salary Point	Local Officers	Overseas Officers	Total
MPS 1- 9	107	-	107
>MPS 9 - MPS33	2011	5	2016
>MPS 33 - MPS 44	451	33	484
>MPS 44 - MPS 49	141	55	196
Directorate	114	94	208
Total	2824	187	3011

(The total is lower than (b) above because some officers have more than one child studying abroad.)

In 1995/96, about 4,000 children are estimated to be in the scheme at a cost of $322M. The great majority of them will be receiving education in the United Kingdom.

End/Wednesday, May 3, 1995

Environmental black spots in the New Territories

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The following is a question by Rev the Hon Fung Chi-wood and a written reply by the acting Secretary for Planning, Environment and Lands, Mr Canice Mak, in the Legislative Council today (Wednesday):

Question:

Regarding the setting up of a task force to tackle and clean up environmental black spots in the New Territories, will the Government inform this Council :

(a) of the actual work done by the task force in the past six months and the achievements made so far;

(b) of the classification of the black spots identified, together with a breakdown of these black spots by classification; and

(c) how the Government will tackle these black spots and what the specific time-frame for action is?

Answer:

Mr President,

Answers to the three-part question are as follows -

(a) In July 1994, a Black Spots Task Force was set up in the Lands Department to clean up black spots in the New Territories. Since August 1994, the Task Force has been, inter alia, -

(i) implementing an action plan to bring early and visible improvement to areas identified as being environmentally degraded, initially in the Pat Heung area. So far, 203 government sites comprising 5.2 hectares of land being illegally occupied have been cleared, with 84 of which landscaped. The Central Enforcement and Prosecution Section set up in the Planning Department in July 1994 has been complementing the action of the Task Force by stepping up its enforcement efforts under the Town Planning Ordinance, Cap 131 in the Pat Heung area to ensure maximum impact of Government action;

(ii) studying container-related operations in the Ha Tsuen/Lau Fau Shan area;

(iii) exploring the drawing up of a code of practice for container depot operations in liaison with the Hong Kong Container Depots and Repair Association Ltd to encourage self-discipline and improvements; and

(iv) examining suitable sites for relocating port back-up and open storage uses.

(b) Black spots, in general, constitute any operations/activities which cause visual, traffic, flooding, dust and odour nuisances/problems. Many open storage and port back-up uses in the rural areas of the New Territories are found to be black spots. According to the recently completed Study on Port Back-up Land and Open Storage Requirements by the Planning Department, there were, as at August 1993, 1453 sites (covering 362 hectares) for open storage uses and 237 sites (covering 198 hectares) for port back-up uses. The Task Force is ascertaining exactly how many of these are black spots.

(c) There are three courses of action to tackle black spots : seeking to discontinue the operation/activity, moving it to places where the land use is compatible with the planning, environmental and traffic requirements, and allowing it to continue subject to the necessary improvements.

In view of the widespread nature and complexity of the problem, a 10-year implementation programme is thought to be necessary to clean up the New Territories. Over the next few years, the Task Force will be developing strategies and initiatives to bring about improvements. This will be no easy task. The co-operation and involvement of those living and working in the New Territories will be essential. If necessary, we may consider legislative amendments to deal with problematic areas which cannot be effectively dealt with through the means now at our disposal. We intend to consult widely as we develop our plans of action. Proposals will in due course be made for consideration by the Special Committee set up in November 1994 to advise the Government on all matters relating to environmental black spots in the New Territories and to monitor the work of the Task Force.

End/Wednesday, May 3, 1995

Government attendance at district board meetings

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The following is a question by the Hon Zachary Wong and a written reply by the Secretary for Transport, Mr Haider Barma, in the Legislative Council today (Wednesday):

Question :

It is learnt that despite repeated requests, the Highways Department has been declining to send representatives to some district board meetings, causing dissatisfaction among members of those district boards. In this connection, will the Government inform this Council :

(a) of the criteria adopted by government departments in deciding whether to send representatives to or to decline attendance at district board meetings;

(b) the district boards whose meetings the Highways Department has declined to send representatives to in the last district board session;

(c) the district boards whose meetings the Highways Department has declined to send representatives to since the commencement of the current district board session;

(d) of the reasons why the Highways Department declines to send representatives to district board meetings;

(e) whether the operation of a district board was disrupted, as a result of the absence of an official from the Highways Department who had promised to attend a district board meeting but proceeded on leave without arranging for a replacement to attend the meeting, causing delay in the discussion of the projects concerned; and

(f) how the above situation can be improved?

Reply:

Mr President,

(a) Departmental attendance at District Board meetings is by invitation and determined by the District Officer, in consultation with the District Board Chairman. Instructions to departments have been promulgated in circulars which are reviewed and up-dated periodically.

(b) & (d) The present practice and standing arrangement is that the Territory Development Department represents all Works Branch Departments (including Highways Department) at District Board meetings on engineering and project programming matters. It is for this reason that Highways Department declined requests to attend, on a regular basis, each and every meeting of the Yuen Long, Eastern, and Central & Western District Boards during the past session.

(c) I have been advised that the Highways Department did not send a representative to attend the discussion at the Yuen Long District Board meeting held on 20 April 1995. However, written advice was provided to the District Board before that meeting.

(e) & (f) In retrospect, the Director of Highways recognises that the business of the District Board would have been better facilitated had his representative been able to attend. Meanwhile, to improve communication, the Department has recently agreed to attend Yuen Long District Board Traffic and Transport Committee meetings regularly on a trial basis for one year.

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