

1 HONG KONG LEGISLATIVE COUNCIL -- 12 July 1989

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 12 July 1989

The Council met at half-past Two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (PRESIDENT)

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

THE CHIEF SECRETARY

THE HONOURABLE SIR DAVID ROBERT FORD, K.B.E., L.V.O., J.P.

THE FINANCIAL SECRETARY

THE HONOURABLE DAVID ALAN CHALLONER NENDICK, J.P.

THE ATTORNEY GENERAL

THE HONOURABLE JEREMY FELL MATHEWS, C.M.G., J.P.

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

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

SECRETARY FOR DISTRICT ADMINISTRATION

THE HONOURABLE MRS. SELINA CHOW LIANG SHUK-YEE, O.B.E., J.P.

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

THE HONOURABLE CHAN YING-LUN, O.B.E., J.P.

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

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

THE HONOURABLE CHENG HON-KWAN, J.P.

THE HONOURABLE CHUNG PUI-LAM, J.P.

THE HONOURABLE HO SAI-CHU, M.B.E., J.P.

THE HONOURABLE HUI YIN-FAT, O.B.E., J.P.

THE HONOURABLE DAVID LI KWOK-PO, J.P.

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

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

THE HONOURABLE POON CHI-FAI, J.P.

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAI CHIN-WAH, J.P.

THE HONOURABLE TAM YIU-CHUNG

DR. THE HONOURABLE DANIEL TSE, O.B.E., J.P.

THE HONOURABLE LAU WONG-FAT, M.B.E., J.P.

THE HONOURABLE GRAHAM BARNES, C.B.E., J.P.

SECRETARY FOR LANDS AND WORKS

THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.

SECRETARY FOR TRANSPORT

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

THE HONOURABLE GEOFFREY THOMAS BARNES, C.B.E., J.P.  
SECRETARY FOR SECURITY

THE HONOURABLE PETER TSAO KWANG-YUNG, C.B.E., C.P.M., J.P.  
SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION

THE HONOURABLE MARTIN GILBERT BARROW, O.B.E.

THE HONOURABLE PAUL CHENG MING-FUN

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

THE HONOURABLE DAVID CHEUNG CHI-KONG, J.P.

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

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

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

THE HONOURABLE MRS. MIRIAM LAU KIN-YEE

THE HONOURABLE LAU WAH-SUM, J.P.

THE HONOURABLE LEUNG WAI-TUNG, J.P.

THE HONOURABLE KINGSLEY SIT HO-YIN

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

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

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

THE HONOURABLE YEUNG KAI-YIN, J.P.

SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE NIGEL CHRISTOPHER LESLIE SHIPMAN, J.P.  
SECRETARY FOR HEALTH AND WELFARE

ABSENT

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

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

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

THE HONOURABLE MARTIN LEE CHU-MING, Q.C., J.P.

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

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

THE HONOURABLE RONALD CHOW MEI-TAK

DR. THE HONOURABLE LEONG CHE-HUNG

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

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

IN ATTENDANCE

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

Papers

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

Subject

Subsidiary Legislation      L.N. No.

Immigration Ordinance

Immigration (Places of Detention)

(Amendment) (No.8) Order 1989.....

224/89

Interpretation and General Clauses Ordinance

Specification of Public

Office..... 225/89

Peak Tramway (Amendment) Ordinance 1989

Peak Tramway (Amendment) Ordinance

1989 (Commencement) Notice 1989.....

226/89

Public Health and Municipal Services Ordinance

Pleasure Grounds (Regional Council)

(Amendment) By-Laws 1989.....

227/89

Public Health and Municipal Services Ordinance

Pleasure Grounds (Regional Council)

(Amendment)(No. 2) By-Laws 1989.....

228/89

Public Health and Municipal Services Ordinance

Public Health and Municipal Services

(Public Pleasure Grounds)

(Amendment of Fourth Schedule) (No. 4) Order	
1989.....	229/89
Securities and Futures Commission Ordinance 1989 Securities and Futures Commission Ordinance 1989 (Commencement) (No. 2) Notice 1989.....	
230/89	
Shipping and Port Control (Dwelling Vessels) Regulations Shipping and Port Control (Dwelling Vessels) Regulations (Amendment of First Schedule) Order 1989.....	
231/89	
Shipping and Port Control (Dwelling Vessels) Regulations Shipping and Port Control (Dwelling Vessels)(Closed Areas) Order 1989.....	
232/89	
Tax Reserve Certificates (Fourth Series) Rules Tax Reserve Certificates (Rate of Interest) (No. 5) Notice	
1989.....	233/89

Sessional Paper 1988-89

No. 80 -- 1988 Annual Report by the Commissioner of the Independent Commission Against Corruption

Address by Member

1988 Annual Report by the Commissioner of the Independent Commission Against

## Corruption

DR. TSE: Sir, as Chairman of the Advisory Committee on Corruption, I am pleased to introduce the 1988 Annual Report by the Commissioner of the Independent Commission Against Corruption, which is tabled today in this Council.

Essentially the Operations Department meets its obligations by investigating all allegations of corruption, regardless of their origins. In 1988, the commission received a total of 2 253 corruption reports, 2% less than in 1987. The healthy trend of previous years with a steadily reducing number of reports involving government departments and public bodies continued.

On the other hand, allegations involving the private sector continued to increase and now account for about half of all the allegations involving corruption received by the commission. The cases the Operations Department was able to investigate were as complex and as time consuming as ever and the investigations frequently uncovered other offences associated with the corruption. These investigations often take considerable time to complete and contribute to the high caseload which the Operations Department carries forward from year to year.

Altogether the number of persons prosecuted as a result of investigations by the department was 404, 21% less than in 1987. The conviction rate remained high at 76%. In addition 165 persons were cautioned rather than prosecuted for their offences.

The Corruption Prevention Department, which examines practices and procedures so as to reduce opportunities for corruption, completed 70 reports involving government departments and public bodies during the year. Of particular interest was that, at the same time the number of requests private sector companies made to the department for advice on anti-corruption measures, increased by 44% to 114.

The trends in respect of the private sector reflect, I believe, the successful efforts of the Community Relations Department, which is responsible for educating the public against corruption to encourage people to report their suspicions to the commission, rather than an indication of more corrupt activity in the private sector. During the year the department continued to use every channel available to get this message across in respect of corruption in both the public and the private sectors. The department's success in this respect has been well confirmed by public opinion surveys.

Finally, the commissioner has drawn attention in the report to the great help and advice given during the year by the various advisory committees to the commission.

Oral answers to questions

Consumer protection against emigration counsellors

1. MR. PETER WONG asked: Sir, will Government inform this Council what consumer protection measures, if any, are taken to protect Hong Kong people who wish to seek assistance from emigration specialists who hawk their skills and wares for reward in Hong Kong?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, this is an area of consumer affairs where the guiding principle must be Caveat Emptor, that is, buyers beware.

The Hong Kong Government neither encourages nor discourages emigration consultants setting up business in Hong Kong, nor does it encourage or discourage Hong Kong people from using their services. The services available vary from filling forms outside consulates to mapping out an investment strategy to qualify as an investor. The decision on whether to consult, on what to consult, and how much it is reasonable to pay for the services provided, must be one for the individual to make.

Sir, I can only suggest that the best advice can probably be provided by the consulate of the country concerned.

Of course, if there is any evidence of a criminal act such as fraud or deception, then a report should be made to the police.

MR. PETER WONG: Sir, the "caveat emptor" answer given by the Secretary suggests that the Government does nothing to protect Hong Kong people in this hour of their need. Does this mean that the Securities and Futures Commission, the Registrar General's Department, amongst others, allow the flood of advertisements in the newspapers to go completely unchecked?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, in the famous words of one of our illustrious former Financial Secretaries, "the Hong Kong Government believes that if something is not broken, do not try to fix it"; and this is an area falling into that classification. From 1 January 1987 to date, the Consumer Council has only received 11 complaints and this shows the size of the problem.

MRS. LAM: Do consulates in Hong Kong accept responsibility for the actions of immigration specialists from the countries they represent?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, I have no knowledge of what the consulates do with respect to particular immigration consultants.

MR. DAVID CHEUNG: Sir, many of these immigration specialists are lawyers specializing in the immigration laws of their own countries. What measure of supervision, if any, does the Law Society or the Government of Hong Kong exercise over their activities?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, I believe we are now wading in the area of foreign lawyers. I wonder whether I should not defer to the Attorney General?

HIS EXCELLENCY THE PRESIDENT: Attorney General, do you wish to add to that?

ATTORNEY GENERAL: Sir, if a foreign lawyer wishes to establish a business in Hong Kong under the present administrative arrangements, he must deliver an undertaking to the Law Society which will in turn enable the Immigration Department to issue a work permit to that lawyer. I know of no other arrangement under which lawyers from foreign countries may come here to practise law.

MR. PETER POON: Sir, in view of the fact that there have been complaints to the Consumer Council, has the council undertaken any study of the services rendered or

the products promoted by these immigration specialists, and can it offer any avenue of redress for an aggrieved investor?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, the Consumer Council investigated each of the 11 cases and, in most cases, the results were rather inconclusive in that it involved a complaint of the service rendered not being in accordance with the original request for service. I could go into each case, but I think that would take too much time in this Council. Perhaps I could give Mr. Peter POON a reply in writing listing out the details of the 11 cases. (Annex I)

MR. TIEN: Sir, would the Secretary inform this Council whether any investigation by Government is currently taking place concerning deliberate fraud by any immigration specialist?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, the authorities involved in such investigations do not maintain statistics in respect of fraud with particular reference to immigration statistics. However, we do have the total number of cases involving fraud.

MR. CHUNG: Sir, concerning advice given on investment strategy by immigration consultants, problems seemed to have arisen in the past when immigration scheme funds were hawked around in Hong Kong over what were styled public offerings and private placements. The former need a formal prospectus, while the latter do not. Would the Administration clarify what public offerings are and what private placements are?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, if I may defer to the Financial Secretary?

FINANCIAL SECRETARY: Sir, this is a complex issue and I think it depends on the circumstances of any particular case. But essentially a private offering would be made to a very limited number of people and would not be available for them to pass on to others. The advice that has recently been given by the Securities and Futures

Commission, who have been drawing attention to the fact that it is an offence to issue an advertisement for a public offering without the particular advertisement having been cleared by them, is that if any person is in any doubt, he should take legal advice. I do not think that it is easy for a layman to identify which type of offer would break the law. So legal advice is recommended in all cases so that he can then determine whether permission is required or not.

#### Invitation to the Prime Minister to visit Hong Kong

2. MRS. CHOW asked: Will the Government extend an invitation to the Prime Minister to visit Hong Kong during her planned visit to Kuala Lumpur in October to attend the Commonwealth Parliamentary Heads Meetings, so that she can see at first hand the mood in Hong Kong, and demonstrate to Hong Kong her continuing commitment to this territory, bearing in mind her last visit to Hong Kong was almost five years ago for the signing of the Sino-British Joint Declaration?

CHIEF SECRETARY: Sir, the Prime Minister, as indeed any Minister of the Crown, is always welcome to visit Hong Kong and does not need a specific invitation to do so.

MRS. CHOW: Given that no specific invitation is necessary, is the Government suggesting, by the Chief Secretary's answer to my original question, that there is no way in which it can take the initiative to convey to the Prime Minister our sentiment that a visit by her at this time to Hong Kong is highly desirable, and therefore prompt her to include Hong Kong in her itinerary?

CHIEF SECRETARY: Sir, I think Mrs. CHOW is seeking to enlighten the Legislative Council on what our advice might be to Ministers at this time. I am sorry to sound like a line from "Yes, Minister", but it is a well-established tradition that the advice of officials to Ministers is not made public. However, Sir, the inference of Mrs. CHOW's question is that a visit would be welcome at this time and I will certainly undertake to convey that sentiment to the Prime Minister.

MRS. LAM: Sir, what is the procedure for inviting the Prime Minister to visit Hong

Kong?

CHIEF SECRETARY: Sir, as I made it clear in my original answer, there is no requirement to invite the Prime Minister to Hong Kong. If any Minister of the Crown wishes to come here, then he or she is always welcome to do so.

MRS. FAN: Sir, I am not asking the Chief Secretary to reveal the advice that he may or may not give to the Prime Minister, but may I ask whether the Chief Secretary would consider it useful for the Prime Minister to come to Hong Kong and see for herself, at first hand, the situation in Hong Kong?

CHIEF SECRETARY: I am having a sort of "Yes, Minister" afternoon, Sir. I must refer Mrs. FAN to Standing Order 18(1)(h). She seems to be asking me for an opinion, which I think is out of order.

MRS. CHOW: Sir, it appears that there is a general lack of appreciation of the sense of urgency about Hong Kong in the United Kingdom. Will the Government undertake to put to Her Majesty's Government in the most effective way that this can best be remedied by inviting the Prime Minister to visit Hong Kong to see for herself the current mood in the territory?

CHIEF SECRETARY: Sir, as I have said in answer to an earlier question from Mrs. CHOW, I will certainly undertake to convey the sentiments expressed in the course of asking these questions.

Conservation of energy

3. PROF. POON asked: Will Government inform this Council whether it has any plans to introduce a programme for the conservation of energy in Hong Kong, including liaising with property developers on energy saving measures for adoption in major buildings and installations and nurturing a more energy-conscious community through

education?

FINANCIAL SECRETARY: Sir, in establishing an energy conservation policy for Hong Kong, we must take into account two factors which are of particular relevance to our circumstances. First, Hong Kong is a very small user of energy by international standards, and secondly, we are totally dependent on imports of raw materials for energy generation.

In normal times when supplies are adequate we do not wish to be so restrictive that industries are adversely affected in any way. It is also not our wish to impose restrictions which may affect the lifestyle of our community.

However, we cannot afford to be complacent and we certainly see scope for conserving energy. The public sector has drawn lessons from the oil crises of 1973 and 1979 and has maintained a number of energy economy measures, such as the reduction of non-essential lighting and air-conditioning. The concept of energy conservation is included also in the curricula of both primary and secondary schools to nurture a more energy-conscious community.

In 1979, the Oil (Conservation and Control) Ordinance was enacted to empower Government to take swift action in regulating the supply and consumption of energy. From time to time we have imposed restrictions on the use of electric light for advertising displays and floodlighting. We have also in the past adopted daylight saving hours and even the suspension of night race meetings.

As far as energy conservation in buildings is concerned, a detailed energy utilization study was undertaken on major buildings and installations in the early 1980s. We have since published information on energy conservation in buildings and have made it available to those involved in property development and building management. Furthermore, we are considering the commissioning of a consultancy study to recommend how energy conservation in buildings could best be achieved through legislation.

Sir, we believe that the present energy policy relying largely on the operation of market forces has served Hong Kong well and we intend to continue the current practice.

PROF. POON: Sir, since energy conservation has a direct implication on environmental protection, will the Secretary inform this Council of the environmental effect of curtain walls of buildings?

FINANCIAL SECRETARY: Sir, I think this is rather a technical question relating to the environment that I will defer, if I may, to the Secretary for Lands and Works.

SECRETARY FOR LANDS AND WORKS: Sir, I understand that curtain wall buildings are energy-high in consumption and this is among the reasons why the study proposed and mentioned by the Financial Secretary is now being considered.

MR. PETER WONG: Sir, the Government's action so far has been entirely words. What concrete measures has the Government taken actually to do something about it to set a good example to the public in Hong Kong regarding energy conservation?

FINANCIAL SECRETARY: Sir, a detailed study as I have mentioned, was undertaken in the early 1980s on buildings and installations and practical effect has been given to that. I can give some examples. There were management consultants appointed and work was done at the Queen Elizabeth Hospital, the Kowloon Government Offices, and Kai Tak Airport. As a result, energy saving measures have been implemented on various buildings and installations. Kai Tak Airport is one of the most successful examples. The energy-saving measures included the replacement of 25% of the air-conditioning main chiller plant by more efficient equipment plus the installation of a centralized switching system for the terminal lighting and air-conditioning and auxiliary plant. This has saved some 12 million units of electricity in 1984 alone, which is the equivalent of about \$7 million. There are a number of other energy-saving successes -- Mirror Tower Building, a saving of \$260,000 per annum, and if Mr. Peter WONG wishes, I can write to him giving more details. (Annex II)

PROF. POON: Sir, I understand that a government working party has quite recently completed a report on energy conservation. Will the Secretary inform this Council of the major recommendations of that report, and will these recommendations be

seriously considered?

FINANCIAL SECRETARY: Sir, I am afraid I do not have with me the results from that working party, but I will give a written reply to Professor POON. (Annex III)

MR. EDWARD HO: Sir, I am glad that the Financial Secretary said that the Government is conscious of energy saving. Would the Secretary inform this Council whether Government is prepared to review daylight saving hours once again this year?

FINANCIAL SECRETARY: Sir, I understand that that was reviewed fairly recently and there was a general view in the community which did not suggest that this would have popular support. But I will once again consider whether it is worth doing anything about it. But I think the review was fairly recent.

Written answers to questions

Kindergarten teachers

4. MRS. SO asked: According to a survey conducted by the Non-profit Making Kindergarten Council, kindergarten teachers are in general seriously underpaid with an average monthly salary of less than \$3,000, which is much lower than the normative salary levels proposed in the Education Commission Report No. 2, and this has resulted in a high wastage of kindergarten teachers and a decline in the quality of new recruits. Will Government inform this Council whether urgent consideration will be given to reviewing the pre-primary education policy with a view to improving the pay and conditions of the teachers and the quality of education, for example, by means of direct subsidy?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, we have been reviewing pre-primary education policy in the light of the Education Commission's recommendations in its Report No. 2. We intend to seek approval shortly for a package of measures designed to raise standards of staffing in kindergartens. These include --

(a) a large-scale programme of basic training to ensure that, within a five year period, all kindergarten teachers obtain at least the minimum qualification;

(b) publishing recommended salary scales;

(c) enabling operators to meet higher staff costs by allowing higher fees to be charged, and by raising the existing level of fee assistance to eligible needy parents; and

(d) ways and means of encouraging operators to employ a higher proportion of trained staff.

#### Civic education

5. MR. DAVID CHEUNG asked: Will the Administration inform this Council whether, to improve civic education and the ideas of democracy among young people, it will consider amending the Education Ordinance and Regulations to permit students to receive instruction and education which is of a political or partly political nature and to participate in processions or political activities?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, nothing in the Education Ordinance or Regulations prevents students from receiving instruction and education aimed at promoting political awareness and knowledge. It is only where such instruction or education is considered by the Director of Education to be prejudicial to the public interest or to the welfare of the students or of education generally that it may be prohibited.

It is true that the Director of Education may require a student who has taken part in processions, propaganda or political activities to be expelled from school. This power, however, has never been invoked.

However, since there appears to be a misconception that the Education Regulations prohibit political activity of any kind in schools, there is a case for reviewing them to make it clear that political activities are in order, so long as the welfare and interests of students are safeguarded. This will be included in our current review of the Education Ordinance and Regulations, and I hope we could reach a view before too long.

Tai A Chau detention centre

6. MR. TIEN asked: With the emergency use of Tai A Chau as a detention centre for Vietnamese boat people, will Government inform this Council what measures are being taken:

- (a) to prevent deterioration of the natural environment on the island;
- (b) to protect local inhabitants' livestock and fish resources;
- (c) to ensure the safety of the comparatively few police officers stationed on the island, bearing in mind the large number of boat people and the potential for unrest; and
- (d) to ensure effective policing of the island, so that those who commit offences are identified and properly dealt with according to law?

SECRETARY FOR SECURITY: Sir, basic facilities such as water tanks and generators have been installed on Tai A Chau which is continuing to be used as a temporary holding centre for Vietnamese boat people. The conditions on the island are far from satisfactory. The boat people are intended to be held in transit only and to be moved to alternative accommodation when available. Unfortunately the continuing arrivals of large numbers of Vietnamese make it unlikely that the use of the island can be relinquished in the near future.

The main environmental threat to the island arises from the large numbers of people currently detained there and the absence of waste collection, disposal facilities, proper sewage and drains. Police have tried to mobilize the boat people to collect the rubbish themselves for disposal by incineration. The Regional Services Department have carried out pest control measures wherever possible. There are plans to launch cleansing operations shortly to prevent further deterioration of the natural environment on the island, and to install additional latrines.

The police have warned the boat people to keep away from the mariculture rafts and police patrols have been mounted to prevent access. Unfortunately, other livestock, in the form of some semi-wild cattle who tend to wander all over the island,

cannot be offered complete protection.

The safety of the police officers stationed on the island will be ensured by established operational procedures. Contingency plans have also been drawn up for dealing with any potential disturbance.

Vietnamese boat people on Tai A Chau, unlike those held in other detention centres, are not confined within a fenced area. Complete policing, given the situation on the island and the police resources available, is therefore not possible. However, the main areas where the population is concentrated are regularly patrolled and prompt action is taken against any persons who breach the law.

Paid leave for workers

7. MR. TAM asked: Will Government consider amending the Employment Ordinance to increase the number of days of annual paid leave for workers, which was last revised in 1978, and to introduce marriage leave with pay?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I understand that the Labour Advisory Board was consulted recently on a proposal to increase the provision of paid annual leave for workers from seven days to up to 10 days, depending on length of service. The Board's advice will be carefully considered and I await the Commissioner for Labour's recommendations.

We have no plans to introduce marriage leave with pay in Hong Kong.

Jordan Valley landfill

8. MR. POON asked: In view of the fact that the Jordan Valley landfill has frequently caused serious air pollution and environmental nuisance, especially in the summer season, to the nearby residents of Shun Lee and Shun On Estates and the patients of the United Christian Hospital in Kwun Tong, and that only piecemeal improvements have been made upon receipt of complaints, will Government inform this Council what measures will be taken to tackle the above problems at source; whether assurance will be given to prevent the recurrence of such nuisance to the residents;

when the landfill will be closed down or cease operation; and what steps will be taken after the closure to ensure that there will be no emission of landfill gas which is hazardous to the health and safety of the residents in the area?

SECRETARY FOR LANDS AND WORKS: Sir, may I answer Mr. POON's third question first. We propose to close down Jordan Valley landfill in 1990 when the new refuse transfer station is opened at Kowloon Bay. I mention this first because the only way in which the problem of odours in the summer will finally be solved is by closure. This is the basis of the Solid Wastes Disposal Strategy which recognizes that refuse in hot climates always smells, however well-managed.

In the meantime, in this summer and next, Government has employed a reliable and experienced landfill contractor to manage the landfill. The methods used to compact, cover and seal the refuse are up to date and properly supervised by the Civil Engineering Services Department and also monitored by the Environmental Protection Department. The leachates flow into the foul drainage system. Moreover there are special arrangements for disposing of leachate from refuse wheeling vehicles and the washing of the vehicles and the roads around the landfill sites.

Following the closure of the landfill next year a final soil cover will be placed over the landfill. A gas control system will also be installed to ensure that there will be no hazardous emission of landfill gas. The Environmental Protection Department is now preparing the specifications of the final cover and the gas control system.

Sir, I do not believe that more can be done to make Jordan Valley landfill offend less. The only real answer is removal and to ensure that the highest standards of management are maintained. Meanwhile I am confident that this is being done.

School managers

9. MR. DAVID CHEUNG asked: With reference to the reply to a question asked in this Council on 21 June 1989, will the Government advise what criteria the Director of Education adopts in order to satisfy himself that the managers proposed for a school

are suitable for managing and administering the school, and whether these criteria include a reference to the minimum academic qualification of a proposed manager, having regard to the overall rising standard of education in Hong Kong and the variety of the nature of the sponsoring bodies of schools?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the Education Ordinance does not specify any minimum academic qualification for registration as a manager of a school. In considering an application, the Director of Education takes into account various factors, including the applicant's educational background, experience in or knowledge of education, character and age. The director may refuse the application if the applicant is not considered fit and proper, or if other stipulations in section 25 of the Ordinance are not met.

If it appears to the director at any time that a manager cannot perform satisfactorily the duties involved, the approval to be a manager may be withdrawn.

Since many members of the community now in their middle age have had limited opportunities for education, it would not be appropriate at this stage to stipulate any minimum academic requirement.

Motions

LANDLORD AND TENANT (CONSOLIDATION) ORDINANCE

THE SECRETARY FOR LANDS AND WORKS moved the following motion:

"That --

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

(i) in section 10(1) by repealing "39" and substituting "43";

(ii) in section 58(2) by repealing "60" in both places where it occurs and substituting "65"; and

(iii) in section 74B(1) by repealing "1989" and substituting "1991";

(b) the amendment set out in paragraph (a)(i) above shall come into operation on 1 November 1989; and

(c) the amendment set out in paragraph (a)(ii) above shall not apply to applications for a certificate under section 57 of the Landlord and Tenant (Consolidation) Ordinance made before 19 December 1989."

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

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

The first proposal in the resolution seeks to raise the permitted rent of pre-war premises covered by Part I of the Ordinance, to a more realistic level. Rents of pre-war premises are derived from a standard rent as at 25 December 1941. The current permitted rent is set at 39 times this level, and it is now proposed to increase this to 43 times the standard rent.

This change would bring the average permitted rent of pre-war premises up from 71% to 79% of the prevailing market level. It would result in an average increase of about 10%, or \$150 per month, on current permitted rents and would affect about 1 350 domestic premises.

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

Rent increases permitted in respect of tenancies protected under Part II of the Ordinance, are limited to the difference between the current rent and the prevailing market rent, but subject to a ceiling of 30% of the current rent. However, if the new rent calculated according to this formula is less than a specified percentage (which is at present 60%) of the prevailing market rent the permitted rent increase would be the amount which will bring the new rent up to this minimum percentage. The

reason for specifying this minimum percentage, which is known as the minimum percentage component is firstly to ensure that controlled rents do not fall too far out of line with the prevailing market rent and secondly to enable rent controls to be phased out within the shortest possible time without adverse social consequences.

The average controlled rents for Part II tenancies now stand at about 65% of the prevailing market rent. However, for about 55% of these tenancies, the controlled rent is below this overall average, and about 18% of them are less than 50% of the prevailing market rents. So to ensure that controlled rents do not fall behind this overall average, the Government proposes to increase the minimum percentage component from 60% to 65% of prevailing market rents. Assuming that market rents remain relatively stable, this will have a net effect of increasing by 883 the number of tenancies affected by the minimum percentage component and increasing the average controlled rent by \$18 per month. On this basis, the rent increase mechanism would bring controlled rents to the decontrol level in 1992.

The third proposal in the resolution seeks to further extend the life of Part II of the Ordinance, from 19 December 1989 to 18 December 1991.

Part II of the Ordinance provides protection of rent control and security of tenure to about 60 000 post-war domestic tenancies, plus an undetermined number of sub-tenancies. As explained earlier, Part II is allowed to expire after 18 December 1989, the tenants concerned will face, on average, an immediate rent increase of more than 35% and in some cases, of more than 100%.

These rent controls will be reviewed again next year, taking account of the state of the property market and the social and economic consequences. Any further steps towards decontrol will be carefully considered in the light of the situation at that time.

Sir, I beg to move.

At this point, the following Members declare their interests:

Mrs. Selina CHOW as a director of a company which is a landlord.

Miss Maria TAM as a landlord.

Mrs. Rita FAN as a landlord.

Mr. Peter POON as a landlord and a director and a shareholder of a company which is a landlord.

Mr. CHENG Hon-kwan as a director of a company which is a landlord.

Mr. CHUNG Pui-lam as a landlord.

Mr. HO Sai-chu as a landlord, a tenant and a director of a company which is a landlord.

Mr. NGAI Shiu-kit as a landlord and a director of a company which is a landlord.

Mr. TAI Chin-wah as a landlord and a tenant.

Mr. LAU Wong-fat as a director of a company which is a landlord.

Mr. Ronald ARCULLI as a director of a company which is a landlord.

Mr. Paul CHENG as a director of a company which is a landlord.

Mr. David CHEUNG as a tenant.

Mr. Daniel LAM as a landlord and a director of a company which is a landlord.

Mr. Jimmy MCGREGOR as a landlord and a director of a company which is a landlord.

Mrs. SO CHAU Yim-ping as a director of a company which is a landlord.

Mr. James TIEN as a director of a company which is a landlord.

Question on the motion proposed, put and agreed to.

PEAK TRAMWAY ORDINANCE

THE SECRETARY FOR TRANSPORT moved the following motion:

"That this Council approves the Peak Tramway By-laws made by the Peak Tramways Company Limited on 1 July 1989."

He said: Sir, I move the motion standing in my name on the Order Paper. The motion seeks this Council's approval of the Peak Tramway By-laws.

Section 15A of the Peak Tramway Ordinance empowers the Peak Tramways Company Limited to make by-laws and provides that they shall be subject to the approval of this Council.

With the modernized peak tramway commencing operation in early August this year, the company requires a new set of by-laws to regulate the conduct of persons travelling on or in the vicinity of tramway premises such as stops. The by-laws also set out the arrangements for the issue of passenger tickets, the payment of fares and the handling of lost property. They also prohibit the carriage of firearms and dangerous substances in tramway premises.

The enforcement procedures and the penalties for the contravention of the by-laws are also prescribed, the maximum penalty being a fine of \$5,000 and imprisonment for six months.

The existing Peak Tramway By-laws, which were made in 1923, will be repealed.

Sir, I beg to move.

Question on the motion proposed, put and agreed to.

First Reading of Bills

SECURITIES (INSIDER DEALING) BILL 1989

SUMMARY OFFENCES (AMENDMENT) (NO. 2) BILL 1989

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

## Second Reading of Bills

### SECURITIES (INSIDER DEALING) BILL 1989

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to amend the law relating to insider dealing in securities; and for connected purposes."

He said: Sir, I move that the Securities (Insider Dealing) Bill 1989 be read the Second time.

The main purpose of this Bill is to provide a more comprehensive definition of insider dealing and to increase the sanctions that may be imposed by the Insider Dealing Tribunal in order to provide a more effective deterrent against insider dealing. The Bill incorporates many of the existing provisions in Part XIIA of the Securities Ordinance, particularly those in relation to the constitution of the tribunal, the scope of its inquiry and its powers of investigation. The Bill also introduces a number of important changes which are designed to improve and strengthen the present tribunal system. I shall highlight some of the more significant proposals.

First, the Bill increases substantially the sanctions which may be imposed by the Insider Dealing Tribunal. At present, the only sanction available is public censure. This is inadequate and more effective deterrents are required. To this end, the Bill empowers the tribunal to impose severe penalties upon persons found to have been involved in insider dealing. The tribunal may disqualify such persons from the directorship or the management of any company, public or private, for up to five years. The tribunal may also require the disgorgement of any profit made or loss avoided and impose a fine of up to three times the relevant amount.

We believe that tougher sanctions coupled with the flexibility of the tribunal system is the right approach in tackling the problem of insider dealing in Hong Kong. However, as I have said previously, we have not ruled out the option of criminalization entirely. We shall review the matter in three years' time in the light of experience of increased tribunal sanctions under this Bill.

Secondly, the Bill provides a more comprehensive definition of insider dealing. It now catches as an insider a person who is contemplating or has contemplated a

takeover bid as well as any person informed by an insider, commonly known as a "tippee". It also catches dealing in the securities of a related corporation and the promotion of insider dealing on an overseas stock exchange. Moreover, it adds an important new requirement that an insider or tippee must know that he is in possession of inside information.

Thirdly, the Bill grants a limited right of appeal. Persons found to have been involved in insider dealing may appeal on a point of law to the Court of Appeal. We have not proposed a general right of appeal because we believe the tribunal is best placed to decide on the facts of the case. This right will be without prejudice to the existing right of judicial review.

Fourthly, the Bill requires that sittings of the tribunal be held in public unless the tribunal considers that in the interests of justice, a sitting or any part thereof should be held in private. At present, the tribunal's proceedings are in private. We believe that it is in the wider public interest for proceedings to be held in public, as in the case of criminal and civil proceedings before a court of law.

Fifthly, the Bill empowers the tribunal to order a person found to have been involved in insider dealing to pay to Government such sums as it sees fit towards the expenses of the inquiry and any related investigation carried out by the tribunal. We consider it reasonable to require insider dealers to contribute towards the tribunal's expenses.

Let me now turn to the question of insider dealing in futures contracts. During the Second Reading debate on the Securities and Futures Commission Bill in April this year, Sir Piers JACOBS undertook to consider whether the Securities and Futures Commission's powers of investigation should be extended to cover insider dealing in futures contracts and to report back to this Council.

We have considered whether the Bill before this Council should also bring futures contracts within the scope of insider dealing. This question raises a number of technical issues which require very careful examination. First of all, the definition of "relevant information" for the purpose of insider dealing requires some attention. Should this relate to unpublished price-sensitive information about a corporation, an industrial sector, the political situation or the economy as a whole? Secondly, we have the problem of proof. What evidence is required to show a sufficient causal relationship between particular information and a material change

or likely material change in the price of a futures contract? Thirdly, we have the question of scope. Should it embrace all financial futures or just stock index futures contracts?

These are not easy questions to answer. An indication of the difficulty involved is that futures contracts are not caught by the equivalent United States legislation and only caught in a very limited way, if at all, by the United Kingdom legislation as the relevant provisions have yet to be tested before the courts.

Having regard to the complexities involved and the need to introduce tougher penalties as quickly as possible, we have concluded that the question of futures contracts should not be addressed in the present Bill. However, I can assure Members that we will carefully examine the question with the Securities and Futures Commission in the light of our experience of the proposed new legislation in operation and will prepare legislative proposals if and when these are considered appropriate.

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

Question on the adjournment proposed, put and agreed to.

#### SUMMARY OFFENCES (AMENDMENT) (NO.2) BILL 1989

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

He said: Sir, I move the Second Reading of the Summary Offences (Amendment) (No. 2) Bill 1989.

This Bill seeks to reduce noise nuisance caused by audible burglar alarms.

Members of the public, particularly people living in areas where there are a large number of shops and businesses, frequently complain of the noise caused by burglar alarms. Such alarms often ring for very long periods, while the police try to contact the occupiers of the premises concerned to ask them to turn off the alarms.

To reduce this noise nuisance, the Bill proposes that any person in control of an alarm system must fit a device to the system to cut off the audible alarm within

15 minutes of its first ringing. The Bill further proposes that the maximum penalty for not fitting such a device should be a fine of \$5,000 and three months' imprisonment.

There are an estimated 50 000 audible alarms in Hong Kong. It is therefore proposed that, following enactment, there should be a grace period of one year before the Bill's provisions come into effect. The fitting of a cut-off device to an audible alarm is a simple and inexpensive operation.

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

Question on the adjournment proposed, put and agreed to.

#### ARBITRATION (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 28 June 1989

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

Bill read the Second time.

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

#### COUNTRY PARKS (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 28 June 1989

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

Bill read the Second time.

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

#### SUMMARY OFFENCES (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 24 May 1989

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

Bill read the Second time.

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

#### TEMPORARY CONTROL OF DENSITY OF BUILDING DEVELOPMENT (KOWLOON) BILL 1989

Resumption of debate on Second Reading which was moved on 31 May 1989

Question on Second Reading proposed.

MR. CHENG HON-KWAN: Sir, in view of the potential controversy over this new piece of legislation, an ad hoc group was set up to scrutinize the Temporary Control of Density of Building Development (Kowloon) Bill 1989.

Under the Hong Kong Airport (Control of Obstructions) Ordinance, airport height restrictions (AHR) are imposed on buildings to ensure aircraft safety. With the introduction of new obstacle clearance criteria by the International Civil Aviation Organization in 1982, the Civil Aviation Department has initiated a review of AHR in 1983. Phase I of the review was implemented in 1986. The Phase II review has now been completed.

Implementation of the recommendations of the Phase II review will result in the relaxation of existing AHR in many areas of Kowloon which could lead to a significant increase in existing plot ratio. It will also involve the imposition of AHR for the first time in parts of Hong Kong Island and Lantau Island and the tightening up of existing AHR in some areas of Kowloon. The development of those areas with relaxed AHR to their maximum permitted density under the new AHR will put severe strain on existing and planned infrastructure and community facilities. On the other hand, it will be unlikely that land is available for the construction of new roads and other facilities to cater for the additional development density that the relaxed AHR will permit.

The Bill seeks to impose temporary control on the density of building development by ensuring that after the implementation of the new AHR recommended by the Phase

II review, new buildings are not developed to a plot ratio greater than that that can be achieved under the present AHR. The present intention is that the Bill will expire on 31 December 1990, unless extended by a resolution of the Legislative Council.

Hong Kong is one of the most populous and crowded cities in the world. The problem of overcrowding and inadequate facilities is most serious in the old urban areas. Much needs to be done in the field of town planning to thin out population density in the older built-up areas to enable better provision of infrastructure and community facilities, and thereby improved quality of life. The formulation of a comprehensive planning strategy for the metropolitan area is currently undertaken by the Metroplan study.

Against such background, the Government is highly concerned that the substantial increase in plot ratio arising from the relaxed AHR would give developers a significant incentive to develop or redevelop to the maximum permitted density, thus causing unacceptable strain on the already overloaded infrastructure in Kowloon and New Kowloon. Although it is still difficult to assess the impact of the recent events in China on the property market, Members share the Administration's view that a freeze on the existing development density is necessary until a comprehensive planning strategy for the metropolitan area is formulated by the Metroplan.

Since the main purpose of the Bill is to impose some form of interim development control until the conclusions and implementational details of the Metroplan study are known by the end of 1990, Members have questioned whether the implementation of the new AHR can be deferred until such date. According to the Administration, it will be unacceptable to defer the imposition of new height restrictions on parts of Hong Kong and Lantau Island. Besides, according to legal advice, the Governor in Council's power to impose AHR should be circumscribed to civil aviation safety ground and should not be exercised for town planning control. Thus, it is reckoned that a new manner of statutory control over building density in areas where the AHR are to be relaxed needs to be instituted, no matter how temporary its nature.

Members have questioned the possible effects of the relaxed AHR on the flight path of the replacement airport. The Administration has assured Members that although the review of AHR is done as a separate exercise from the Port and Airport Development Study, judging from the locations of the shortlisted replacement airports, the relaxation of AHR resulting from the review will not cause obstacle problems

to the new airport.

The group has also identified several technical points in relation to the drafting of the Bill on which the Administration has agreed that amendments should be made. I shall be elaborating on the reasons behind these amendments during the Committee stage.

Sir, with these remarks, I support the Bill.

MISS LEUNG (in Cantonese): Sir, height restrictions on building development in some districts of the territory are determined with reference to the Hong Kong Airport (Control of Obstructions) Ordinance which seeks to ensure the safe landing and take-off of aircraft. The Ordinance is principally based on the International Civil Aviation Organization's guidelines on safe landing and take-off. However, revisions to the guidelines in 1982 have introduced new standards as to the safe distance between the flight path and an obstruction. Hong Kong is obliged therefore to re-determine the height restrictions according to the new standards.

In 1983 the Civil Aviation Department started a two-phase review of obstructions control. The first phase was completed quite some time ago and the recommendations emanating from it have been implemented since November 1986. The second phase has lately been completed. Part of the recommendations of the latter-phase review propose generous relaxation of height restrictions on building development in some of the districts concerned, that is, in most parts of Kowloon and New Kowloon.

Sir, generous relaxation of building height restrictions in most parts of Kowloon and New Kowloon will mean that the density of building development in these already densely built up areas will be further and considerably increased. Old developed areas have all along been suffering from over-dense building development, lack of certain community facilities, and inadequate communal space and roads. If density of building development in these areas is to be substantially heightened, developers will find it worthwhile to apply for redevelopment of individual sites or undertake new development projects based on the higher density criterion to beat the Metroplan which is expected to be put into effect by the end of next year. In the districts concerned, many land lots not subject to express provisions as to height and plot ratio under the Crown lease will be hotly sought after for redevelopment purpose. This will lead inevitably to a surge in demand on the already stretched community

and infrastructural facilities in these old developed areas.

Sir, height control of obstructions in or under the flight path is meant to ensure flight safety. In the context of flight safety, however, height control of obstructions in some districts has nowadays been proved to be outmoded and need to be revised. However, the Administration is worried lest a revision in that regard should heighten or otherwise affect the density of building development in most districts of Kowloon and New Kowloon, not to mention the indirect impact it would have on the Metroplan expected to be implemented from 1 January 1991. It is with this in mind that the Administration has put forward this Temporary Control of Density of Building Development (Kowloon) Bill 1989 to seek to impose temporary control on the density of building development in the affected districts and to ensure that the plot ratio of new buildings will not exceed the level allowed under the present regime of height control of obstructions in or under the flight path.

It should be patent to all that the Bill, in its over-concern to dovetail with the regime of height control, has imposed on itself unnecessary limitations. As a result, the Bill, while seeking to restrict the plot ratio of new buildings in the affected districts, still leaves room for new buildings to exceed the height allowed under the present control of obstructions in or under the flight path.

This arrangement will obviously create loopholes. Once height control of buildings is relaxed, the gross area of new developments on some land lots in affected districts will, notwithstanding restrictions on plot ratios, vastly increase over that of existing developments. This will lead to heightened density of building development in the districts concerned. In certain cases, even if the gross area of new developments on some land lots is to remain as before, "tall thin" buildings, deliberately designed to optimize utilization of height, will be erected, compromising the environment and the future Metroplan.

Sir, I believe the loopholes could be plugged if we could overcome the Bill's obsessive concern to dovetail with the regime of height control of obstructions in or under the flight path and reconsider revising the Bill based on practical town planning or Metroplan principles. As most of the affected districts in Kowloon and New Kowloon are old developed areas with inadequate basic community facilities and high built-up density, we therefore cannot allow any denser building development. Based on the above observations, there should be adequate town planning and metroplanning reasons to restrict the height of new buildings in the affected

districts to a level consistent with the present regime of height control of obstructions in or under the flight path, and hence to control the density of building development. I believe that this suggestion is substantially better than the present Bill's proposal to impose plot ratio restrictions on new buildings but relax height restrictions.

Sir there is no doubt that we are in urgent need of an overall planning strategy or guideline for redevelopment programmes to follow. Only with such a guideline in place can redevelopment programmes effectively and meaningfully proceed. The Metroplan now under study should be able to provide an overall policy framework within which redevelopment in old urban areas will proceed. As the Metroplan is expected to be in place by early 1991 I believe the Administration should now refrain from encouraging small-scale or unco-ordinated redevelopment projects to go ahead. I should like also to take this opportunity to urge the authorities concerned to expedite and to ensure the completion of the Metroplan on or even ahead of schedule, so that there will be a firm basis on which development of our metropolitan areas can proceed.

Sir, in view of what I perceive to be patent loopholes in the present Bill I will not support the motion but neither will I oppose it because the Bill aims at controlling the density of building development.

Sir, with these remarks, I beg to abstain.

SECRETARY FOR LANDS AND WORKS: Sir, I would like to take this opportunity to thank the OMELCO ad hoc group for considering this Bill in detail and their suggestions for improvement. The minor amendments to the Bill which will be moved by the Honourable CHENG Hon-kwan at the Committee stage have the full support of the Administration. I was not aware, prior to a minute ago, that Miss LEUNG in fact would not support this Bill. But I would like to assure her that the purpose of this Bill is a temporary measure; it is in order to provide that development in future shall be in accordance with an appropriate planning strategy and that, in the view of the Administration, it is most unlikely to give rise to buildings of a greater density than could have been achieved under the existing or rather previous airport height restrictions, or to a lot of tall, thin buildings.

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

Bill read the Second time.

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

#### DRUG TRAFFICKING (RECOVERY OF PROCEEDS) BILL 1989

Resumption of debate on Second Reading which was moved on 8 March 1989

Question on Second Reading proposed.

MISS TAM: Sir, the Drug Trafficking (Recovery of Proceeds) Bill 1989 was read for the First time in this Council on 8 March 1989. The objective of the Bill is to curb drug money laundering by introducing new investigative powers to facilitate the identification of proceeds derived from drug trafficking, and by creating a new offence of assisting in the retention and concealment of such proceeds. The non-government Members of this Council welcome the new initiatives aimed at attacking the assets of drug traffickers and preventing profits derived from drug trafficking to be siphoned to other legitimate lines of business. However, in view of the extensive powers provided under the Bill which enables the courts to freeze and confiscate proceeds derived from drug trafficking, sometimes from persons other than the defendant, an ad hoc group was set up by this Council to examine its provisions. The Honourable Ronald ARCULLI, the Deputy Convener, and the Honourable Mrs. Miriam LAU chaired a Chinese text sub-committee to work alongside with the group to study the Chinese version of this Bill.

The ad hoc group met a total of 15 times, including five times with the Administration, once with the banking sector and nine internal discussions before we made the recommendations to the Legislative Council in-house meeting. The Chinese text sub-committee, with assistance from the OMELCO Legal Unit, met 13 times with Law Draftsmen from the Legal Department before completing its task. I would like to register a note of thanks to all of them for the quality of their work. The group and the Administration has now agreed on a package of 21 amendments to the English version and 50 amendments to the Chinese version of the Bill and I will briefly go through some of these amendments which concern major principles, whilst my colleague, the Honourable Peter WONG, will elaborate on other points which are more of a technical

nature.

This package of amendments represents a compromise reached between many different and sometimes conflicting considerations. We began our task by inviting views from professional bodies involved in an earlier draft of the Bill. These include the Hong Kong Association of Banks, the Hong Kong Association of Deposit Taking Companies, the Hong Kong Bar Association, the Law Society of Hong Kong, and the Hong Kong Society of Accountants. We received lengthy and detailed written submissions from all these professional bodies, and met representatives of the banking sector to exchange views on specific provisions in the Bill and the contents of their guidelines. The Honourable David LI will no doubt explain the position of the bankers. Our main concern is that those offering professional service to their clients in good faith should not be unfairly prejudiced by any draconian measures of the law whilst on the other hand the law must be made effective.

The first issue to which I wish to address concerns clause 3(1) of the Bill which allows the confiscation investigations to proceed after the defendant has appeared before the High Court or the District Court. Upon closer examination the ad hoc group identified a potential loophole in that since the word "appear" will be construed as physical appearance, a drug trafficker could frustrate the confiscation investigations by absconding before he is due for appearance in the court. To remove this potential loophole, the reference to appearance will be replaced by a reference to proceedings in the High Court or the District Court.

The second issue concerns clause 3(4) of the Bill which provides that, before sentence can be imposed upon a convicted person, the court will have to determine whether he has benefited from drug trafficking and, if so, to assess the amount involved and make consequent confiscation orders. The ad hoc group shares the legal profession's concern that determination of the appropriate sentence would be unduly delayed in complex cases where lengthy investigations are necessary to ascertain the assets involved, and that the court could be influenced, or at least perceived to have been influenced, by the extent to which the defendant is determined to have benefited from drug trafficking before passing sentence on him. In this respect, it is useful to point out that for a criminal conviction, the prosecution must prove beyond reasonable doubt that an offence has been committed by the defendant whereas for a confiscation order, the court only needs to be satisfied on the balance of probabilities, that the defendant has benefited from drug trafficking.

Apart from the arguments cited by the legal profession, the ad hoc group also understand that the identification and confiscation of assets derived from drug trafficking is totally independent from the determination and imposition of sentence for the convicted drug trafficking offence which triggered off the whole process of investigation, and recognizes the common law principle that power to delay sentence should only be exercised in limited circumstances. A proposal was therefore put forward to the Administration to remove the requirement that sentencing should be held up pending the completion of confiscation investigations. An amendment will be moved at Committee stage in this connection.

The third issue, raised by the banking sector, is of a very different nature. It relates to clause 25(1) of the Bill, which creates an offence for a person who enters into or is otherwise concerned in an agreement to retain or control on behalf of another person proceeds of drug trafficking if he entered into the agreement "knowing or suspecting" that the latter person was a drug trafficker or had benefited from drug trafficking.

The banking sector is concerned that given the large volume of cash transactions in Hong Kong, tellers would be exposed to undue risks of contravening the law since they might not have the expertise to determine, under prevailing circumstances, what constitutes a suspicious transaction. It is also argued that suspicion, being a state of mind, should not lead to criminal liability. A proposal was therefore made that the requirement for banks to report such transactions be replaced by a cash limit, above which all transaction should be reported, or to replace the word "suspect" by "believe". This proposal is aimed at removing the uncertainty by stating clearly the potential liability of the banks.

The ad hoc group has discussed this point thoroughly and agreed that although the cash limit approach would lead to abuse; nevertheless, an alternative formulation of "having reasonable grounds to believe" should produce an acceptable balance between the need to minimize the burden placed upon innocent parties on the one hand, and the need to encourage people to report suspicious transactions on the other. Here the Legislative Council in-house meeting has given us the full support and at the end our suggestion was accepted by the Administration and a Committee stage amendment will be moved to effect this agreement.

The final issue which I would like to mention concerns the definition of "broadcast" under clause 26(9). The ad hoc group is of the view that the existing

definition which covers the specific means of radio, film, video tape or television may not provide adequate protection against the revelation of the identity of a person who has made disclosure of a suspicion or belief that any funds or investments are derived or used in connection with drug trafficking. The definition also appears too rigid and may not be able to keep pace with advances in the field of communication technology. Accordingly an amendment will be moved at Committee stage to widen the definition so that it covers not only those means specifically mentioned, but also other similar means of broadcasting. This should be able to give better protection to the informant and subject the definition to a more flexible interpretation.

Sir, my colleagues believe that the introduction of this Bill is not only aimed at discharging our obligations towards international efforts in investigating drug trafficking. We simply do not believe that drug traffickers should be allowed to enjoy their ill-gotten gains and we are now taking effective measures so that their wealth could be investigated and confiscated if the court sees fit. We call upon the private sector including the banking and professional sector to support this effort in our fight against drug trafficking.

With these remarks, Sir, I support the motion.

MR. LI: Sir, when enacted, the Drug Trafficking (Recovery of Proceeds) Bill 1989 will be a powerful weapon in Hong Kong's fight against crime and, in particular, against the drug trade. Hong Kong must use every legitimate method at its disposal to stamp out this evil trade.

The financial sector recognizes that it has a crucial role to play in the war against drug trafficking, and it welcomes the principle behind the Bill we are now debating. Financial institutions in Hong Kong are already doing their utmost to assist law enforcement agencies in this fight, and are prepared to co-operate fully with the authorities.

The banks of Hong Kong, through the Hong Kong Association of Banks, have made submissions and representations on this Bill to the Legislative Council and the Government. The present version of the Bill is a significant improvement on the original draft. For such an important subject, it is vital to draft legislation that will be effective -- and effective legislation is legislation which adequately reflects the specific operational conditions of Hong Kong.

As far as the financial industry is concerned, the most significant change in the Bill has been in section 25. In determining whether a transaction should be reported, the wording "having reasonable cause to believe" was substituted for a mere "suspicion".

While it would be better if the standard of judgment in section 25 were tightened further by using a more definitive word "belief", the new phrasing does provide a measure of protection to banks and their employees. It should, therefore, help to put implementation of this legislation on a firmer footing.

However, the financial industry still has a number of objections to the Bill, which the Government, most regrettably, has adamantly refused to alter. The three areas are of particular importance.

First, the Bill as now drafted contains no specific defences for bank employees, compliance officers and banks which operate in good faith. While the first of these groups, bank employees, can draw some comfort from the proposed letter to be given by the Secretary for Security, the truth is that such a letter would not be binding on the Attorney General or the Crown Prosecutor.

The argument against providing specific defences seems to turn largely on the difficulty of drafting language that gives protection without opening more loopholes. However, as in the case of the word "suspicion", the lack of protection for the financial industry could well undermine the effectiveness of this legislation. Specific defences should be made available in each of the cases just cited.

A second point of concern is the issue of criminal liability in Hong Kong. The current draft of the legislation fails to clarify what the territorial limitations of the Bill will be and whether or not persons in Hong Kong will be held liable for participating indirectly in or simply having knowledge of illegal activities outside the territory.

Under the legislation as now drafted, it is arguable that banks which receive reports from or make credit decisions for branches outside Hong Kong may inadvertently incur liability even though the illegal act took place abroad. The Government disagrees and takes the view that criminal liability can only be incurred in respect of transactions within the territory. If that is the Government's position, why will

they not agree to a simple amendment stating that position?

Third, there is the question of guidelines. It would give the financial industry a far greater degree of comfort if the guidelines for the implementation of this Bill were referred to specifically in the legislation. I understand that the Government will give assurances regarding how it will operate the legislation now, with particular regard to the guidelines. But these assurances are of an informal nature. As such, they may not be binding in the future.

The financial industry would prefer to see the guidelines referred to in the legislation and specific defences tied to observance of the provisions of the guidelines.

The Government has indicated that it is prepared to review the Bill at some point in the future. Hong Kong's financial industry strongly believes that a date should be fixed now for this review.

The review should occur within two years after the legislation comes into force. It should involve a thorough, independent evaluation of the operation of the law, and should recommend any amendments needed to eliminate ambiguity and improve the efficiency of enforcement.

Sir, I wholeheartedly endorse the general motive of this Bill, but I would again express my disappointment that the Administration is not prepared to take full account of the objections of the financial industry.

Sir, with these remarks, I support the motion.

MRS. LAU (in Cantonese): Sir, the Drug Trafficking (Recovery of Proceeds) Bill 1989 is the first piece of legislation concerning criminal liability since the introduction of bilingual legislation in Hong Kong. To the general public, criminal law is of particular significance because it has a direct bearing on personal freedom and rights.

The Drug Trafficking (Recovery of Proceeds) Ordinance is a draconian criminal statute introduced with the aim of deterring people from engaging, participating or assisting in drug trafficking activities by confiscating the property derived from

drug trafficking in addition to the appropriate penalties imposed on the offenders. The provisions of the Bill confer extensive powers on the court which may issue restraint orders, charging orders and confiscation orders and so on. The court may also give authorization for the seizure and detention of any material conducive to the investigation of drug trafficking activities. A number of assumptions have also been provided in the Bill against drug traffickers, so that they can hardly escape from punishment and those who have assisted others to retain the benefit of drug trafficking and knowingly concealed the facts are also liable to criminal prosecution.

The Legislative Council ad hoc group is in full support of the spirit of this piece of legislation which on the one hand enables Hong Kong to take an active role in fulfilling its obligation to the international effort in eradicating drug trafficking activities, and on the other hand, fully expresses our determination to combat the notorious drug traffickers with draconian legislation and severe penalties. In the fight against crimes, we have to maintain the fairness of the law and avoid causing any unnecessary hardship to the innocent parties. In this respect, the ad hoc group has, after careful deliberation, made a number of recommendations to ensure that the Bill is in line with the spirit and principle of common law.

In scrutinizing this Bill, the major task of the Chinese Text Sub-committee under the ad hoc group is to avoid the existence of any discrepancies between the legal meaning of the Chinese and the English texts because both texts will become authentic versions and enjoy equal legal status. Any contradiction or ambiguity will cause unnecessary difficulties to the enforcement staff and be unfair to the accused although, in principle, the court may decide on the true meaning of the legislation in accordance with the Interpretation and General Clauses Ordinance. The Chinese Text Sub-committee was fully aware of the importance of this and carefully studied the Chinese text of the Bill so as to ensure that the diction adopted will accurately reflect the full meaning of the English text.

Most of the existing criminal statutes of Hong Kong are based on or even borrowed from the criminal statutes of the United Kingdom for two reasons:

First, the United Kingdom criminal statutes which have been in force for many years are well-defined in legal principles, compact in their formulation and functioning well. Since both Hong Kong and the United Kingdom are following the same legal principles, there is no reason why Hong Kong should not borrow from the United

Kingdom in drafting its own laws.

Second, the court has to make reference to case law when trying cases. Although the courts of Hong Kong are not bound by the judicial precedents in the United Kingdom, they can refer to such precedents if the legislation concerned is similar in terms of language, content and legal principles to the United Kingdom legislation and it will be much easier for the parties concerned to invoke the relevant legislation and rely on the precedents.

The English text of the Drug Trafficking (Recovery of Proceeds) Bill was drafted by making reference to the Drug Trafficking Offence Act 1986 of the United Kingdom. A number of provisions in the Bill borrowed word for word from the United Kingdom legislation. Apparently, a characteristic of the United Kingdom statutes is that most of them have been drafted in the archaic style and the legal principles are expressed in a circumlocutory or convoluted manner. As a result, the provisions of United Kingdom legislation appear to be very complicated.

Such drafting style is understandable. The intention of the law draftsmen is to ensure that the legislation so drafted can accurately express the spirit of the legislation and avoid loopholes as far as possible. This principle is particularly important in drafting criminal statutes. In a statute such as this one which involves complicated legal principles, the provisions will inevitably be complex and cumbersome.

Some provisions of the Drug Trafficking (Recovery of Proceeds) Bill 1989 are drafted in a circumlocutory and convoluted manner, for example:

(a) clause 2(9): "References to an interest held by a person beneficially in property include, where the property is vested in his trustee in bankruptcy or in a liquidator, a reference to an interest which would be held by him beneficially if the property were not so vested."

(b) The English text of clause 4(2): "the High Court or the District Court as the case may be, may for the purpose of determining whether the defendant has benefited from drug trafficking and, if he has, of assessing the value of his proceeds of drug trafficking, make the following assumptions, except to the extent that the defendant shows that any of the assumptions are incorrect in his case."

The above provisions indicate that it is really a hard job to translate the complicated English sentences into Chinese while preserving their legal meaning at the same time. Moreover, as most clauses are sub-divided into a number of sub-clauses which are then further split into paragraphs, it would be a highly formidable task to follow the common grammatical rules in the Chinese language by formulating the clauses in a cohesive manner. The Chinese Text Sub-committee wishes to take this opportunity to express our appreciation towards the officers responsible for law drafting in Chinese for they have really devoted their greatest effort to convey the original English meaning in the Chinese text. Throughout the Bill, there are quite a number of long sentences and some are written in a clumsy style which makes comprehension difficult. However, as we have to adhere closely to the real legal meaning in the English text, there seems to be no other alternatives.

The major concern of the Chinese Text Sub-committee was not merely on the readability of the Chinese text, but rather the question of whether the text could meet the basic requirement of conveying the legal meaning with clarity and accuracy. If this requirement was met, the sub-committee still consider it acceptable even if one had to read the text several times carefully before grasping the meaning.

The Chinese Text Sub-committee had held 13 meetings before a package of about 50 amendments could be agreed. Most of the amendments are proposed to rectify the discrepancies relating to the legal meaning and semantic aspects of the provisions. Here are some examples:

(1) The Chinese text of clause 14(2) originally went like this: "除第き⑩ぎ⑩く 及 く款另有規定外(1)上述權力須予行使(1)以期把任何人持有的可變現財產變現(1)從而獲得該等財產當時的價值(1)用作圓滿執行就被告所發出的任何沒收令⑨" while the English text reads: "Subject to subsection (3), (4), (5) and (6), the powers shall be exercised with a view to making available for satisfying the confiscation order or, as the case may be, any confiscation order that may be made in the defendant's case the value for the time being of realizable property held by any person by the realization of such property." The original meaning in the English text does not imply that the powers must be exercised, but rather the exercise of the powers with a view to achieving certain proposes. And "satisfying the confiscation order" does not mean that the confiscation order has to be enforced satisfactorily, but rather "to effect payment under the confiscation order". The sub-committee therefore proposed to amend this clause to read: "當行使上述權力時(1)須 以把任何人持有的可變現財產變現(1)從而獲取

該等財產當時的價值(1)用作繳付就被告而發出的沒收令所須付的款項為目標⑨".

(2) The English text of clause 8(1)(b) reads "Section 114 of the Criminal Procedure Ordinance (Cap. 221) shall apply as if ...", but it has been rendered in Chinese as "在引用 [刑事訴訟程序條例] ④第 221 章③第 114 條時(1)須當作(4)". In fact, the English of this sub-clause does not provide for any discretionary power relating to the application of the law. It simply states that the law has to be applied under circumstances specified. Therefore, the sub-committee proposed the Chinese text be amended to read "須引用 [刑事訴訟程序條例] ④第 221 章③第 114 條(1)猶如(4)".

(3) The Chinese text of clause 21(3) (c) (i) originally went like this: "如要聯絡任何有權提交有關物料的人(1)在實行上有困難⑧或". The phrase "在實行上有困難" was used to render

the meaning of "it is not practicable". However, the Sub-committee was of the view that "not practicable" did not only imply "difficulty", it should also cover the meaning of "doing something that is impracticable and ineffective". As a result, it was proposed to amend this phrase to read "並不切實可行".

(4) The phrase "宣告破產" has been used repeatedly in clause 16. Under the Bankruptcy Ordinance, the court may adjudge a person as being bankrupt after a court hearing at the instance of any person. But a person cannot declare himself bankrupt. Thus the sub-committee was of the view that "宣告破產" should be amended to read "被裁定破產".

On the other hand, there are a number of unfamiliar terms in the Chinese text of the Drug Trafficking (Recovery of Proceeds) Bill, for example:

(a) The Chinese text of "a gift caught by this Ordinance" is "受本條例圍制饋贈". The word "圍" means a place enclosed by walls where animals are kept in captivity to prevent them from escape. Thus the term "圍制" is aptly applied to refer to a gift which cannot avoid the legal restraints intended by the Ordinance.

(b) "Seriously prejudice" has been rendered as "嚴重妨害". Although "prejudice" is normally rendered as "損害" 或 "不利", the term "妨害" which means "to prevent any obstruction which may in turn cause any harm" appears to be a more appropriate rendition for "prejudice".

(c) The penalties in the Bill are denoted by the phrases "可處罰款若干元" and "監禁若干年". Regarding the word "處", the sub-committee has made in-depth study on whether it should be replaced by "處罰" 或 "判處". The word "處" can be interpreted as to determine or to deal with. In Chinese, there is a phrase "處以嚴刑" which means "to impose heavy punishment on criminals according to law". Therefore, "處" is an extremely appropriate word to convey the meaning of "sentence".

In the debate on the Second Reading of the Securities and Futures Commission Bill 1989, I mentioned that the Legal Department were preparing for the compilation of a glossary on all the new terms and some unfamiliar expressions used in the Chinese texts of the Ordinances. Several pieces of bilingual legislation have now come into being and they have adopted numerous new terms like those mentioned above or unfamiliar expressions which have been seldom used. I hope that the first edition of this glossary will be published soon, so that it may serve as a reference to be used by officers in the course of law drafting and law translation in future. Moreover, it will enable consistency in the use of Chinese expressions and terms in different pieces of legislation, where appropriate.

Sir, with these remarks, I support the motion.

MR. PETER WONG: Sir, my colleague the Honourable Maria TAM has already explained in great detail the approach adopted by Members in studying the Bill. I will not therefore attempt to say anything further on general aspects but will instead concentrate on several technical points which arose during our examination of the Bill.

I would like to begin by referring to clause 8(1) of the Bill which allows an imprisonment term fixed in accordance with the amount charged against a person under the confiscation order, as if it were a term fixed under section 114(c) of the Criminal Procedure Ordinance. The ad hoc group finds this unsatisfactory because by so doing the court will appear to have a discretion to order an imprisonment term associated with the confiscation order to run either consecutive to or concurrent with an imprisonment term arising from the drug trafficking offence. This ambiguity is deepened by the stated intention in the Legislative Council brief on the Bill that the former imprisonment term should be served in addition to the latter imprisonment term. The Administration agreed with the group's observation and an amendment will

be moved at Committee stage.

The second point relates to clause 20(4) of the Bill which spells out a number of conditions required to be satisfied before a person can be ordered to produce or allow access to certain material to an authorized officer. One of these conditions, under sub-clause 4(a), involves "reasonable grounds for suspecting" that a person has carried on or has benefited from drug trafficking. In line with the ad hoc group's thinking that the liability of and inconvenience to innocent third parties should be minimized as far as possible, an amendment will be made to alter this condition to "reasonable grounds for believing" that a person has carried on or has benefited from drug trafficking. Since the standard of proof required to establish there being a "belief" is higher than that of there being a "suspicion", the invocation of this power will therefore be confined to more limited circumstances.

Nowadays when office automation is the synonym for business efficiency, the capability of information technology is also fully exploited by drug traffickers. Thus it becomes inevitable that the Bill must allow authorized officers to gain access to data contained in computers or other electronic storage devices. The present provision under clause 20(7) only covers "information contained in a computer". This is clearly inadequate and out of step with the rapid technological advances prevailing today. The ad hoc group feels that a more comprehensive definition should be drawn up with reference to relevant provisions in the Securities and Futures Commission Ordinance. Accordingly, a new provision containing the definition of "data equipment" will be introduced at Committee stage to replace the present provision.

Finally, I wish to mention about clause 25(3) (b) of the Bill which accords protection to a person disclosing a suspicion or belief in connection with drug trafficking against the liability arising from a breach of restriction imposed by contract. Bearing in mind that those who are most likely to come across information or document from which such suspicion or belief can be derived are professionals bound by their own code of practice, the ad hoc group suggested that the protection be extended to liabilities arising from breach of professional ethics. This was agreed by the Administration and will be addressed at Committee stage.

Having dealt with the technical points, I wish to highlight one aspect of the Bill from which possible inequalities or hardships could arise.

As we know, the whole purpose of the Bill is to deprive the drug trafficker of

his ill-gotten gains and not to enrich the government coffers at the expense of bona fide creditors. However, in calculating the monetary value of a restraint order, the vagaries of such an exercise can quite easily underestimate the amount available to satisfy creditors. An example could be a utility bill for an apartment rented by the trafficker. I do not think that it is the intention to prejudice the rights of such creditors and I would welcome an assurance from the Administration that procedures will be put in place to prevent such an unfair treatment.

Sir, drug trafficking is a heinous crime and I personally have much sympathy for our Asian neighbours that prescribe the death penalty for it. However, the punishment appears to have little deterrent effect on the Mr. Bigs that control and finance such activities. The ones that have been caught are more to be pitied than objects of condemnation.

This legislation should allow our enforcement agencies to attack the traffickers where it hurts, by getting at the proceeds. In order to achieve that, I would have been happy to stick to the original much higher duty from bankers and other professionals to report on mere suspicion and not the lesser duty of "having reasonable grounds to believe".

Since the Administration is prepared to accept this lesser duty, I am also prepared to follow the majority but will watch the success rate of the legislation to put the Mr. Bigs out of business. We should not hesitate to use all appropriate means to tackle this hitherto unsolvable problem because we only have to see the way the cocaine barons of South America override even governments in their pursuit of the fast buck.

Sir, with these words, I support the motion.

SECRETARY FOR SECURITY: Sir, I am most grateful to Members for their support of this Bill. I am also indebted to Miss TAM and her ad hoc group for their in-depth scrutiny of the Bill during the past four months which has resulted in a number of amendments which will be moved during the Committee stage. I should also like to record my appreciation of the work of the Law Draftsman and those government officers who have been associated with this complex piece of legislation.

I should now like to address some of the points which have been raised today.

During the drafting and consultation stages there has been particular concern about the anti-money laundering provisions namely, clause 25. Miss TAM has mentioned the amendment, which has been agreed, which will replace the words "knowing or suspecting" with "knowing or having reasonable grounds to believe" in subclause (1). Clause 25 has two main objectives. First, in creating an offence with substantial penalties, it is intended to deny drug traffickers the banking and professional services through which their profits are channelled into legitimate investments. Secondly, in providing the defence of reporting, it is intended that the reporting of suspicions should be encouraged. This will assist in the investigation of drug trafficking offences. The Administration accepts the need to reduce the level of uncertainty as to what is required to be reported, and therefore considers the proposed amendment to be an acceptable compromise.

Mr. LI has raised three points on clause 25 which he thinks are unsatisfactory. His first point is that specific defences should be provided for bank employees, compliance officers and the banks themselves.

The Administration has been made aware of and appreciates the concern felt by financial institutions over the liability of their employees. However, it is not true that the Bill provides no defence for a person prosecuted under clause 25. Subclause (4) provides the defence that he did not know or suspect that the arrangement, as defined in subclause (1), into which he entered, related to the proceeds of drug trafficking. It also provides the defence that he intended to report the matter to an authorized officer but had a reasonable excuse for not doing so.

It is true that these defences are not designed specifically for bank transactions. But the clause is not directed solely at banks. Nevertheless, recognizing that banks and deposit-taking companies will be a major group of institutions to be affected, the Hong Kong Association of Banks and the Hong Kong Deposit-taking Companies Association, working closely with the Administration, have drawn up model guidelines which they will recommend to their member institutions. These guidelines aim to ensure that internal procedures are in place for individual staff members to report to the management transactions which are suspected or believed to be drug related. If the suspicion or belief is shared by the management, as represented by compliance officers, it will be further reported to the authorities. Where such guidelines are in place in an institution and an employee has followed them in good faith, but a tainted transaction has nevertheless not been relayed to the authorities, there would

be a good case for him, if indeed he was prosecuted at all to invoke the defence that he had reasonable excuse for failing to report to the authorities. In fact, it is highly unlikely that under such circumstances an employee would be prosecuted. The Attorney General has indicated that he will have regard to the existence and content of the model guidelines when considering whether to prosecute in individual cases. But it is, of course, not possible to fetter the discretion of the Attorney General whether or not to prosecute.

While still on this subject of guidelines for financial institutions, Sir, I wish to address Mr. LI's third point, which is, that the model guidelines drawn up by the two associations should be referred to in the legislation. Bearing in mind that the Bill is not directed solely at the banks, and that it would be entirely voluntary for any person or institution to draw up any guidelines for their staff, it would be very difficult to devise a legislative scheme having reference to such guidelines which could apply to all parties that may be affected by clause 25 of the Bill, and which would not significantly impair the effectiveness of the legislation.

Mr. LI has also referred to the need for specific defences for compliance officers and the banks themselves. I do not think it is necessary to provide any statutory defence for the compliance officer because he is not a person who would enter into an arrangement as such and hence would not attract any liability, unless complicity could be proved on his part. Furthermore, to give blanket immunity to banks which might be tainted by any offences committed by compliance officers would be unsatisfactory, as this would create a major loophole, having regard to the fact that a compliance officer is designated by the institution to represent the management, and given the general absence of liability on his part.

Mr. LI's second point is his wish to limit specifically the application of this law to transactions taking place in Hong Kong. Clause 25(1) clearly states that a person must enter into an arrangement before he can commit an offence. There is no need for the law to state that entering into an arrangement must take place in Hong Kong because there is a common law presumption that, in the absence of clear and compelling words, statutes will not be given extra-territorial effect. Laws in Hong Kong are all drafted on the basis of this presumption and there is no reason to depart from the principle in this case.

With the foregoing explanation and assurance, Sir, there is no need for bank employees to fear that they will be put into a difficult position by the proposed

legislation. Nevertheless, in view of the continuing concern of the financial sector, I agree that this part of the legislation should be kept under review in the light of practical experience gained from its operation and that a report should be made to this Council in due course.

Turning to the points made by Mr. Peter WONG, I note his concern that the operation of restraint orders should not be allowed to hurt bona fide creditors. I can assure Mr. WONG that this is not the intention of the legislation. In the United Kingdom it has been accepted by the courts that restraint orders made under the Drug Trafficking Offences Act, the legislation corresponding to our own Bill, operate on similar principles to the legally well-known "Mareva" injunctions in civil law. Thus, in making a restraint order, the court will ensure that it does not operate oppressively against third party creditors in respect of a defendant's bona fide business and trade debts, living expenses, legal expenses and other similar expenses. Provision will be made in the Supreme Court rules for conditions and exceptions to be attached to restraint orders. The courts should thus ensure that bona fide creditors are not prejudiced.

Miss LAU has discussed in detail various issues relating to the Chinese text which have been examined by the sub-group on the Chinese text which she has chaired. I wish to express my gratitude to her and her sub-group for the amendments which have resulted from their painstaking work and for the skill in which they have matched the Chinese wording to the complexities of English text.

Sir, I have two final points to make. Firstly, the financial institutions, being justifiably concerned about the possible effects of clause 25 on their operations, have asked that the legislation should not be implemented for at least three months after its enactment. However, because the major impact of the legislation on the financial sector arises only from clause 25, and considering the desirability of bringing the other provisions into effect as early as possible, the ad hoc group and the Administration have agreed that clause 25 should come into effect on a date later than the main part of the legislation. For this purpose I shall move an enabling amendment to clause 1(2) during the Committee stage.

Secondly, Sir, I wish to mention that the 1986 Drug Trafficking Offences Act was amended in 1988 in the United Kingdom. Some of these amendments, largely refinements, are considered suitable for Hong Kong and are included in the proposed Committee stage amendments.

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

Bill read the Second time.

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

PRIVILEGES AND IMMUNITIES (THE INTERNATIONAL COMMITTEE OF THE RED CROSS) BILL 1989

Resumption of debate on Second Reading which was moved on 28 June 1989

Question on Second Reading proposed, put and agreed to.

Bill read the Second time.

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

BETTING DUTY (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 28 June 1989

Question on Second Reading proposed, put and agreed to.

Bill read the Second time.

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

PROTECTION OF WAGES ON INSOLVENCY (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 21 June 1989

Question on Second Reading proposed.

MR. CHUNG: Sir, I have first to declare that I am the chairman of the Protection of Wages on Insolvency Fund Board, which is charged with, among other things, the

duty of administering the fund established by the Protection of Wages on Insolvency Ordinance. The Ordinance provides for payments of wages in arrears and unpaid wages in lieu of notice from the fund to employees whose employers have become insolvent.

Financing of the fund is by way of a levy of \$100 per annum on each Business Registration Certificate.

When the Ordinance came into effect in April 1985, it only provided for payment of wages in arrears on the insolvency of employers. Employees might seek payment from the fund of an amount up to four months' wages but not exceeding \$8,000, as stipulated in the Bankruptcy and Companies Ordinance for preferential treatment of claims in cases of bankruptcy and liquidation.

In July 1987, the fund was extended to cover seven days' wages in lieu of notice or an amount not exceeding \$2,000.

The purpose of the amendment Bill is to extend the scope of the fund to cover severance payments.

A Legislative Council ad hoc group was formed to examine the Bill. Two representations from concerned labour organizations have been received mainly on the setting of the maximum limit of payment for each applicant. They have requested that the limit should be set at \$8,000, which is the amount stipulated in the Bankruptcy and Companies Ordinance for preferential treatment of claims, or in another case \$16,000. The ad hoc group, having duly considered the views conveyed in such representations, the views of the administration, the financial situation of the fund and the seemingly uncertain economic outlook ahead, has agreed to take a cautious approach by setting the limit of \$4,000 as proposed in the Bill, subject to the Administration's promise to review the situation one year after the extension comes into effect.

It is gratifying to learn that the fund at present has an accumulated surplus of about \$160,000,000. Nevertheless such surplus is the result of accumulation over the past few years during which Hong Kong enjoyed an economic boom. In order to prepare for the possible turn of the tide, it is vital to build up a reserve to cater for a possible downturn in the event of which payments from the fund could increase tremendously. After the extension to cover severance payment, the fund's current maximum limit of payment per applicant would amount to \$14,000, inclusive of \$8,000

as arrears of wages, \$2,000 as wages in lieu of notice and \$4,000 as severance payment. The accumulated surplus so far would be wiped out by payments to about 11 500 employees or 0.40% of the entire labour force of about 2.7 million in certain scenario which, of course, no one would like to see happen.

As the Bill would give added protection to employees, the passage of this Bill is most welcome.

Sir, with these remarks, I support the Bill.

MR. PANG (in Cantonese): Sir, it can be said that the Protection of Wages on Insolvency (Amendment) Bill 1989 has rectified to a certain extent the inadequacies of the existing Ordinance.

The Bill seeks to extend the scope of the Protection of Wages on Insolvency Fund to cover severance payments. While the spirit of the Bill is encouraging, its actual effects are rather disappointing. Those employees who apply to the fund for severance payments as a result of their employers' insolvency can only admit with sighs that receiving a little compensation is better than none at all. It is because if for any reasons an employer goes bankrupt, those employees who have worked for him for a long time may lose almost all their wages, payments in lieu of notice as well as their long service gratuity, let alone severance payments.

It is, of course, unfortunate that employers become bankrupt, but we should have even greater sympathy for the employees concerned, for they are afforded very little protection by the meagre payments advanced from the fund.

During the Second Reading of the Bill, the Secretary for Education and Manpower has undertaken to conduct a review one year afterwards. I earnestly hope that within one year from the introduction of the new measures the authorities concerned will conduct a comprehensive review and make further amendments as necessary.

Sir, with these remarks, I support the motion.

MR. TAM (in Cantonese): Sir, being a member of the Protection of Wages on Insolvency Fund Board, I have stated time and again in this Council and at other public venues

that the scope of the fund should be further extended to cover severance payments. At long last, the Protection of Wages on Insolvency (Amendment) Bill 1989 is now introduced by the Administration into this Council for scrutiny before passing into law. Theoretically I should be very pleased with that move, but actually it is not the case.

It is not that I do not welcome the extension of the fund to cover severance payments, but I feel that it is unreasonable and too conservative for the fund to cover severance payments only up to the maximum limit of \$4,000.

To criticize this limit as unreasonable is not an overstatement. Under the Companies Ordinance, in the case of companies becoming insolvent, the employees shall have preferential treatment of claims in the following areas: payment of wages in arrears up to \$8,000, payment in lieu of notice up to \$2,000 and severance payment of \$8,000. All these payments are only meagre remunerations for the employees' hard work over the past years. The ceilings of claims were set 12 years ago, that is, in 1977, and they have not been adjusted in line with the inflation rate all these years. Hence, the protection afforded by the preferential treatment of claims is not so strong as before. Under the existing Bill, the maximum coverage of severance payment is limited to \$4,000, which is contrary to the purpose of preferential treatments of claims, and the entitlements due to workers are thus undermined.

On the other hand, I also consider the proposed amendments to be too conservative. Over the past years, the fund has accumulated surpluses which have already accrued to some \$160 million up to now. To adopt the existing proposal appears to be prudent, because a surplus of nearly \$15 million will accrue annually. However, even if the coverage limit is set at \$8,000, rough computation shows that the fund will still accumulate a surplus of several million dollars annually. I agree that it is safe to be prudent, but excessive prudence will lead to an over cautious approach which renders the fund unable to operate efficiently to the benefit of the majority. I have always subscribed to the view that the Protection of Wages on Insolvency Fund should put its "handsome" sum of surpluses to proper use and therefore I have repeatedly insisted on extending its scope of protection. If the fund is not put into effective use, the result will be the continuous growth of the accumulated surpluses, and eventually it will meet with the fate of having the source of the fund "being cut". In view of the fund's "handsome" sum of surpluses, the Director of Accounting Services time and again wrote to the Protection of Wages on Insolvency Fund Board, requesting the reduction of the rate of levy on Business Registration

Certificate, which is tantamount to cutting the annual normal revenue of the fund. The proposal of cutting the revenue of the fund in order to reduce accumulation of surpluses can undoubtedly be likened to "chopping off one's toe to avoid the bite of worms". Can we not adopt a more constructive attitude by making effective use of the fund's revenue and maintaining surpluses at a reasonable level? A reasonable and suitable way of achieving this purpose is to set the coverage ceiling of severance payment at \$8,000.

Due to the foregoing two reasons, I indeed have reservations about this Bill. However, during my absence from Hong Kong in the past three weeks, the ad hoc group came to a decision to support this Bill. Out of respect for the decision for the ad hoc group, I will support the motion, but I request the authorities to review this piece of legislation one year after its implementation, and to raise the coverage limit of the protection of wages in lieu of notice and severance payment.

Sir, with these remarks, I support the motion.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I would like to thank Mr. CHUNG Pui-lam and members of his ad hoc group for their support of the Bill.

I am glad that the proposal to extend the ambit of the Protection of Wages on Insolvency Fund to include severance payments has been well received. The fund will now protect three main elements of an employee's entitlement under the Employment Ordinance, namely, wages in arrears, wages in lieu of notice and severance payments.

As regards the amount of severance payments to be borne by the fund, Mr. TAM Yiu-chung has argued that the proposed figure of \$4,000 should be raised to \$8,000, at least in keeping with the preferential limit for severance payments made under existing insolvency legislation.

Sir, I would point out that the purpose of the Protection of Wages on Insolvency Fund is to provide quick relief to employees who have suddenly lost their employment. When the proposed figure of \$4,000 for severance payments is taken together with wages owed in arrears and wages payable in lieu of notice, the immediate relief can be as high as \$14,000. Seen in this light, and having regard to the resources of the fund, it would seem prudent in the first instance to set the limit for severance payments at \$4,000 per employee. This view is generally shared by the board controlling the

fund. We will, however, review the \$4,000 limit after one year in the light of experience and the resources of the fund.

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

Bill read the Second time.

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

4.23 pm

HIS EXCELLENCY THE PRESIDENT: Before we go on to the Committee stage and the debate, Members might like to take a short break.

5.01 pm

HIS EXCELLENCY THE PRESIDENT: Council now resumes.

Committee stage of Bills

Council went into Committee.

ARBITRATION (AMENDMENT) BILL 1989

Clauses 1 and 2 were agreed to.

COUNTRY PARKS (AMENDMENT) BILL 1989

Clauses 1 and 2 were agreed to

SUMMARY OFFENCES (AMENDMENT) BILL 1989

Clauses 1 to 5 were agreed to.

TEMPORARY CONTROL OF DENSITY OF BUILDING DEVELOPMENT (KOWLOON) BILL 1989

Clauses 1 to 3

MR. CHENG HON-KWAN: Sir, I move that the clauses specified be amended as set out in the paper circulated to Members.

The reference to "maximum height" in the definition of maximum plot ratio under clause 2(1) is misleading. The building heights shown on the deposited plans, for the purpose of calculating the maximum plot ratio, are the existing airport height restrictions (AHR) and can be exceeded under the relaxed AHR provided that the maximum plot ratio remain unexceeded. To avoid any possible confusion that this "maximum height" is the relaxed AHR, the ad hoc group suggested and the Administration agreed to add the word "notional", before "maximum height". The annotation to the deposited plans will be amended accordingly.

To achieve precision and to provide clarity to the readers, the phrase "to which regulation 19(1) applies" in clause 3 is also suggested to be deleted.

With these remarks, Sir, I beg to move.

Proposed amendments

Clause 1

That clause 1 be amended, by deleting "Kowloon" and substituting "Kowloon and New Kowloon".

Clause 2

That clause 2(1) be amended, in the definition of "maximum plot ratio"

( ) --

(a) by adding "notional" before "maximum height"; and

(b) by deleting "as permissible".

Clause 3

That clause 3(1) be amended, by deleting "to which regulation 19(1) applies,".

Question on the amendments proposed, put and agreed to.

Question on clauses 1 to 3, as amended, proposed, put and agreed to.

Clause 4 was agreed to.

Long title

MR. CHENG HON-KWAN: Sir, I move that the long title be amended as set out in the paper circulated to Members.

The ad hoc group is of the view and the Administration agreed that "New Kowloon" should be added to the title of the Bill to accurately reflect the physical scope of the controls to be imposed.

Sir, with these remarks, I beg to move.

Proposed amendment

Long title

That the long title be amended --

(a) by deleting "Kowloon" and substituting "Kowloon and New Kowloon";  
and

(b) by deleting " ".

Question on the amendment proposed, put and agreed to.

Question on long title, as amended, proposed, put and agreed to.

#### DRUG TRAFFICKING (RECOVERY OF PROCEEDS) BILL 1989

Clauses 9 and 30 to 32 were agreed to.

Clauses 1 and 28

SECRETARY FOR SECURITY: Sir, I move that clauses 1 and 28 be amended as set out in the paper circulated to Members.

As I have said earlier this afternoon, having considered the request of the financial sector, the ad hoc group have agreed that clause 25 should be implemented three months after the rest of the legislation has come into effect. The amendment to clause 1 will enable this to be done. It is intended that only subclauses (1), (2), (3)(a), (4) and (5) of clause 25 will have a later commencement date, but not subclause (3)(b) and (c). The effect of this is that, during the three-month period, a person will not be required by law to report any transactions known or believed to be related to proceeds of drug trafficking. However, if he should report, he would not breach any duty of confidentiality that he may owe to his clients, or attract any liability for any loss arising from such reporting.

The amendments to clause 28 serve three purposes: first, to extend the possible application of the legislation to external confiscation orders and proceedings to include, in particular, the investigative provisions in Part IV of the Bill; second, to clarify that a modification to the legislation for the purpose of such application includes a modification to confer a discretionary power; and finally, to simplify the language. These amendments are similar to those made to the 1986 Drug Trafficking Offences Act in the United Kingdom.

With these remarks, Sir, I beg to move.

Proposed amendment

Clause 1

That clause 1 be amended, in subclause (2) by adding "and different days may be so appointed for different provisions and for different purposes" after "Gazette".

Clause 28

That clause 28 be amended --

(a) in subclause (1) by deleting paragraph (a) and substituting --

"(a) direct in relation to a country or territory outside Hong Kong designated by the order ("a designated country") that, subject to such modifications as may be specified, this Ordinance shall apply to external confiscation orders and to proceedings which have been or are to be instituted in the designated country and may result in an external confiscation order being made there;";

(b) by adding after subclause (2) --

"(3) The power to make an order under this section includes power to modify this Ordinance in such a way as to confer power on a person to exercise a discretion.

(4) In this section and section 29 -

"external confiscation order" means an order made by a court in a designated country for the purpose of recovering payments or other rewards received in connection with drug trafficking or their value;

"modifications" includes additions, alterations and omissions."

Question on the amendment proposed, put and agreed to.

Question on clauses 1 and 28, as amended, proposed, put and agreed to.

Clauses 2, 13 and 14

MRS. LAU (in Cantonese): Sir, I move that the clauses specified be amended as set out under my name in the paper circulated to Members.

The insertion of "已" before "被定罪" in the definition of defendant is to convey more accurately the English meaning of "has been convicted".

In relation to the proposed amendment to the definition of drug trafficking, we consider that "取得" reflects more accurately the meaning of "acquire". The original version "購置" has a narrower meaning than "acquire".

As regards the proposed amendment to clause 13(1) (c) (ii) in the Chinese text, it serves to spell out clearly that the burden to satisfy the confiscation order is on the defendant.

Proposed amendments

Clause 2

That clause 2 be amended --

(a) in subclause (1) --

(i) in the definition of "被告" (defendant) by adding "已" after "是否";

(ii) in paragraph (ii) in the definition of "販毒" (drug trafficking) by deleting "購買" and substituting "取得";

(b) in subclause (4) by deleting "本條例對任何法庭並無委予法庭任何職責" and "本條例並無 委予法庭任何職責"; and

(c) in subclause (7) by deleting "任何" from "任何財產".

Clause 13

That clause 13 be amended --

(a) in subclause (1) --

(i) by deleting "⑩" from "第 ⑩ 條或抵押令" and substituting in its place "或";

(ii) in paragraph (ii) by deleting "為被告用以圓滿執行沒收令" and substituting "為被告繳付根據沒收令所須付的款項"; and

(b) in subclause (2) --

(i) by deleting "給予" and adding "獲得" after "有關人等";

(ii) in paragraph (a) by deleting "⑩" and substituting "而".

Clause 14

That clause 14 be amended --

(a) in subclause (2) by deleting "上述權力須予行使" and all the words that follow them and substituting "當行使上述權力時(1)須以把任何人持有的可變現財產變現(1)從而獲取該等財產當時的價值(1)用作繳付就被告而發出的沒收令所須付的款項為目標⑨"

(b) in the Chinese version by deleting subclauses (3) and (4) and substituting--

"④ 3 ③如某人持有的可變現產是由被告直接或間接向他作出的饋贈(1)而該饋贈是受本條例圍制的(1)當行使上述權力時(1)須以變現可得款額不超逾該饋贈當時的價值為目標⑨".

Question on the amendments proposed, put and agreed to.

SECRETARY FOR SECURITY: Sir, I move that the clauses specified be further amended as set out under my name in the paper circulated to Members.

The amendments to clause 2 are mainly drafting amendments to improve style and

clarity of meaning. The amendment to subclause (12)(e) of clause 2 is consequential to the amendment to clause 3 to be moved by Miss TAM.

The amendments to clause 13 follow similar amendment to the corresponding law in the United Kingdom. They are to provide for the payment from realized property of the expenses of a receiver or liquidator appointed other than for the purposes of a confiscation order, in priority over any other payment. This will further protect the interests of such receiver or liquidator when their functions may come into conflict with the functions of receivers appointed under the Bill.

The amendment to clause 14 is to use the word "Government" rather than "Crown", to make it clear that the reference is to the Government.

Proposed amendment

## Clause 2

That clause 2 be further amended --

(a) in subclause (1) in the definition of "drug trafficking offence" by deleting "the offence of" where it occurs in paragraphs (b), (c), (d) and (e);

(b) in subclause (5) by deleting "anything" in both places where it occurs and substituting, in each case, "property";

(c) in subclause (12) --

(i) in paragraph (b) by adding "within the meaning of subsection (13)" after "review";

(ii) in paragraph (e) by deleting "without the making of a confiscation order" and substituting "where the Attorney General either does not apply for a confiscation order, or applies for a confiscation order and the order is not made".

## Clause 13

That clause 13 be further amended --

(a) in subclause (1) by adding "first be applied in payment of such expenses incurred by a person acting as an insolvency officer as are payable under section 18(2) and then shall" after "shall";

(b) by deleting subclause (3) and substituting --

"(3) The receipt of any sum by the Registrar on account of an amount payable under a confiscation order shall reduce the amount so payable, but the Registrar shall apply the sum received for the purposes specified in this section and in the order so specified.

(4) The Registrar shall first pay any expenses incurred by a person acting as an insolvency officer and payable under section 18(2) but not already paid under subsection (1).

(5) If the sum was paid to the Registrar by a receiver appointed under section 10 or 12 or in pursuance of a charging order the Registrar shall next pay the receiver's remuneration and expenses.

(6) After making --

(a) any payment required by subsection (4); and

(b) in a case to which subsection (5) applies, any payment required by that subsection,

the Registrar shall reimburse any amount paid under section 19(2).

(7) Any balance in the hands of the Registrar after he has made all payments required by the foregoing subsections shall be disposed of under section 93 of the Interpretation and General Clauses Ordinance (Cap. 1) as if it were a fine imposed under the authority of an Ordinance."

That clause 14 be further amended, in subclause (5) by deleting "Crown" and substituting "Government".

Question on the amendments proposed, put and agreed to.

Question on clauses 2, 13 and 14, as amended, proposed, put and agreed to.

Clause 3

MISS TAM: Sir, I move that clause 3 be amended as set out under my name in the paper circulated to Members.

The proposed amendment to clause 3(1)(c) aims to cater for cases where the defendant absconds after conviction and before a confiscation has been made.

The ad hoc group has given careful consideration to and expressed reservation on the original provision in this clause about the Court having to delay passing sentence on a person until the completion of the confiscation investigations. After discussion with the Administration, it was agreed that to provide flexibility, the clause should be amended to allow sentencing for specific drug trafficking offence to be imposed and any other order to be made by the Court before the completion of confiscation procedures.

Sir, with these remarks, I beg to move.

Proposed amendment

Clause 3

That clause 3 be amended --

(a) in subclause (1) (a) --

(i) by deleting "a person appears before the High Court or the District Court" and substituting "in proceedings before the High Court or the District Court a person is";

(ii) by deleting "or otherwise dealt with"; and

(b) by adding after subclause (1) --

"(1A) The court shall first --

(a) impose such period of imprisonment or detention (if any);

(b) make such other order in relation to sentence, not being an order provided for or referred to in subsection (5), as is appropriate in respect of the offence, or as the case may be, the offences concerned.";

(c) in subclause (2) by deleting "first" and substituting "then";

(d) in subclause (4) by deleting ", before sentencing or otherwise dealing with him in respect of the offence, or, as the case may be, any of the offences concerned,";

(e) in subclause (5) --

(i) by adding "or offences" after "offence";

(ii) by deleting "; and" at the end of paragraph (b)

(iii);

(iii) by deleting paragraph (c); and

(f) by adding after subclause (5) --

"(6) For the purposes of any Ordinance conferring rights of appeal in criminal cases, an order made against a person under this section shall be treated as a sentence passed on that person in respect of the offence or offences concerned.".

Question on the amendments proposed, put and agreed to.

Question on clause 3, as amended, proposed, put and agreed to.

Clause 4

MRS. LAM (in Cantonese): Sir, I move that clause 4 be amended as set out under my name in the paper circulated to Members.

Proposed amendment

Clause 4

That clause 4 be amended --

- (a) in subclause (2) by adding "該等假設" before "不能成立";
- (b) in subclause (3) (a) by deleting "看來是" and "看來為" and substituting in each case "認為是";
- (c) in subclause (5) by deleting "則須④在法庭見到證明後③" and substituting "則 法庭在見到證明後(1)須".

Question on the amendment proposed, put and agreed to.

MRS. LAU (in Cantonese): Sir, I move that clause 4 be further amended as set out under my name in the paper circulated to Members.

Sir, I beg to move.

Proposed amendment

Clause 4

That clause 4 be further amended, in the Chinese version by deleting subclause (3) (c) and substituting --

" ㄟ 為評定被告在任何時間收受或假設他曾經收受有關款項或酬賞的財產價值(1)該財產

須視作不存有 任何其他權益⑨"

Question on the amendment proposed, put and agreed to.

MR. PETER WONG: Sir, I move that clause 4 be further amended as set out under my name in the paper circulated to Members.

Sir, I beg to move.

Proposed amendment

Clause 4

That clause 4 be further amended --

(a) in subclause (3) (c) by deleting "presumed" and substituting "assumed";

(b) in subclause (4) --

(i) by deleting "appears before the court" and substituting "is";

(ii) by deleting "26" and substituting "25".

Question on the amendment proposed, put and agreed to.

Question on clause 4, as amended, proposed, put and agreed to.

Clauses 5 and 7

MRS. LAM (in Cantonese): Sir, I move that clauses specified be amended as set out under my name in the paper circulated to Members.

The proposed amendment to clauses 5(4) and 7(3) to replace "可變現的款額" by "變現可得的款額" would remove the ambiguity of being taken to mean that the cash is to be realized which in reality is not quite possible.

Sir, with these remarks, I beg to move.

Proposed amendments

Clause 5

That clause 5 be amended --

(a) in subclause (1) by adding "爲" after "及" and by deleting "的目的" after "價值";

(b) in subclause (4) by deleting "可變現的款額" in both places where it occurs and substituting "變現可得的款額".

Clause 7

That clause 7 be amended, in subclause (3) by deleting "可以變現的款額" and substituting "變現可得的款額".

Question on the amendments proposed, put and agreed to.

MRS. LAU (in Cantonese): Sir, I move that the clauses specified be amended as set out under my name in the paper circulated to Members.

The proposed amendment to clause 7(4)(a)(i) would help to clarify who is the "first mentioned person" as it is in the English version.

As to subclause 7(7)(b), the replacement of "宣告破產" by "被裁定破產" aims to reflect more accurately the legal procedure in bankruptcy proceedings.

Sir, I beg to move.

Proposed amendments

Clause 5

That clause 5 be further amended, in subclause (6) by deleting "作為" and substituting "接受為".

Clause 7

That clause 7 be further amended --

(a) in subclause (4) (a) (i) by deleting "該人" and substituting "該財產持有人";

(b) in subclause (7) (b) by deleting "宣告破產" and substituting "被裁定破產".

Question on the amendments proposed, put and agreed to.

Question on clauses 5 and 7, as amended, proposed, put and agreed to.

Clauses 6, 21 and 23

MRS. LAM (in Cantonese): Sir, I move that clauses specified be amended as set out in the paper circulated to Members.

The purpose of the amendment to clauses 6(2) and (3) is similar to clauses 5(4) and 7(3). My previous comments therefore also apply to these amendments.

In clause 21(3)(c)(i), we consider that "在實行上有困難" cannot convey fully the meaning of "it is not practicable to communicate....." in the English text. The aforesaid English phrase may also carry the meaning that it is not wise to communicate with the person concerned. Hence, we propose to replace "在實行上有困難" by "並不切實可行".

Proposed amendments

Clause 6

That clause 6 be amended, in subclauses (2) and (3) by deleting "可變現的款額"

wherever it occurs and substituting "變現可得的款額".

## Clause 21

That clause 21 be amended --

(a) in subclause (3) (c) (i) and (ii) by deleting "在實行上有困難" wherever it occurs and substituting "並不切實可行";

(b) in subclause (4) --

(i) in paragraph (b) by deleting "④不論是由於物料本身或因為與其他物料一起③對與該項申請有關的偵查可能有重大價值" and substituting " ④不論物料本身或連同其他物料③對與申請有關的偵查(1)相當可能有重大價值";

(ii) in paragraph (c) (i) by deleting "在實行上有困難" and substituting "並不切實可行";

(c) in subclause (5) --

(i) by deleting "檢取及扣押" and substituting "扣押及扣留";

(ii) by deleting "④不論是由於物料本身或與其他物料一起③可能對與該令狀有關的偵查有重大價值的物料" and substituting "④不論是物料本身或連同其他物料③對與該令狀有關的偵查相當可能有重大價值的物料".

## Clause 23

That clause 23 be amended--

(a) In subclause (2) by deleting "可單獨憑藉(b)段行使" and substituting "是單獨憑藉(b)段而可行使";

(b) in subclause (3) (b) by deleting "提供" and substituting "造";

(c) in subclause (4) by adding "相當" before "可能";

(d) in subclause (6) by deleting "在本條例下的職能的目的" and substituting "

履行 本條例下的職能";

(e) in subclause (10) by deleting "一如控告官方的民事訴訟程序" and substituting "恰如在控告政府的民事訴訟程序所採用的".

Question on the amendments proposed, put and agreed to.

Question on clauses 6, 21 and 23, as amended, proposed, put and agreed to.

Clause 8

MR. PETER WONG: Sir, I move that clause 8 be amended as set out in the paper circulated to Members.

In clause 8(3), the proposed inclusion of a new clause (3A) aims to specify that the term of imprisonment fixed in respect of a confiscation order shall not begin to run until after the end of the term of imprisonment the defendant has served in respect of the offence or offences concerned. It further specifies that consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term.

Sir, with these remarks, I beg to move.

Proposed amendment

Clause 8

That clause 8 be amended --

(a) in subclause (1) --

(i) in paragraph (a) by deleting "undergo" and substituting "serve";

(ii) in paragraph (b) by adding "(1), (3), (4), (5), (6) and (7)" after "section 114" where it first occurs;

(b) in subclause (2) by deleting "periods" in both places where it occurs and substituting, in each case, "terms";

(c) by adding after subclause (3) --

"(3A) Where the defendant --

(a) becomes liable to serve a term of imprisonment fixed under this section in respect of a confiscation order; and

(b) is also liable to serve a term of imprisonment or detention in respect of the offence or offences concerned, the term of imprisonment mentioned in paragraph (a) shall not begin to run until after the end of the term of imprisonment or detention mentioned in paragraph (b).

(3B) For the purposes of subsection (3A) --

(a) consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term; and

(b) there shall be disregarded --

(i) any sentence suspended under section 109B of the Criminal Procedure Ordinance (Cap. 221) which has not taken effect at the time the defendant becomes liable to a term of imprisonment under this section; and

(ii) any term of imprisonment fixed under section 114(1) of the Criminal Procedure Ordinance (Cap. 221) for which the defendant has not at that time been committed.";

(d) in subclause (4) by deleting "period" and substituting "term".

Question on the amendment proposed, put and agreed to.

Question on clause 8, as amended, proposed, put and agreed to.

Clauses 10, 15, 16, 18 and 19

MRS. LAU (in Cantonese): Sir, I move that the clauses specified be amended as set out in the paper circulated to Members.

In clause 10, we consider that " 可由法官在 內 庭 應單方面的聆訊形式申請而發 出 " reflects more clearly and accurately the legal procedure of an ex-parte application. We therefore propose that the Chinese version as originally proposed by the Administration should be amended.

The purpose of the amendments to clauses 15(2)(a), 16(1), 16(1)(a), 16(2), 16(4) and 16(6) are similar to those proposed to clause 7(7)(b). My previous comments therefore also apply to these amendments.

The reason for the proposed amendment to clause 14(2) has been explained by me during the Second Reading debate on the Bill.

Sir, I beg to move.

Proposed amendments

Clause 10

That clause 10 be amended, in the Chinese version by deleting subclause (4) (b) and substituting --

"ウ 可由法官在內庭應單方面的聆訊形式申請而發出; 及".

Clause 15

That clause 15 be amended, in subclause (2) -

(a) in paragraph (a) by deleting "宣告破產" and substituting "被裁定破產";

(b) in paragraph (b) by deleting "使不因" and substituting "使其不因".

Clause 16

That clause 16 be amended --

(a) in subclause (1) --

(i) by deleting "宣告破產" and substituting "被裁定破產";

(ii) in paragraph (a) by deleting "宣告破產令" and substituting "裁定破產令";

(b) in subclause (2) by deleting "宣告破產" and substituting "被裁定破產";

(c) in the Chinese version by deleting subclause (4) and substituting -

" ぎ 抵押令如(2)(4)

ウ 在裁定有關的人破產的命令發出之前已發出⑧或

ウ 在裁定破產令發出時(1)供抵押的財產已經受到限制令所限(1)

則第④ 2 ③款不影響該抵押令的執行⑨";

(d) in subclause (6) by deleting "宣告破產" and substituting "被裁定破產";

(e) in subclause (6) (b) by deleting "考慮及" and substituting "顧及".

Clause 18

That clause 18 be amended, in subclause (1) by deleting "有權留置以支付他用於有關的清盤⑩破產或其他訴訟上的開支" and substituting "有權留置足以支付他用於有關的清盤⑩破產或其他指 稱是與扣押或處置該財產有關的訴訟上的開支".

Clause 19

That clause 19 be amended --

(a) in subclause (1) -

(i) in "第 ⑩ 條例或抵押令" by deleting "⑩" and substituting "或";

(ii) by deleting "作出" and "行爲" wherever it occurs and substituting respectively "採取" and "行動";

(b) in subclause (2) by adding "就其申請" after "須由提出申請而".

Question on the amendments proposed, put and agreed to.

Question on clauses 10, 15, 16, 18 and 19, as amended, proposed, put and agreed to.

Clause 11

SECRETARY FOR SECURITY: Sir, I move that clause 11 be amended as set out under my name in the paper circulated to Members.

Paragraph (a) of the amendment is to substitute the word "Government" for "Crown". Paragraph (b) is to make the provision consistent with similar charging order provisions in the Supreme Court Ordinance, so that a charging order under the Bill will not be applied to rent or royalty income from property. There are other means in the Bill, by restraint orders for example, for preserving income for the satisfaction of a confiscation order.

Sir, I beg to move.

Proposed amendment

Clause 11

That clause 11 be amended --

(a) by deleting "Crown" where it occurs in subclauses (1) and (2) and substituting, in each case, "Government";

(b) in subclause (5) by deleting "rent, royalty,".

Question on the amendment proposed, put and agreed to.

MR. CHAN (in Cantonese): Sir, I move that clause 11 be further amended as set out

under my name in the paper circulated to Members.

The proposed amendment to clause 11(6) by deleting "完結" and substituting "結束" aims to achieve better consistency with clauses 2(12), 9(1)(b), 16(6)(a) and (b) where "訴訟結束" are used for "conclusion of proceedings".

Sir, with these remarks, I beg to move.

Proposed amendment

Clause 11

That clause 11 be further amended --

(a) in subclause (1) (a) by deleting "經常" and substituting "不時"; and

(b) in subclause (6) by deleting "完結" and substituting "結束".

Question on the amendment proposed, put and agreed to.

MRS. LAU (in Cantonese): Sir, I move that clause 11 be further amended as set out under my name in the paper circulated to Members.

The purpose of the amendment to subclause 3(b) is similar to that proposed to clause 10(4)(b). My previous comments therefore also apply to this amendment.

Sir, I beg to move.

Proposed amendment

Clause 11

That clause 11 be further amended, in the Chinese version by deleting subclause (3) (b) and substituting --

"ウ 可由法官在內庭應單方面的聆訊形式申請而發出⑧".

Question on the amendment proposed, put and agreed to.

Question on clause 11, as amended, proposed, put and agreed to.

Clause 12

SECRETARY FOR SECURITY: Sir, I move that clause 12 be amend as set out under my name in the paper circulated to Members.

The amendment in paragraph (a) is a drafting amendment and the one in paragraph (b) is to make the wording in the clause consistent with that in clause 11 as amended.

Sir, I beg to move.

Proposed amendment

Clause 12

That clause 12 be amended --

(a) in subclause (1) (b) by adding "or review within the meaning of section 2(13)" after "appeal";

(b) in subclause (3) (a) by deleting "rent, interest or dividends payable" and substituting "any interest, dividend or other distribution payable and any bonus issue".

Question on the amendment proposed, put and agreed to.

MR. CHAN (in Cantonese): Sir, I move that clause 12 be further amended as set out under my name in the paper circulated to Members.

Proposed amendment

Clause 12

That clause 12 be further amended --

(a) in subclause (1) (c) by deleting "完結" and substituting "結束"; and

(b) in subclause (3) (b) by deleting "的財產".

Question on the amendment proposed, put and agreed to.

Question on clause 12, as amended, proposed, put and agreed to.

Clauses 17 and 27

SECRETARY FOR SECURITY: Sir, I move that clauses 17 and 27 be amended as set out under my name in the paper circulated to Members.

The amendment to clause 17 is to delete superfluous words. Clauses 13 and 18 provide for the payment of the liquidator's expenses.

The amendments to clause 27 follow similar amendments to the United Kingdom 1986 Drug Trafficking Offences Act. The first part of the amendment in paragraph (a) extends the court's decision to award compensation where a conviction is subsequently quashed. It is considered that a person should be allowed to apply for compensation irrespective of whether or not conviction for any other drug trafficking offence is substituted. The second part of the amendment clarifies the nature of the court's discretion. That is, the court may order compensation if, having regard to all the circumstances, it considers it appropriate to make such an order.

Paragraphs (b) and (c) amend subclause (2). This will extend the circumstances under which compensation may be awarded by:

(a) removing the requirement that the claimant must satisfy the court that the default in the investigation or prosecution was responsible for the investigation or prosecution being instituted or continuing; and

(b) removing the requirement that the claimant's loss must be "substantial".

New subclause (2A) ensures that compensation would not be payable in a situation where a serious default was responsible for an investigation not going ahead in circumstances where it should have done so.

The amendments in paragraphs (d) and (e) to subclauses (3) and (4) respectively are made for the same reasons as similar amendments to subclauses (1) and (2).

With these remarks, Sir, I beg to move.

Proposed amendments

Clause 17

That clause 17 be amended, in subclause (1) by deleting "but there shall be payable out of such property any expenses (including the remuneration of the liquidator or provisional liquidator) properly incurred in the winding up in respect of the property".

Clause 27

That clause 27 be amended --

(a) in subclause (1) --

(i) in paragraph (c) (i) by deleting "(and no conviction for any drug trafficking offence is substituted)";

(ii) by adding at the end "if, having regard to all the circumstances, it considers it appropriate to make such an order";

(b) in subclause (2) --

(i) in paragraph (a) by deleting "and that, but for that default, the investigation would not have begun or continued or the proceedings would not have been instituted or continued, as the case may be";

(ii) in paragraph (b) by deleting "substantial";

(c) by adding after subclause (2) --

"(2A) The High Court shall not order compensation to be paid

under subsection (1) in any case where it appears to the High Court that the investigation would have been continued, or the proceedings would have been instituted or continued, as the case may be, if the serious default had not occurred.";

(d) in subclause (3) by adding at the end "if, having regard to all the circumstances, it considers it appropriate to make such an order";

(e) in subclause (4) (b) by deleting "substantial".

Question on the amendments proposed, put and agreed to.

MR. MICHAEL CHENG: Sir, I move that the clauses 17 and 27 be further amended as set out under my name in the paper circulated to Members.

The ad hoc group considers that the proposed amendment to clause 17(5) in the definition of "有關時間" in the Chinese text has provided a clearer picture on the time frame.

Sir, I beg to move.

Proposed amendments

Clause 17

That clause 17 be further amended, in subclause (5) in the definition of "有關時間" by deleting paragraph (b) and substituting --

"(b) 如上述命令已經發出(1)而在向高等法院提出稟狀申請將有關公司清盤前(1)該公司已通過自行 清盤的決議(1)則是指通過該決議的時間; 及".

Clause 27

That clause 27 be further amended, in subclause (3) by adding "曾" before "持有該財產的人\*".

Question on the amendments proposed, put and agreed to.

Question on clauses 17 and 27, as amended, proposed, put and agreed to.

Clause 20

MRS. LAU: Sir, I move that clause 20 be amended as set out under my name in the paper circulated to Members.

The purpose of the proposed amendment to subclauses (2) and (5) is to achieve better consistency with clause 23(4) where "認為是" is used as a Chinese equivalent for "appears to".

The proposed amendment to subclause (3) would help to bring out the original meaning in the English text on "... the particular circumstances of the application".

To be consistent with the usage in other Ordinances and to accurately reflect the legal meaning of "likely", "相當可能" is used as the Chinese equivalent for "is likely to be".

The addition of "要求" after "賦予" in the Chinese text would help clarify the right referred to in this provision as a right to require production or access. This is not spelt out in the English text as it is implied.

Sir, with these remarks, I beg to move.

Proposed amendment

Clause 20

That clause 20 be amended --

(a) in subclause (2) by deleting "看來為" and substituting "認為是";

(b) in subclause (3) by deleting "因申請的情況特別而" and substituting "就個別申請的特別情況";

(c) in subclause (4) (b) of the Chinese version by deleting subparagraph (i) and substituting --

"(i) ④不論是物料本身或連同其他物料③對與申請有關的偵查(1)相當可能有重大價值 ⑧及 " ;

(d) in subclause (5) by deleting "看來為" and substituting "認為是";

(e) in subclause (7) (a) and (b) by deleting "辨讀" and substituting "閱讀";

(f) in subclause (8) (a) by adding "要求" after "賦予 ".

Question on the amendment proposed, put and agreed to.

MR. PETER WONG: Sir, I move that clause 20 be further amended as set out in the paper circulated to Members.

In relation to the proposed amendment to subclause 4(b) to replace "suspecting" by "believing", it is made to achieve better consistency between the terms "reasonable grounds for suspecting" and "reasonable grounds for believing" in subclause 4(c).

The replacement of "a computer" in subclause (7) by "or accessible by means of any data equipment" and the addition of a new clause (7A) should provide a wider definition on computer equipment that is in line with the development of modern computer technology.

Sir, with these remarks, I beg to move.

Proposed amendment

Clause 20

That clause 20 be further amended --

(a) in subclause (4) (b) by deleting "suspecting" and substituting "believing";

(b) in subclause (5) by adding "same or a subsequent" before "application";

(c) in subclause (7) by deleting "a computer" and substituting "or accessible by means of any data equipment";

(d) by adding after subclause (7) --

"(7A) In subsection (7), "data equipment" means any equipment which --

(a) automatically processes information;

(b) automatically records or stores information;

(c) can be used to cause information to be automatically recorded, stored or otherwise processed on other equipment (wherever situated);

(d) can be used to retrieve information, whether the information is recorded or stored in the equipment itself or in other equipment (wherever situated)."

Question on the amendment proposed, put and agreed to.

Question on clause 20, as amended, proposed, put and agreed to.

Clauses 22 and 24

MR. MICHAEL CHENG: Sir, I move that clauses 22 and 24 be amended as set out in the paper circulated to Members.

The proposed amendment to replace "檢取" by "扣押" in clause 22(1)(b) aims to achieve better consistency as "扣押" was being used in clause 18(1)(a) and in the other Ordinances. We consider that "扣押" was a better Chinese equivalent for "seize" in the context of this Bill.

In clause 24(2), "辯護" is commonly used as the Chinese equivalent of "defence". To convey more accurately the legal effect of this term in Chinese, the Administration's proposal to use "免責辯護" which in full means "免除刑事責任的辯護"

護" has the support of the ad hoc group.

Sir, I beg to move.

Proposed amendments

Clause 22

That clause 22 be amended --

(a) in subclause (1) (b) by deleting "檢取" and substituting "扣押";

(b) in subclause (2) in the definition of "享有法律特權的品目" --

(i) in paragraphs (b) and (c) (ii) by deleting "與法律訴訟有關的事情" and substituting "有關法律訴訟" and by deleting ", " after "情況下" and substituting "及";

(ii) in paragraph (c) by deleting "心懷助長犯罪目的的意圖" and substituting "為意圖助長犯罪目的".

Clause 24

That clause 24 be amended, in subclause (2) --

(a) by adding "免責" before "辯護";

(b) in paragraph (b) by deleting "合理辯解" and substituting "合理解釋".

Question on the amendments proposed, put and agreed to.

Question on clauses 22 and 24, as amended, proposed, put and agreed to.

Clause 25

MR. MICHAEL CHENG: Sir, I move that clause 25 be amended as set out under my name

in the paper circulated to Members.

The purpose of the amendments to subclause (4) is similar to those to clause 24(2). My previous comments therefore also apply to this amendment.

Sir, I beg to move.

Proposed amendment

Clause 25

That clause 25 be amended --

(a) in subclause (1) (a) by deleting "指定代理人" and substituting "代名人";

(b) in subclause (1) (b) (ii) by deleting "購置" and substituting "取得";

(c) in subclause (4) by adding "免責" before "辯護";

(d) in subclause (4) (c) (ii) by deleting "合理辯解" and substituting "合理解釋".

Question on the amendment proposed, put and agreed to.

MISS TAM: Sir, I move that clause 25 be further amended as set out under my name in the paper circulated to Members.

The words of "suspecting" and "having reasonable grounds to believe" and the implication therefrom have been a subject of discussion between the ad hoc group and the Administration. In this connection, the banking sector has also expressed deep concern about the word "suspecting" which would render bank employees liable for an offence if they entered into a transaction suspecting the customer concerned is involved in drug trafficking. The proposed replacement of "suspecting" by "having reasonable grounds to believe", which being an objective test of one's judgement, would give better protection to the banking sector.

In clause 25(3)(b), the inclusion of "or by rules of professional conduct" would extend the protection to cover breach of professional ethics or business etiquette

from which no legal consequences might arise.

Sir, with these remarks, I beg to move.

Proposed amendment

Clause 25

That clause 25 be further amended --

(a) in subclause (1) by deleting "suspecting" and substituting "having reasonable grounds to believe"; and

(b) in subclause (3) (b) by adding "or by rules of professional conduct" after "contract".

Question on the amendment proposed, put and agreed to.

Question on clause 25, as amended, proposed, put and agreed to.

Clause 26

MISS TAM: Sir, I move that clause 26 be amended as set out under my name in the paper circulated to Members.

The proposed amendment to subclause 7(c) is to make provision for broadcasting other than in a "programme". In subclause (9), the proposed amendment aims to broaden the definition of "broadcast" to cater for further technological advancement in broadcasting.

Sir, I beg to move.

Proposed amendment

Clause 26

That clause 26 be amended --

(a) in subclause (2) by deleting paragraph (a) and substituting --

"(a) for an offence under section 25 or this section; or";

(b) in subclause (7) (c) by deleting "transmits or provides the programme in which the information is broadcast" and substituting "broadcasts the information and, if the information is contained in a programme, any person who transmits or provides the programme"; and

(c) in subclause (9) in the definition of "broadcast" by deleting "means" and substituting "includes".

Question on the amendment proposed, put and agreed to.

MRS. LAU: Sir, I move that clause 26 be further amended as set out under my name in the paper circulated to Members.

Sir, I beg to move.

Proposed amendment

Clause 26

That clause 26 be further amended --

(a) in subclause (2) (b) by deleting "訴訟關係人" and substituting "當事人";

(b) in subclause (3) by deleting "會引致" and substituting "引致";

(c) in subclause (6) by deleting all the words after and including "某一限度" and substituting "命令內指明的限度".

Question on the amendment proposed, put and agreed to.

Question on clause 26, as amended, proposed, put and agreed to.

Clause 29

MR. CHAN (in Cantonese): Sir, I move that clause 29 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 29

That clause 29 be amended --

(a) in subclause (1) (b) by deleting "出現" and substituting "出席";

(b) in the Chinese version by deleting subclause (2) (a) and substituting --

"(a) 任何為撤銷或取消法庭判決而進行的訴訟; 及 "; and

(c) in subclause (3) by adding "該命令經" before "以其他方法".

Question on the amendment proposed, put and agreed to.

Question on clause 29, as amended, proposed, put and agreed to.

New clause 33 Customs and Excise Service Ordinance

Second Schedule amended

Clause read the First time and ordered to be set down for Second Reading pursuant to Standing Order 46(6).

SECRETARY FOR SECURITY: Sir, in accordance with Standing Order 46(b), I move that new clause 33 as set out in the paper circulated to Members be read the Second time.

Sir, the police force and the Customs and Excise Department will be the major agencies to enforce the legislation. Hence both police and customs officers are

defined as "authorized officers" in clause 2. They should have power to search and arrest persons suspected of committing offences under the Bill as they do in respect of other Ordinances within their jurisdiction. Police officers already have such powers under the Police Force Ordinance. The new clause 33 extends the search and arrest powers given to customs officers under the Customs and Excise Service Ordinance to offences under the Bill.

With these remarks, Sir, I beg to move.  
Question proposed, put and agreed to.

Clause read the Second time.

SECRETARY FOR SECURITY: Sir, I move that new clause 33 be added to the Bill.

Proposed addition

New clause 33

By adding after clause 32 --

"Customs and Excise Service Ordinance Second Schedule amended

33. The Second Schedule to the Customs and Excise Service Ordinance (Cap. 342) is amended by adding at the end thereof -

"Drug Trafficking (Recovery of Proceeds)  
Ordinance 1989 ( of 1989)".".

Question on the addition of the new clause proposed, put and agreed to.

Schedule 1 was agreed to.

Schedule 2

MRS. LAU (in Cantonese): Sir, I move that schedule 2 be amended as set out in the paper circulated to Members.

The proposed amendment by deleting "股票" and substituting "股份" aims to avoid using "股票" which is commonly used in Hong Kong to mean share certificate only.

Sir, with these remarks, I beg to move.

Proposed amendment

Schedule 2

That schedule 2, para. 2 be amended --

(a) in subparagraph (b) by deleting "或股票";

(b) in subparagraph (c) by deleting "股票" where it twice occurs and substituting "股份".

That schedule 2, para. 3 be amended, in subparagraph (b) by deleting "股票" and substituting "股份".

Question on the amendment proposed, put and agreed to.

Question on schedule 2, as amended, proposed, put and agreed to.

PRIVILEGES AND IMMUNITIES (INTERNATIONAL COMMITTEE OF THE RED CROSS) BILL 1989

Clauses 1 to 5 were agreed to.

Schedules 1 to 3 were agreed to.

BETTING DUTY (AMENDMENT) BILL 1989

Clauses 1 to 3 were agreed to.

PROTECTION OF WAGES ON INSOLVENCY (AMENDMENT) BILL 1989

Clauses 1 to 7 were agreed to.

HIS EXCELLENCY THE PRESIDENT: Committee stage was long and sort of straightforward, but I know it represented an immense amount of hard, detailed and conscientious work outside this Committee.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

ARBITRATION (AMENDMENT) BILL 1989

COUNTRY PARKS (AMENDMENT) BILL 1989

SUMMARY OFFENCES (AMENDMENT) BILL 1989

PRIVILEGES AND IMMUNITIES (INTERNATIONAL COMMITTEE OF THE RED CROSS) BILL 1989

BETTING DUTY (AMENDMENT) BILL 1989 and

PROTECTION OF WAGES ON INSOLVENCY (AMENDMENT) BILL 1989

had passed through Committee without amendment; and the

TEMPORARY CONTROL OF DENSITY OF BUILDING DEVELOPMENT (KOWLOON) BILL 1989 and

DRUG TRAFFICKING (RECOVERY OF PROCEEDS) BILL 1989

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

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

Bills read the Third time and passed.

Member's motion

## GREEN PAPER ON TRANSPORT POLICY IN HONG KONG

MISS MARIA TAM moved the following motion:

"That this Council takes note of the Green Paper on Transport Policy in Hong Kong and urges the Government actively to pursue the development of a transport strategy for the benefit of the Hong Kong community."

MISS TAM (in Cantonese): Sir, I move the motion standing in my name on the Order Paper.

At a time when alarming changes are taking place in China and when Hong Kong people are vehemently striving for their right of abode in Britain, this Council's debate on the Green Paper on Transport Policy in Hong Kong may possibly be viewed as a routine process of formality. However, with the blessing of a natural deep harbour, Hong Kong has been serving China as an indispensable entrepot since its inception more than 150 years ago. Moreover, having a persevering and resilient population to rely on, Hong Kong has for many times survived the impacts of unusually disturbing events in China. Surely, I believe, it will be no exception this time. To those who will not or cannot leave Hong Kong, active commitment by the Hong Kong Government to upgrading local infrastructural facilities and establishing better transport links on and between both sides of the Hong Kong harbour will certainly help strengthen Hong Kong's position as China's entrepot and constitute a very important factor in ensuring future economic growth and continuous prosperity of this community.

Members speaking today will analyse the inter-relationship between all the recommendations and proposals of the Green Paper on highways, railway projects, housing, land development, town planning and the provision of port and airport facilities. They will also comment on the co-ordination of various transport modes, freight movements, development of ferry service and traffic management measures. By so doing, they hope to provide the Government with some ideas to which it can make reference in formulating a transport strategy to serve the interest of the Hong Kong people.

The first White Paper on Transport Policy released by the Hong Kong Government in 1979 laid down the basis for developing transport policy up to the present day. A review of the relevant figures of major traffic forecast as given in the first Comprehensive Transport Study Report for the period between 1986 and 1991 and a

comparison with actual traffic demands in 1986 have shown the following discrepancies between theoretical assumptions and actual situations:

While the report of 1976 predicted a population of 5.3 million for 1986, the actual population in that year was 5.5 million. The actual employment population stood at 2.7 million in 1986 against the projected figure of 2.3 million for the same year. The daily average use of goods vehicles was estimated at 376 000 trips but the actual figure was 462 000 trips. The daily public transport boardings were forecast to be 7 million while the actual figure turned out to be 7.9 million. The afore-mentioned figures reflect that the pace of development in Hong Kong is generally faster than what was predicted by our transport study report. Such being the case, we are particularly concerned about the accuracy of the forecast of transport demand in the Second Comprehensive Transport Study Report. I believe it is in the interest of Hong Kong to provide a transport network which can sufficiently cater for the transport need generated by its buoyant economy. Since the transport demand in the previous Comprehensive Transport Study Report has been underestimated, we should adopt more diversified approaches to formulate the basis of our projections this time. Besides, while we make every effort to build new roads and railway lines, we must not forget to take appropriate measures to control or regulate the growth of vehicles (including private cars and goods vehicles).

As regards our call for a more accurate forecast, I am very pleased to learn from paragraph 9 of the Green Paper and I quote: "This Comprehensive Transport Study has been commissioned to project the growth in transport demand up to 2001, and to appraise the transport infrastructure and policy proposals for dealing with the various problems that will confront us over this period. The study is the start of a continuing planning process. Its computerized planning model will be updated regularly to take account of changes in economic development and planning assumptions up to and beyond 2001." I hope that the computerized planning model will be updated to take into account any possible changes to the transport demand of this community brought about by the economic implications of the 4 June events. Take the growth rate of private cars for instance. The general feeling is that this growth rate closely follows the movement of the Hang Sang Index and mirrors the fluctuations of the latter.

In April I thought of bringing up the issue of curbing the growth rate of private cars in this debate on the Green Paper. It was because the Government was successful in bringing down the number of private cars from 193 000 in 1982 to 140 000 in 1986 by increasing the ownership taxes of private cars in 1982. The growth rate of private

cars started picking up again in early 1987 and subsequently showed an annual increase of about 10% at the end of 1988. It is evident that fiscal measures, though unwelcome tactics in the eye of the public, are in fact effective means to control the growth rate of private cars. None the less, this course of action should only be taken when there is apparently an intractable increase of private cars. At present, there are signs that the economic growth in Hong Kong is slowing down. The Government must closely monitor this development and should not consider any fiscal measures to solve this problem until the economy of this community rebounds. In principle, I agree to the objectives and the proposed measures of managing road use (paragraphs 157-8) as put forth by the Green Paper. My honourable colleague Mr. HO Sai-chu, deputy convener of the ad hoc group, will cover the issue of flexi-time in this respect. The Honourable CHENG Tak-kin will speak on the subject of making effective use of road space. I would like to draw the attention of the Government to their views.

As for myself, I shall concentrate on the compatibility of the proposed highway and railway projects. There are two aspects to it. The first one is on how the construction projects should dovetail.

Sir, although I have mentioned earlier that economic growth in Hong Kong is slowing down, I am fully confident that Hong Kong will be able to show its resilience. As regards longer-term infrastructural facilities, the Government has planned to invest as much as HK\$29 billion in highway and railway projects during the period from now to mid or late 1990s. This is one of the essential requirements for creating job opportunities and sustaining economic growth. These investment projects will give rise to urban developments and will tie in with the need of port and airport developments. My honourable colleagues Mr. CHENG Hon-kwan, Mr. HO Sai-chu, Mr. Edward HO, Mr. David CHEUNG and Miss LEUNG Wai-tung will cover these subjects in greater detail.

In forecasting the future trip-making patterns, the Green Paper predicts that the population in the New Territories will increase by 1 million and that 277 000 new jobs will be created on Hong Kong Island. It also estimates that daily person trips between the New Territories and Kowloon are expected to rise from 1.4 million trips in 1986 to 2.3 million trips in 2001. I think the Green Paper has made a reliable forecast on trip-making patterns. Hence, the key to satisfying future demands lies in the effective use of the north-south links provided by the trunk roads and railway lines.

I am particularly concerned about how Route 3 (running from Yuen Long through Kam Tin to Kwai Chung, passing the container terminal area in west Kowloon before entering the third cross harbour tunnel and terminating in the western end of Hong Kong Island) should tie in with the railway project connecting Yuen Long or Tuen Mun with Tsuen Wan.

Sir, the Tin Shui Wai development will bring drastic changes to the traffic demands between north-west New Territories and Kowloon. In the history of new town development in Hong Kong, the difficulties experienced by Tuen Mun, particularly the traffic and transportation problems experienced by the residents there, are tremendous. Though I have not discussed this issue with the Honourable TAI Chin-wah, I personally think that the north-west New Territories rail link should be extended to Yuen Long where Route 3 should begin. If the north-west rail link terminates in Tuen Mun, which is quite a distance from Route 3, there will be difficulties in integrating the two major projects.

In the urban area, Route 3 will terminate in the western district on Hong Kong Island after passing through the third harbour crossing to meet the demand for cross harbour traffic in west Kowloon. Therefore the planned third rail harbour crossing (paragraph 50 of the Green Paper) from Kowloon Peninsula to Fortress Hill in the eastern part of Hong Kong Island or Victoria Park is an appropriate back up facility for this purpose. There are expressways in the west and railway systems in the east. However, the Government should re-consider the feasibility of operating a rail link to connect the western end of Hong Kong Island with Kennedy Town, or other better forms of transport arrangement, otherwise the western end of Hong Kong Island will become a bottle-neck area with persistent problems of accessibility.

While road traffic needs to be further developed in the New Territories, traffic congestion has worsened in the urban area. The Honourable Edward HO will make suggestions on better relocation of commercial centres in the territory. I firmly believe that prolonged slippage of the reclamation project in the golden districts of Wan Chai and Central District will affect the project linking Route 7 with Route 3. If the Government attaches great importance to the prosperity of Hong Kong, it should support the project. I am pleased to learn that it has not been shelved. I would like to know the time-table and the details of its implementation as soon as practicable.

The second point I would like to talk about is the dovetailing with each other,

in terms of policy and operation, of rail and road networks. As we all know, this Council passed a law in 1981-82 to make the light rail system operate in what might be called an exclusion zone which would be all but off limits to Kowloon Motor Bus. However, the proposed fare structure of the light rail system later hit a snag - it failed to please everybody. In May 1987 the Mass Transit Railway imposed a 50 cents fare surcharge on commuters making trips along the Mongkok section of the system because of over heavy demand during peak hours. This move provoked intense controversy. Thereupon the Transport Advisory Committee recommended to the Transport Department to encourage KMB and Hong Kong and Yaumatei Ferry to expand their services to provide commuters with more choices of transport modes.

Deferring to public opinion, the MTRC offered reduced fares for pre-peak hour journeys and it went well with the public. In March and April this year the KCRC decided to introduce feeder services in Tai Po which duplicated two approved routes of KMB services operated under a five-year scheme. As a result, KMB suffered a drop in income. This serves to demonstrate that, despite enunciated principles of healthy competition and non-clash between rail and road services, the independent management of the two rail corporations has led to unhealthy competition or erosion of co-ordination between the two services. Sir, there has been suggestion that the two railway corporations be made subject to regulation by the Transport Advisory Committee. Of course, the Administration is conducting a review of its own to see how the management of the two rail corporations and government department should co-ordinate with one another. I am eagerly awaiting the review report to see which of the two options will serve the needs of Hong Kong best.

In addition, for better use of roads and public transport modes, the Honourable POON Chi-fai and the Honourable TAM Yiu-chung will make their comments on inter-modal co-ordination, particularly the monitoring of the operation of Kowloon-Canton Railway and Mass Transit Railway. The Honourable HO Sai-chu will discuss the importance of ferry services. Mrs. SO CHAU Yim-ping will give her views on the monitoring of the operation of public transport companies.

Sir, the last point I wish to make is about the forecast on the demand for goods movements. In the First Comprehensive Transport Study, the growth of freight traffic by land between China and Hong Kong has obviously been under-estimated. This should not happen again, otherwise long queues of goods vehicles will very soon be found on Route 3. Apart from the railway projects listed in paragraphs 46-50 of the Green Paper (Mass Transit Railway extension to Junk Bay, rail link to north-west New

Territories and third cross harbour rail link) there is no mention of any plan on a separate rail link for freight traffic. I am very concerned about this. Several geographers, including one who is a member of the Transport Advisory Committee, have pointed out the need to have a freight rail across the New Territories, linking north-west New Territories or Kwai Chung with the existing Kowloon-Canton Railway to relieve freight traffic.

I hope that the Government will continue to monitor the development in this aspect. My honourable colleagues Mr. TAM Yiu-chung, Mr. CHENG Tak-kin, Mr. CHEUNG Chi-kong and Mr. LAU Wah-sum will give their views on possible improvements to our freight service. Drafting of measures to deter the use of light goods vans as private cars is supported by the great majority of the panel.

Before I sum up, I would like to mention that I have received from Meeting Point their submissions on the Green Paper on transport policy and that Mrs. Selina CHOW and Mr. CHAN Ying-lun today heard representations from a deputation of public light bus operators of the territory. The deputation expressed concern over the amorphous arrangements for conversion of red PLBs to green PLBs and the adverse effects KMB/CMB medium-size air-conditioned buses would have on PLB operators. I shall pass these two sets of representations to the Secretary for Transport. The purpose of the Green Paper is to propose the construction of large capacity expressways to link new towns with urban areas, building of new roads, improvement to existing roads and the putting into commission of an efficient China-Hongkong transport network.

An English proverb says: "Where there is a will, there is a way". In the TV news yesterday, a member of the public queuing up for application forms for emigration to Singapore was interviewed. When asked why he wanted to leave Hong Kong, he said: "I do not want to leave. I myself will stay in Hong Kong. I am only worried about the future of my children". If the Hong Kong Government is resolute enough to commit itself to developing Hong Kong, it should show its will by paving a better way for our future generation.

Sir, with these remarks, I move the motion.

Question on the motion proposed.

MR. HO SAI-CHU (in Cantonese): Sir, the Second Comprehensive Transport Study was

commissioned by the Government in 1986. The Green Paper on Transport Policy in Hong Kong which sets out the preliminary blueprint to keep Hong Kong moving into the 21st century is now published for public consultation.

As we all know, "food, clothing, shelter and transportation" are basic necessities of life. Being a densely populated territory, Hong Kong needs an efficient transport system and this need has always been a matter of great concern to the people of Hong Kong. Hence, the development programmes proposed in the Green Paper are encouraging. The data provided therein are also comprehensive. An annual growth rate between 5% and 6%, that is, the projected economic growth rate of Hong Kong, is adopted as a basis for computation of the data. The estimates so computed might have been considered conservative if Hong Kong had not been affected by the recent events in Beijing. However, these estimates are perhaps more in line with the actual situation now. Some people may feel pessimistic about the future of the territory and doubt whether the large-scale projects proposed in the Green Paper can materialize. But I think at this critical moment, the Government should demonstrate greater determination to carry out the various development plans contained in the Green Paper as a form of substantial commitment for the benefit of the community. This will go a long way in maintaining the confidence of the people of Hong Kong.

As the Green Paper covers a wide range of subjects, I am not going to comment on all of them. I would just like to raise the following four points for consideration:

Firstly, it is expected that the Government will soon make a decision on the development project of a replacement airport. When the construction of the new airport is completed, there will be a number of major changes regarding the redevelopment of the Kai Tak Airport site and the height limit of buildings within the nearby controlled zone. The population in that area will increase substantially and will then put severe strain on transport facilities in Kowloon and Hong Kong Island. All these factors should be included in the scope of study because the above changes are likely to take place in late 1990s and it is not too early to bring them up now. As a long-term transport policy to keep Hong Kong moving into the next century, it should be comprehensive and far-sighted.

Secondly in respect of inter-modal co-ordination in the provision of transport service, the Green Paper has apparently overlooked the advantages of utilizing sea transport in Hong Kong. As sea transport is off-road and has other benefits, such

as cost-effectiveness because of higher carrying capacity, this means of transport can be optimized to meet the growing demand for goods transportation. Therefore, when mapping out the usage of reclamation sites, the Government may consider providing anchorage and loading/unloading facilities in some reclamation areas where cargo-handling activity is heavy.

Thirdly, further steps should be taken to strengthen the management and use of road space. One of the options is to introduce flexi-time and staggered working hours in various organizations and offices in Hong Kong. According to statistics from the comprehensive transport study, the daily peak periods of our MTR system are from 7:30 am to 9:30 am and from 4:30 pm to 6:30 pm. The situation is the same for road traffic. Every employer should therefore consider adjusting their office hours in the light of the particular circumstances of their operations and, if circumstances permit, should stagger the office hours as far as possible off the above mentioned peak periods. Time can be saved if traffic congestion is avoided. Moreover, the MTR passengers can enjoy fare concessions off the peak hours. Our government departments can take the lead in the introduction of staggered working hours and at the same time call upon other employers to follow suit.

Besides, the use of road space by goods vehicles should be further controlled. To avoid traffic congestion, parking and loading/unloading of goods vehicles in downtown or other busy areas should only be allowed during specified off-peak hours.

Fourthly, the Comprehensive Transport Study Report has pointed out that it is beneficial to develop rail transport in densely populated areas as well as in areas where industrial and commercial activities are concentrated. It has recommended three railway projects, that is, an extension of the MTR to Junk Bay, a rail link connecting north-west New Territories, and a third cross harbour rail link. However, investment in these projects will be enormous and an estimated \$9 billion will be required in the early 1990s alone. Thus, the Government should work out with the two railway companies the need of constructing these railway lines and their priorities in line with the Metroplan and the utilization of reclamation areas so that our long-term development plans can take into consideration the resources available as well as our transport demands.

Sir, as I have mentioned earlier, the various programmes outlined in the Green Paper are related to the well-being of our community. A smooth flow of traffic and transportation is of vital importance to the overall administration, economy and

daily life of a city. In terms of cost-efficiency, time is money. The resources saved on traffic and transportation can be used to generate more wealth for our society. I think it is very worthwhile for the Government to spend money on transport facilities though the expenditure involved may be heavy.

Sir, with these remarks, I support the motion.

6.00 pm

HIS EXCELLENCY THE PRESIDENT: It is now 6 o'clock and under Standing Order 8(2) the Council should now adjourn.

CHIEF SECRETARY: Sir, with your consent, I move that Standing Order 8(2) should be suspended so as to allow the Council's business this afternoon to be completed.

Question proposed, put and agreed to.

MR. CHENG HON-KWAN: Sir, the significance of an efficient transport system to building a successful society is like the importance of a good circulatory system to building a healthy body. I am pleased that the Green Paper on Transport Policy has covered at length the various means and measures for improving the infrastructure, expanding public transport and managing the demand for road use, with the aim of meeting the increasing demand for a more versatile and effective transport system. Today, I will focus on three vital aspects of land use planning, with particular reference to the Metroplan, Port and Airport Development Strategy (PADS) as well as the extension of the rail system.

There is a close linkage between transport and land use planning as transport is one of the basic infrastructure facilities based on which we should carefully determine building density. It is therefore important that the Metroplan, which focuses on the upgrading and redevelopment of the metropolitan area around the harbour, should take into account the development of the transport system and networks. The Metroplan proposes to achieve a more balanced distribution of jobs and population and this, in my opinion, will reduce pressure on transport, especially in areas where industrial and commercial activities are heavily centralized. While the study, which is due to be completed by the end of this year, should address transport

requirements to optimize the utilization of the transport system, the future transport network should be able to fully integrate with the new directions and forms of development arising from the Metroplan study.

Another major project which bears significant long-term implications on the planning of our transport strategy and network is the relocation of the airport. The PADS is evaluating alternative sites in the western harbour and Lantau. A final decision regarding either would have a substantial impact on our road system. One must bear in mind that the future road system leading to the airport will require a very efficient and effective traffic management. It is crucial that the linkage roads which will need to go through urban areas will not create further traffic congestion. For these reasons, I applaud the recommended construction of the Route 3 Highway from the Western District of Hong Kong Island through the Western Harbour Crossing and west Kowloon to Yuen Long; and the Route 7 Highway from the end of the Island Eastern Corridor through the planned Central and Wan Chai Reclamation to Western District and around the coast to Aberdeen. It is therefore important that the work on the Central and Wan Chai Reclamation should commence as a matter of urgency to accommodate this major road system.

The Government, in addition to placing emphasis on the major roads, should also improve local traffic. It is moving in the right direction by providing high capacity expressways to separate through traffic from local traffic and to help relieve local traffic congestion. Yet it is equally important to eliminate as far as possible bottlenecks in some sub-regions where the comprehensive study has not addressed.

I would now like to turn to the extension of the rail system. Before doing so, I have to declare an interest as a member of the Board of the Mass Transit Railway Corporation. Sir, railways, as an off-road mass carrier, have demonstrated their success in reducing substantially the congestion problem on road networks and should be further extended to alleviate the aggravating pressure on the existing network. I lend my support to the proposed MTR Junk Bay Extension which I believe is necessary to meet the anticipated high concentration of population in the district. This will not only help attract people to move into the new town but also greatly improve the mobility of the 270 000 residents the town is expected to house by the year of 2001. In addition, the Government should also seriously consider extending the MTR line to the western district of Kennedy Town where traffic congestion poses a severe headache for both passengers and drivers alike. I think most of us would agree that without such an MTR line, the transportation problems in that part of Hong Kong would

not be easily resolved. As we are aware, the Western District is being revived as one of our major commercial and residential areas on Hong Kong Island.

I fully agree with the Green Paper that there is an urgent need for a new rail harbour crossing to meet the rapid growth demand for cross harbour passenger trips. The suggestion for an MTR harbour crossing from Yau Ma Tei to Fortress Hill as the next rail harbour crossing provides an acceptable option as it will bring relief to the heavily congested Nathan Road Corridor. Besides, the intermediate KCR/MTR interchange station at Hung Hom which is included in this designated rail harbour crossing would relieve the currently overloaded interchange at Kowloon Tong and would maximize the use of the KCR line from Kowloon Tong to Hung Hom.

Last but not the least, I would like to mention two suggestions which have not been included in the Green Paper but are worthy of our serious consideration. Sir, I am referring to reports that the Kowloon-Canton Railway Corporation plans to extend its rail system from Hung Hom to Happy Valley or Causeway Bay. This is a constructive suggestion which would help relieve the seemingly never-ending congestion problem at the Cross Harbour Tunnel and, at the same time, would also utilize effectively the section of the KCR line from Kowloon Tong to Hung Hom, a section which is presently under-used.

I am also aware that a light rail transit system is being proposed by the private sector to link the south of Hong Kong Island to Central through a tunnel and following a similar route to the Peak Tram. This proposal, if approved, will ease traffic demands on Hong Kong Island, especially in the densely-populated Wah Fu Estate and Pokfulam where traffic congestion is such a common eyesore. This project should therefore be encouraged and its consideration by the Government should not be delayed. We must appreciate that any private sector participation in a project of this magnitude is obviously a sign of demonstrating a full confidence in the future of Hong Kong.

Sir, it is my belief that in a society as busy as Hong Kong where every minute counts, rail expansion is an indispensable means to ensure the smooth mobility of people. Although costly, railway extensions are still worthwhile as they are essential to upkeep the quality of life in Hong Kong.

With these remarks, Sir, I support the motion.

MR. POON CHI-FAI (in Cantonese): Sir, a good transport system is essential to the development of a modern city. In order to improve the transport facilities of Hong Kong, the Government set out the following three major principles in the 1979 White Paper on Internal Transport Policy, namely, (1) to improve the road system; (2) to expand and improve public transport services; and (3) to make more economic use of the road system. In "The Green Paper on Transport Policy in Hong Kong" recently published by the Government, three similar strategies have also been proposed, that is, (1) improving the transport infrastructure; (2) expanding and improving public transport; and (3) managing road use. However, in view of social advancements and upgrading of living standard of the population, the above three objectives or strategies can no longer satisfy the demands of the general public. In recent years, there has been a growing concern in the community over problems arising from noise pollution caused by traffic. Under such circumstances, ways to improve or alleviate the impact of transport on our environment should also be covered by the transport strategy.

Sir, it may not be adequate just to have a well-planned transport policy. Such policy will be effective only if it is faithfully put into practice. As pointed out in the previous study reports and the White Papers/Green Papers on transport issues, it might be more economical and easier to adopt measures such as reducing demand for land transport services through town planning, co-ordinating road works and maintenance, adopting flexi-time and staggered working hours for schools and offices to spread out travel demand as well as promoting a greater use of coaches by schools and factories than to build more roads. In the 1985 and 1988 debates on the Policy Address, I repeatedly urged the Government to consider and implement these proposals. However, the Government has not put these measures into practice effectively. Take for example the adoption of flexi-time and staggered working hours for offices and schools: the Government took the initiative to adopt staggered working hours in some departments 10 years ago and about 30 000 staff from 43 government departments have now participated in the scheme. However, the scheme has not turned out to be very effective because, in most cases, it is up to the employees to decide on their working hours and the arrangements are not carefully and systematically planned and co-ordinated at a central level by the departments concerned. Regarding flexi-time for schools, the Government has not done much to promote the scheme on the grounds that various schools are already operating with different school hours. However, judging from the demand for public transport services during school days and school holidays, it will certainly be of great help to the management of the public transport system

by spreading out travel demand if flexi-time is introduced in areas with a large number of schools such as Oxford Road in Kowloon. Such scheme therefore needs to be promoted.

Sir, the development programmes on traffic have to tie in with the growth of population and the developments of individual districts. In the past, the developments and increase in population of some areas have outgrown the traffic capacity of the roads, thus causing serious traffic congestion. As a matter of fact, traffic congestion of the Lion Rock Tunnel is related to these factors. The Executive Summary of the Second Comprehensive Transport Study pointed out that "Several roads are projected to exceed a volume to capacity ratio (V/C) of 1.0 (representing the emergence of traffic congestion) by 2001, despite the new highways and traffic growth management policies of the recommended transport strategy. Some highways are projected to exceed a V/C ratio of 1.2 (representing serious congestion)." These roads include Tolo Highway and some roads in Kwun Tong. In the case of Tolo Highway, the problem is becoming intractable because of the growing population in Tai Po and the North District, the busy freight traffic across the border and the absence of road development programmes. In the case of Kwun Tong, developments in adjacent areas will also put heavy strains on traffic in Kwun Tong area, particularly when the Eastern Cross Harbour Tunnel comes into operation at a time when only Phase I of the Kwun Tong Bypass (the part linking the new tunnel and the Kwun Tong Pier) will be ready. A lot of vehicles from other areas will all jam through the already congested Wai Yip Street in the industrial area of Kwun Tong on their way heading for or leaving from the new tunnel. These potential problems are indeed worrying. It is hoped that the authorities concerned will take note of this and speed up the works in Phase II and III of the Kwun Tong Bypass Project in order to cope with the commissioning of the new tunnel and to prevent further aggravation of traffic congestion in Kwun Tong.

Sir, before I switch to the topic on public transport, I have to declare that I am an employee of a public transport company, but I will express my views on public transport in the capacity of a professional of the transport trade. I will make use of my professional knowledge and comment on the public transport issue according to the facts.

Sir, public transport has always been the major mode of transport for the people of Hong Kong. As stated in chapter 4 paragraph 57(v) of the Green Paper on Transport Policy in Hong Kong, one of the objectives of the public transport policy is: "to

maintain a broad range of services in terms of speed, comfort and fares and to keep the travelling cost to the public as low as possible". This objective is in line with the interest and aspiration of the general public. However in recent years, in dealing with public transport matters, the authorities concerned have attached too much importance to the implementation of the inter-modal co-ordination policy to the effect that special preference has been given to rail transport by forbidding direct competition from other modes of public transport. It is in contradiction to the spirit and principle of the public's demand for a balanced public transport system in which various modes of public transport should be made available. Many citizens and the district boards have therefore raised strong criticism. For example, in order to safeguard the interest of the the Light Rail Transit in Tuen Mun, other modes of public transport are strictly forbidden to compete with the light rail. As a result, much inconvenience has been caused to the commuters who generally have to take the feeder buses before they can get to the light rail stations. Furthermore, they will have to pay more for their travelling expenses because the Light Rail Transit system is suffering from deficits due to over-estimation on the size of patronage.

Sir, regarding the cross harbour rail project, I consider that it will be simple and more direct to extend the Kowloon Canton Railway from Hung Hom to the Causeway Bay Station of the Mass Transit Railway. By doing so, it will help relieve the congestion at Kowloon Tong Station, minimize the need to change trains and shorten the distance between the north-eastern part of the New Territories and the Hong Kong Island. Sir, as a means to ease the congestion caused by the expanding freight transport on land, I propose that the Administration should consider the introduction of round-the-clock service at the check points for freight transport across the border so that more trucks can make use of the roads during night-time when the traffic is light. This measure will also help alleviate the congestion in industrial areas and other roads often used by such vehicles.

Sir, with these remarks, I support the motion.

MR. TAI: Sir, the Second Comprehensive Transport Study and the Port and Airport Development Strategy indicate that Hong Kong is preparing for a large and expensive refit. They will, if the proposals are put up for implementation, stimulate our domestic expansion on an unprecedented scale. The efficiency of our export and re-export performance in Hong Kong over the years has not generally been matched by what has been provided for our traffic and sewerage system needs. With the spending

on infrastructures lagging behind our economic growth rate, there is a pressing need to solve the problem of the congested Hong Kong and of our inadequate rural communication network before the end of the 20th century.

In view of the economic impact caused to Hong Kong by recent events in China and to safeguard against any unfavourable global reactions that could affect Hong Kong's open economy, the early implementation of our proposed infrastructure projects should encourage and stimulate domestic growth in the 1990s, thus providing us with an economic buffer.

I shall first speak on the relationship between town planning and this study.

With only approximately one-tenth of the area of Hong Kong being fully developed and built up, there is a need to expand our development plan and to resite some of our population to the less developed areas, in order to provide a better living environment and to cater for future growth. This is the concept of our new town development. But experience tells us that in the development of our new towns, such as Sha Tin and Tuen Mun, little attention has been paid in the past to the occupational characteristics of the residents there. Insufficient effort had been made by the Administration for job creation on a regional basis. This has resulted in over 40% of the working population residing in the new towns travelling to the urban areas for work, thus, creating unnecessary hardship for these people and excessive traffic congestion on our roads. Moreover, additional roads and tunnels are not being built in time to dove-tail the increase of the population in various parts of our territory despite the knowledge of massive public and private development taking place there. The traffic congestion, as experienced in the Lion Rock Tunnel, Island Eastern Corridor, Kwai Chung and Tsing Yi areas are patent examples of our lack of foresight. Despite the intensive developments in these regions, it is sad to see that projects to alleviate the traffic congestion cannot be completed in time.

It is important that in the inception stage of preparing our town plans and its subsequent implementation, there should be more effective and closer consultation between various government offices such as Town Planning, Transport Branch, Territorial Development Department and the Lands and Works Branch. Taking this opportunity, whilst the Rural Improvement Strategy is still in its consultative stage, I would urge that these suggestions be carefully considered in the preparation of the local town plans in rural areas which will improve our overall future development efforts in the New Territories.

The Second Comprehensive Transport Study has provided us with the background knowledge of the anticipated growth in our traffic demand with suggestions for a road building programme to alleviate our traffic problems. If we are able to acknowledge our traffic problems earlier and to take timely remedial measures to improve our overall infrastructure, Hong Kong will not then lose out in terms of efficiency. Other Asian countries such as Taiwan, Malaysia, Singapore and Thailand will have very major infrastructure projects to improve their overall efficiency.

With the development of China, we in Hong Kong are benefiting by a significant increase in our re-export and container freight traffic. But, we still see around 12 hours of traffic congestion in the Kwai Chung and Tsing Yi areas. Even if we expand our container terminals and increase our container handling capacity in our container ports, efficiency would not be significantly increased if there is no corresponding improvement to our road system. We would just have long queues of containers leading to the terminals.

With the opening of Lok Ma Chau border crossing and the intensive development in northwest New Territories, there will be a significant growth in our own internal passenger traffic volume and cross-border container traffic. It would be advisable if we can initiate an earlier commitment to projects such as Route 3 and the rail-link for passenger and container freight traffic. Not only will it demonstrate the Government's commitment to a long-term future in political terms, it would also significantly increase our competitiveness in re-exports and also stimulate our industrial growth, bearing in mind our substantial investment in the Pearl River Delta area. This will be the essence of a good and efficient communication network which will greatly benefit our manufacturing sector.

If we are continuing with our present policy of non-direct subsidization of our industry then a good communication network would create a good investment environment for our local and overseas industries, in order to enable Hong Kong to maintain its competitiveness. The CTS-2 is very comprehensive and has made recommendations on highway and railway investment programme needed to satisfy the transport demand in the coming years. These recommendations do warrant our support along with the port and airport proposals. None the less, too little emphasis has been placed on the transport support our ferries can provide in respect of our sea link. From the CTS-2, it seems there is a constant decline of our ferry patronage and the situation will continue to be so in the coming years due to the completion of the new tunnel crossing.

In view of our transport demand and rapid increased construction cost of road and highway I wonder whether we can further explore the possibility of making better use of our sea links to support and play a more significant role in our public transport system.

The CTS-2 thus provides some thought for managing our transport demand with proposal such as vehicle taxation, area pricing, vehicle quotas and fuel tax and so on. Whilst appreciating the fact that our normal road development projects will not be able to keep pace with our eventual road transportation requirements, however, in view of the present immigration problem and the impact of our economy, I would suggest we wait and see whether there is an increase in road freight transportation in the coming months before we make our policy decision to discourage future growth in vehicle numbers. In any event, any constraining measures to be taken would have an immediate impact on the vehicle growth rate.

Finally, with the problems of road improvement measures for the purpose of ensuring support for our essential services and the re-construction of our existing roads over half of which have reached their life expectancy, even with the extra road space to be provided in the coming years the problem of traffic congestion will still remain unresolved. Despite numerous assurances from the Administration for better co-ordination of new road openings with a view to minimizing the obstruction to traffic flows that these may cause, I would urge the Administration to be more pragmatic in regard to road and highway construction by using better materials so that we can have more durable roads and highways. One can imagine the inconvenience and distress caused to the road user by traffic congestion arising out of road openings and maintenance and the economic costs arising therefrom.

With these remarks, I support the motion.

MR. TAM (in Cantonese): Sir, the Green Paper published by the Government on transport policies outlines the transport development strategy of Hong Kong up to 2001. This blueprint which spans over the transition period carries far reaching implications for our long-term socio-economic development. I am most concerned about the possible consequences of the proposed road use management outlined in the Green Paper.

Control on growth of goods vehicles

It is pointed out in the Green Paper that "as the limited road space cannot satisfy unrestrained growth in vehicle traffic, it is necessary to give priority to the more efficient and essential road users". On the basis of the above principle, the Government finds it necessary to restrain the growth of the light van fleet. Statistics indicates that from almost none in 1976, the light van fleet grew to 40 000 in 1988, about 64% of the total goods vehicle fleet. Increases in registration tax, license fees and even fuel tax are proposed in a bid to contain the growth of light vans. I feel, however, the Government should take full account of the characteristics of the trucking industry and the consequences upon local industrial development when considering the implementation of the above proposals.

The 1984 Trucking Industry Study Report pointed out that more than half of the goods vehicle operators and owners had only one goods vehicle at their disposal. The fact reveals to us that their business is limited in scale and they make only marginal profits. The industry, however, contributes much to our economy, especially to the manufacturing sector. It serves to link up different manufacturing processes and transport raw materials and products for factories. In 1981, the truck hiring industry paid a total of \$475 million in wages for its 28 600 workers. Small economic units, in contributing towards the above cause, will of course use light vans which are less expensive in cost and investment. Would local manufacturing industry and economic development be affected if tax increases are used as a means to restrain the growth of the light van fleet? It was estimated in the 1984 study that transport cost made up less than 1% of the total industrial production cost. The study, however, did not throw light on the share of transport cost in the total production cost of small enterprises. Neither did it take into account the implications of tax increases for employment opportunities in the trucking industry. It appears there are still aspects that deserve our careful consideration when we study the need to increase taxes on light vans. I think the result of the 1984 Trucking Industry Study should be released for the information of those in the industry as well as the public. Such important information will facilitate our discussion of the Green Paper and the formulation of constructive opinions for Government's consideration.

Monitoring the rail systems

It is proposed in the Green Paper that management of vehicles to make effective use of road space should go hand in hand with expansion and improvement of public transport services to reduce congestion on road and enhance efficiency in road use. Though we find a number of proposals which aim at improving our public transport services, there is an absence of new ideas on the ways to monitor the operation of

the two rail companies.

Since the two rail companies operate on commercial principles service charges are mainly determined on basis of business conditions. Seldom do they consider such factors as quality of service and implications of fare levels to the public and the community as a whole. Moreover, the inter-modal co-ordination policy adopted by the Government has indirectly helped these public corporations monopolize their business. It is argued that transport services will be inefficient or inadequate if appropriate co-ordination is not in place. Therefore, "policy has been and will continue to be applied flexibly to cater for changing demand and new developments". However, it has not occurred to the Government that such policy has enabled these corporations to operate free of competitions, and under such circumstances, they may pass the cost of inefficiency and inadequate planning to the public and the commuters. It is therefore not surprising that fare increase proposed by the rail companies are often met with objection from local organizations and residents. A recent survey reveals that 90% of the residents in Tuen Mun and Yuen Long are against the proposed fare increase of the Tuen Mun Light Rail Transit.

To ensure that public opinion may be fully considered and play a part in shaping the decisions of the public corporations, there should be a sound monitoring system to make sure that these public corporations will provide transport services that satisfy public demand. I suggested once that a monitoring committee should be established: (1) to formulate the standard of operation in monitoring the public corporations; (2) to formulate a co-ordination policy with these corporations on a yearly basis; and (3) to make regular assessments and reports on the operation of these corporations. On control over rail services it is only stated in the Green Paper that "further improvement to the present system of monitoring and control are being examined within Government". We can see that specific improvement proposals are yet to be made. I maintain that the review should be sped up. Subsequent recommendations and contents of the review should be made known to the public for extensive consultation. If the Government fails to improve the present monitoring mechanism, I doubt whether it can achieve its goal of providing efficient transport services.

The Green Paper confirms the importance of rail service in internal transport and proposes to expand the rail system in the future. Rail systems, undoubtedly an advanced mode of mass transport, are capable of providing efficient transport services to a great number of passengers in high density areas. However, as it

requires considerable investment and it takes time for the capital to pay off, such projects may not be affordable to all the districts in the territory. If estimation on population and patronage turns out to be inaccurate, local residents will have to "support" the rail system. Would it be fair to do so? I hold that Government should draw experience from the Tuen Mun Light Rail Transit project when it considers rail expansion, so that problems in connection with safety, patronage projection and deficits may be avoided.

The principle of social justice

Lastly, I would like to have a few words on the fundamental objectives of transport policies. The Green Paper states that "the strategy aims to make the most efficient and safest use of the existing and planned transport infrastructure and services, to improve the mobility of people and goods, and to achieve a better balance between capacity and demand maximizing benefits to the community". Clearly, the Government is concerned about the efficient use of transport networks on the understanding that benefits to the public will be enhanced once market demand is satisfied. However, when the Government and the public are studying our transport policies with a view to making decisions, I propose that social justice should also be taken into account in addition to efficiency. The Government has every responsibility to formulate a transport policy in which equal opportunities should be given to all in transport. Only with equal opportunities can people share the socio-economic resources of the community and only by doing so can the majority (especially those in the lower income strata) have a better standard of living and their well-being improved.

Sir, with these remarks, I support the motion.

MR. EDWARD HO: Sir, the recommendations in the Green Paper on Transport Policy in Hong Kong are comprehensive and sensible. The case for massive investments to improve our transport infrastructure and the public transport systems is extremely strong.

What I find conspicuous by its absence is any evidence that land use planning has been employed for a right and more effective transport strategy.

The chief concept in the planning of our new towns has always been that they should

be self-contained in almost all aspects. People are expected to live in relatively close distances to where they can obtain work as well as education for their children and be close to other public and recreational amenities to cut down travelling time. This concept is fine up to a point.

Firstly, people do not always behave in the manner that planners expect them to. Work opportunities considered in the development of new towns have almost always meant industries. But as young people become more educated, more and more choose careers in the business sectors. Since business has always been concentrated in the main urban areas of Hong Kong Island and Kowloon, people who live in new towns have to travel daily long distances to work places of their choice. Serious considerations should therefore be given to relocate business districts to the new towns.

Secondly, because of the assumption that factories have to be close to where people live, over the years enormous environmental problems have been created and we now have to find ways to solve these problems. It may well be that future industrial zones will be located further away from residential zones to enhance living environments, and this will have impact on our transport strategy.

In the urban areas, besides suggested positive restriction of road usage and car ownerships, there is as yet no land planning proposal to deal with increasing traffic congestions in these areas. In these areas, despite the Metroplan currently being prepared and even with the implementation of all the proposals suggested in the Green Paper up to the year 2001, traffic speed, as indicated in the Second Comprehensive Transport Study Report, will still be slower than 1986 levels. The construction of more and better trunk roads connecting the new towns to the urban areas, whilst serving the need for more efficient long distance commuting, often exacerbate traffic congestions in the urban area.

Since little can be done to urban local roads, there has to be more imaginative urban planning solutions to reduce vehicular traffic and its associated fume and noise pollutions. One such solution successfully tried in some European cities which we can adopt is the concept of pedestrianization of pockets of our urban area where commercial activities are most intensive. Large carparks, which can be underground can be planned on the fringes of these nicely landscaped and paved pedestrianized areas. Pollution-free public transports would be allowed to intrude into selected routes of these areas for the convenience of some people who are not prepared to walk. Limited access at designated off-peak hours will be given to service vehicles.

Through traffic would bypass or skirt around these areas.

Sir, Mrs. Selina CHOW, whose view I share, would like to reiterate her call to guard against injustice towards private car ownership. She recognizes the need to manage road usage properly, but disagrees with any physical measures to control ownership such as vehicle taxation. She is, however, in support of such means as access control, fuel tax and area pricing which are all related to road usage.

While we want to discourage the use of private cars on the road to conserve road use, we must find other convenient and attractive means for those people who are used to travel by cars. People want to travel from one place to another in as continuous a manner as possible. If his travel involves different modes of public transport, then the intermodal connection should be smooth and efficient. Thus, I welcome the recommendation that more and better interconnections between the Kowloon-Canton Railway and the Mass Transit Railway should be planned. Likewise, transfers from bus to rail systems should be equally efficient.

Given the proven advantages of the rail systems as reliable off-road mass carriers, I endorse the proposal to expand rail services so that they will take care of more and more of the public transport needs in Hong Kong. In fact, the Green Paper suggested that by 2001, the rail systems will take a major share of public transport. On this, I have a few observations.

1. I do not agree with the Green Paper's suggestion in paragraph 129 that "the 'park-and-ride' method is unlikely to be effective in Hong Kong because most of the commuting distances are too short". I fail to understand why, just to take one example, a public car park cannot be built near the Choi Hung Mass Transit Railway Station so that private car drivers can take the Mass Transit Railway for onward journey. The Green Paper suggested one of the obstacles for the "park-and-ride" method is that parking charges are usually high. In the same paragraph, it also said that the "park-and-ride" method will impose additional burden on the already congested rail corridors along the peak periods. I find that these arguments are hard to accept for the cost of car parks can offset capital costs of road construction, and if the rail system is inadequate, then more lines should be economically viable.

2. The Yuen Long/Tsuen Wan Rail Link should receive priority consideration. The Green Paper rightly pointed out that northwest New Territories will become a major population area in the years to come.

3. The Kowloon-Canton Railway has served well the north eastern part of the New Territories and part of Kowloon. In fact, its services can be considered as a "metro" type transport. Unfortunately, the KCR is constrained by freight services and cross border passenger services which inhibit more frequent and better services for commuters. In the long term, we must consider a separate line for freight and cross border passenger travel for the railway.

4. In terms of freight, we note from the Green Paper that in 1986 goods vehicles constituted 42% of road traffic and it is estimated that goods vehicles will constitute 51% of road traffic by the year 2001. This is an inordinate proportion of road usage by goods vehicles. Therefore, more freight should be transported by rail, taking pressures off the road. In this regard, it is not apparent in the Green Paper what proposals Government has towards improving freight transport on the rail system.

In a recent land requirement assessment by the Housing Authority, we know that by the year 1995 there will be deficiency in public housing production because of land shortage; and in the year 1996 to 1997 that shortage will be most acute, and will jeopardize the timely completion of the Long Term Housing Strategy.

Potential areas for public housing are the third phase of Junk Bay, the second phase on Tin Shui Wai and Ma On Shan, all of which received only passing references in the Green Paper and provided little in terms of actual transport provisions.

Time does not allow me to deal in depth nor go into many other aspects of the Green Paper, but I hope that my remarks will serve to stimulate the examination of our future land planning, while we are considering the implications of the transport strategy.

With these remarks, Sir, I support the motion.

MR. MICHAEL CHENG (in Cantonese): Sir, transport facilities are essential in maintaining social prosperity and providing an impetus for Hong Kong to move forward. In 1979 the Government prepared the White Paper on Transport Policy in Hong Kong and 10 years later published the "Green Paper on Transport Policy in Hong Kong -- Moving into the 21st Century" which took three years to complete. In order to meet the

demands and developments of the community, the Government from time to time makes appraisal of the progress made and reviews its future policies. Such vigorous and serious attitude is commendable.

#### Adjustment of land use

According to a forecast made in the Executive Summary of the Second Comprehensive Transport Study (paragraph 3.3 to 3.6) the population of the New Territories of Hong Kong will grow considerably by nearly 1 million during the 15 year period between 1986 to 2001, whereas the existing population of the urban areas is expected to decrease. With regard to employment situation, the Second Comprehensive Transport Study forecasts that new employment locations in the urban areas will be mainly on the northern shore of the Hong Kong Island. There will be 198 000 new jobs available in Wan Chai, Central and Western districts, whereas 41 000 new jobs will be available in Yau Ma Tei area of Kowloon. An analysis of the above-mentioned data shows that the transport demands on the harbour crossing routes and the routes between the New Territories and urban areas will increase substantially. In order to alleviate the strains on the transport infrastructure and transport services I consider it essential to adjust land use of the areas concerned.

Hong Kong's commercial centres are mostly located in Central and Tsim Sha Tsui whereas industrial areas are located in Kwun Tong, San Po Kong, Kwai Chung and Tsuen Wan. These areas are subject to great pressure of demand for passenger and freight transport. On the other hand, employment situation in new satellite towns where population is on the increase is disproportionate. Take Sha Tin as an example. The population of this new town will be 425 000 in 1991, but there will be only 202 000 posts available for employment in this town. The ratio of job opportunities to the population of Sha Tin is less than 50% and this ratio will remain at about the same level up to 2001. Since there are ample supplies of labour in a number of new satellite towns, job opportunities should be made available as many as possible in these new towns so that local residents need not travel a long distance to work in the urban areas.

The pressure on our transport system can be greatly reduced by proper planning of land use. Therefore, in giving effect to the development of the Metroplan, public housing programmes, massive reclamation projects and redevelopment of old towns, the Government should have proper town planning and adjust existing land use zoning as far as possible to avoid the concentration of commercial and industrial areas in a

few districts. Of course, the preparation of comprehensive and systematic development plans calls for close co-operation and co-ordination among those government departments responsible for transport and town planning.

#### Drastic increase in the number of goods vehicles

The level of economic growth has great influence on the demands for passenger and freight carriers; a robust economy will create enormous demands for freight transportation. Over the past years the growth in the number of goods vehicles is more or less commensurate with the growth in gross domestic product. The number of goods vehicles in 1988 stood at 99 000, representing a threefold increase when compared with that in 1976. Goods vehicles will increase their dominance in road traffic from 46% of the total use of road on an average daily basis at present to over 50% of the total daily road usage in 2001. On trunk routes linking the New Territories with urban areas, the use of road space by goods vehicles will be particularly heavy. Statistics reveal that the growth in the goods vehicle fleet in recent years was mainly that of light vans, the number of which stood at 40 000 in 1988, representing about 40% of the total number of goods vehicles. Instead of using light vans full time as freight carriers, many members of the public now use them as private cars. It is believed such phenomenon is attributed to the fact that light vans incur only 20% and 30% of the first registration tax and annual licence fee respectively of private cars. Moreover, they can be parked in private car parking spaces. Consequently, there is a growing dominance of goods vehicles in the use of road space making it more difficult to improve the transport system. Goods vehicles have not been put to efficient use as freight carriers. This is worthy of note and should be tackled urgently.

To iron out this problem and to ensure that roads are put to more efficient use, the Government must build additional car parks for goods vehicles. At present there is a severe shortage of goods vehicle parking spaces provided by the Government, especially in the north eastern Kowloon areas where goods vehicles can only be parked by the road side, thus occupying road space and causing traffic disruptions and inconvenience to members of the public. Sufficient goods vehicle car parks should therefore be built. Goods vehicles should be required to park in these compounds on payment of fees. The Government can also consider allocating open space not earmarked for construction purposes for the time being to be used as temporary car parks to alleviate the problem of insufficient local parking spaces for goods vehicles. This stop-gap measure can temporarily meet the urgent needs for goods vehicle parking

spaces, but in the long run sufficient standard car parks for goods vehicles should be built.

I agree to a point made in the Green Paper that in devising measures to encourage efficient use of goods vehicles one should bear in mind the need to minimize as far as possible the adverse effect on the economy and its growth. Consequently, the Government puts forward a number of proposals, including increasing ownership taxes for goods vehicles to discourage the use of light vans as private cars; requiring the trucking industry to pay a fair share towards the maintenance of roads and increasing petrol and diesel taxes. In my view, the Government should fully consult members of the public and the interested transport organizations to seek their acceptance before the implementation of these measures.

#### Making effective use of road space

At the end of 1988, there were a total of 353 863 licensed vehicles in Hong Kong, but there were only 1 435 km of roads in the territory, thus there was an average of 246 vehicles per km of road. Despite continued development of road construction projects, the growth in additional lane kilometres lags far behind the growth of the vehicle fleet. Due to the high density of vehicles, rugged geographical features and high rise buildings in Hong Kong serious congestions are common at peak hours on trunk roads. The length of congested roads, where traffic outgrows road capacity, is projected to increase by nearly five times during peak periods by 2001.

Owing to the rapid growth of population in the eastern parts of the New Territories including Sha Tin and Tai Po, and the hectic growth of vehicular traffic between Hong Kong and China, congestion problems in the Lion Rock Tunnel have grown from bad to worse. I am pleased that the Government has been far-sighted enough in constructing the Tate's Cairn Tunnel which, upon its completion in 1991, will provide a new transport link between eastern New Territories and north-east Kowloon. However, it is envisaged that the Tate's Cairn Tunnel will reach its full capacity by 1996. Although Route 16, a trunk road connecting Sha Tin and west Kowloon, is programmed for construction in mid-1990s, the provision of additional infrastructures alone is not a durable solution, because the proposed projects are influenced by the constraints of practical factors such as our economic performance, the capacity of our construction sectors, and the availability of land. Thus we must contain the growth of transport demand to a level with which our road system can cope so as to ensure maximum effectiveness in the use of limited road space.

More than half of our existing roads are reaching the end of their planned life spans and are in need of repair or re-construction. Besides, with continual economic growth and development, the demand for public utility services such as water, gas and electricity supplies will increase accordingly. Road excavation thus become inevitable for laying additional pipes and electrical cables underground. Under these circumstances, the usable road surface area is further reduced. The Government should endeavour to keep to the minimum the traffic problems posed by road maintenance and utility works to ensure the optimum utilization of the limited road surface. To this end, underground maintenance ducts should be a built-in feature underneath the busy roads to reduce congestions. The Government should also consider employing night-shift workers to work on busy trunk roads, and in the daytime, the road openings should be decked for normal pedestrian and vehicular traffic. Co-ordination between the Government and the public utility companies should be improved so that utility works may be planned and carried out with minimum traffic congestion to local road network.

#### Better local consultation

Though vehicular traffic is efficient through the high capacity expressways, traffic congestion begins to build up drastically when approaching the access roads to local areas, often resulting in serious traffic problems. The Government should attach more importance to the views suggested by the district boards in respect of the solutions to local traffic problems, as local people have a more thorough understanding of the local situation. It is particularly so in the case of older industrial areas such as San Po Kong where the industrial buildings without the benefit of town planning are often not provided with loading and unloading areas for goods vehicles. Consequently, such activities have to be conducted along the roadside where goods vehicles are parked, thus causing serious traffic congestions. To rectify such localized problem the Government should get to know the situation with the help of district boards with a view to taking effective measures in road management.

#### Conclusion

To ensure the continuous prosperity of Hong Kong in this transitional period, and in order that investors may cast a vote of confidence to the future of Hong Kong, it is essential that the Government should make further investment on the transport

infrastructure. There is no panacea to solve the traffic problem, nor should we be conventional and rigid in tackling the problem. The implementation of any projects or transport policy in future calls for regular review in the light of the prevailing developments in Hong Kong; strategy should be pursued flexibly to meet the ever changing needs of Hong Kong.

Lastly, I would like to point out that to effectively implement a balanced transport policy for the overall benefit of Hong Kong, we should not solely rely on the effort of the Government; members of the public should also co-operate vigorously in easing the traffic congestion problem during peak hours. In the meantime, I take this opportunity to urge all sectors of the community to put forward their views on the Green Paper on Transport Policy in Hong Kong with a view to formulating a transport policy for the benefit of Hong Kong.

Sir, with these remarks, I support the motion.

MR. DAVID CHEUNG: Sir, keeping people and goods moving in and around Hong Kong is a task which must be handled super efficiently, especially so when ours is a densely populated city with very limited space.

My honourable colleagues have dealt with other aspects of the Green Paper. I shall confine myself to a few points and try to be very brief.

The increase in goods vehicles by three times in the past decade is no small matter. On the one hand, the increased demand for goods vehicle reflects our growing economic activities and prosperity. For Hong Kong this is a good sign. On the other hand, I wonder if we should not now consider ways to harness the uncontrolled growth of the goods vehicle fleet and put it to efficient use. The fact is that many goods vehicles are not used in full capacities. Many of them lie idle in the streets or busy streets of Hong Kong Island, Kowloon and even the New Territories waiting to be hired; many occupy on-street parking spaces constantly; and some double and triple park on the road causing great hindrance to traffic flow.

Other possible reasons for the growth in goods vehicles have already been pointed out in the Green Paper. One obvious reason is the use of vans as private cars to take advantage of the lower taxation enjoyed by the vans. Vans have indeed been used not only as private cars but also as mini-shops for selling clothes, fruits,

vegetables, lunch boxes, tea, coffee and snacks. They enjoy the advantages of mobility, economy of space, and rent free storage when not moving.

A study must be made to find out whether such substantial increase is in response to actual need. A comprehensive policy to control the increase of goods vehicles must be mapped out because vans and small goods vehicles do not subscribe to the principle of economical use of road space.

My next point is on a rail link with the airport. The ad hoc group studying the Green Paper considers that wherever the new airport may be located, it is essential that it is linked with a rail line in view of the probable huge volumes of cargo and passengers the airport has to handle. In Hong Kong, many people go to the airport for other purposes as well -- to see people off or to meet people or to study for their examinations. This further impose heavy demand on traffic to and from the airport. A rail link with the airport is a "must". It will relieve the burden of road traffic significantly. To encourage people to use the rail, check-in facilities in the railway terminal in town must be available so that passengers could check in their luggage and then take the comfortable train ride to the airport without the need to carry their luggage on to the train themselves.

Finally, a controversial point. Further thoughts must be given to the regionalization of schools. Now, theoretically, schools are regionalized but by far there is still too much cross-region allocation of students, resulting in many students still having to travel some distances to schools. Is it not obvious that on days when schools are off, traffic conditions are much much better?

With these words, Sir, I support the motion.

MR. LAU WAH-SUM (in Cantonese): Sir, the confidence of the Hong Kong people towards the future has undeniably dropped to the lowest level after the June 4 incident in Peking. I think the stability of Hong Kong depends on the Government's substantial investment in various building programmes. In this way, people's confidence towards the future may be restored. Only when Hong Kong continues to develop into a highly efficient industrial and commercial international city and enhances its importance to China's economy can stability and prosperity be maintained.

As an international modern city, we must have highly efficient transport

facilities. The present transport system of Hong Kong is based on the First Comprehensive Transport Study which delineates the major transport development projects up to the year 1991. I am glad to learn from the report that most of these projects have been completed.

The Green Paper on transport policy we discuss today is based on the Second Comprehensive Transport Study. Many projects in the programme reflect far-sightedness and positive outlook. I therefore urge the Government to expedite the investment in developing a set of transport policies which will help Hong Kong move into the 21st century.

The road network development programme proposed in the Green Paper is worthy of implementation. For example, via the border crossing at Lok Ma Chau, Route 3 will provide a direct link to the Kwai Chung Container Terminal for the cross border goods vehicles. This will be of great help to the freight transport between China and Hong Kong.

Today, I would like to focus my discussion on the development of rail transport. First, I hope the Administration will consider further studying the feasibility of container transport by rail. We can then make full use of the high efficiency and low cost of the rail network and step up Hong Kong's re-export of China's goods.

I think the two ends of the proposed northwest New Territories urban rail link should be extended. The Yuen Long end should be extended to the border between China and Hong Kong and the Tsuen Wan end should be connected with a subsidiary freight route which leads to the Kwai Chung Container Terminal. If this railway line can accommodate both passenger and freight on the one hand, it may provide a mass transport system for the people commuting between the new towns in the New Territories and the urban area. On the other hand, it may provide another direct rail link to China which is our major partner in trade and the mass freight transport system between China and Hong Kong will be improved. The railway line at the same time will reduce the freight pressure of the Kowloon-Canton Railway and Man Kam To. It may also dovetail with the freight transport provided by Route 3 to meet the demand of freight transport of Hong Kong in the 21st century. In this way, the status of Hong Kong as the collecting and distributing centre of southern China can be upheld, thus strengthening Hong Kong's contributions to China's economic development.

Moreover, northwest New Territories is the most important land supply area in

Hong Kong. It plays an important role in our long-term public housing strategy. Therefore, the new rail system will certainly bring development opportunities to the area and it will be beneficial to the industrial development at the north of Tsuen Wan.

As regards railway transport of passengers, I give my full support to the proposed construction of the third harbour crossing linking Yau Ma Tei and Fortress Hill. Whilst the freight handling capacity of the Nathan Road Corridor (in particular Mong Kok to Yau Ma Tei) has reached saturation point, the Mass Transit Railway system has now little scope for expansion, and it is also envisaged that neither will the Eastern Cross Harbour Tunnel, due to be commissioned, be able to alleviate the pressing travel demand in this respect. It is therefore conceivable that development of this cross harbour railway link is going to help relieve congestion along the Nathan Road Corridor. In addition it could further be linked to the Hung Hom terminus of the Kowloon-Canton Railway Corporation and be deployed to ease the pressure presently encountered at the Kowloon Tong interchange.

The Junk Bay extension of the Mass Transit Railway will be a new mass transit route that has long been awaited. Emerging as a newly developed satellite town lying close to the Hong Kong Island, Junk Bay has the potential of providing ample land resources for development. The sooner mass carriers are provided to link it up with urban centres, the more rapid will be its pace of population growth. It could be conceived hence that, projected on a long-term basis, development of mass transport in the area is profitable. Also I am of the view that it is more appropriate for investments in public utilities to be geared to the long-term yield rate, in the order of some 40 to 50 years, rather than having them focussed on short-term or medium-term return rates or alternatively on the capital-to-debt ratio, and conveniently using that as a pretext for delaying project implementation.

I would turn now to the management of the two railway corporations. In order to have the strategy of standardization of operation efficaciously co-ordinated, I believe the Government should contemplate the establishment of a holding company for the two railway corporations whereby their assets may be consolidated for more effective co-ordination of operation, with a view to eliminating unwanted vicious competition.

In forming a holding company, the memorandum or articles of association of the individual corporations may be rewritten to comply with the regulations for listed

companies. Listing can hence proceed and funds gathered from the public. The holding company may then set up an advisory committee with illustrious membership or one on the model of the Public Accounts Committee of the Legislative Council. Subject to the holding company's internal administration not being meddled with, the proposed structure should adequately allow members of the public to grasp a lucid picture of how railway operation and services are being carried out. On the other hand it may also help foster better relationship with the public.

More importantly, with the merging of the two corporations their capital-to-debt ratios will drastically improve leading to their credit ratings with banks being enhanced. In retrospect, during the energy crisis in 1974 we still managed to have the first line of the Mass Transit Railway system built. In spite of the then debt-to-asset ratio which stood as high as 1:8, we managed to raise the funds required. Thus it occurs to me that in securing funds for future investments in respect of railway transport we should as far as possible resort to loans. As to the choice of mode of construction design, namely, be it built underground, above ground or in the form of light rail transit, I believe cost-effectiveness should be given prime consideration, taking into account the needs of the community. It must be mentioned that while locally many a public utility company sets profits as its prime business objective, yet none ever falls short of providing adequate services to meet community needs. Commercial principles are not necessarily incompatible with community interests.

Finally I urge the Government to embark as a matter of urgency on the implementation of the various development proposals contained in the Green Paper, as far as railway transit is concerned. It is understood that all these will require huge sums of money, and that Government has also other high-spending infrastructural projects in the line-up, the airport construction project for one. May I therefore suggest that Government should attempt to seek loans from international money markets, and at the same time to raise funds from the local stock market. This will help maintain Hong Kong's continued prosperity and stability and restore the confidence of its people.

I believe that seeking international loans will be a more constructive approach when compared with seeking other forms of support, including support from immigrants.

With these remarks, Sir, I support the motion.

MISS LEUNG (in Cantonese): Sir, *Moving into the 21st Century: The Green Paper on Transport Policy in Hong Kong* was published on 31 May 1989 to inform the public of the Government's transport policy for Hong Kong. It is meant to provide a basis on which public views on the territory's long-term transport strategy are sought and on which the second White Paper on transport policy is to be formulated. The Green Paper therefore sets out a proposed strategy that will purportedly enable Hong Kong to move easily into the next century.

The strategy aims to make the most efficient and safest use of existing and planned infrastructure and services, improve the mobility of people and goods, and achieve an optimal balance between capacity and demand.

There are three major components in the proposed strategy. The first concerns the improvement of transport infrastructure. The other two involve the expansion and improvement of public transport services as well as managing the demand for road use.

Sir, the first White Paper on Transport Policy in Hong Kong, released in 1979, has formed the basis of transport policy up to the present day. It is founded upon three main principles: first, to improve the road system; second, to expand and improve public transport services; and third, to make economic use of the road system.

Sir, it is obvious that the three major components of the transport strategy set out in the Green Paper today are "xerox copies" of the three main principles contained in the 1979 White Paper. The only difference between the two papers is: the time element which is unrelated to policy; the pattern of road and railroad network proposed; and the greater number of proposed measures in the Green Paper on the managing of road use. Yet, transport strategy for the next decade or so as proposed in the Green Paper is, without doubt, a continuation of the one formulated in 1979. The policy measures proposed are more or less the same as those of the White Paper. For this reason, I must say it is indeed unnecessary to set out the transport proposals in the form of a Green Paper for public consultation.

Pausing here, I recall the Long Term Housing Strategy first implemented on 1 April 1988. The strategy introduces several brand new programmes which have far-reaching effects. Examples of them are the Home Purchase Loan Schemes and interchangeability between public rental housing and home ownership flats -- a design concept whereby

annual production of the two types of housing can be flexibly adjusted. Nevertheless, before the proposed strategy was finalized, the Government had decided against conducting a consultation exercise based on the belief that the objectives of the housing policy had not changed. So instead of taking the active approach to consultation by way of a consultation document or Green Paper, the Government chose to publish the strategy in the form of a policy statement.

Sir, I would like to take this opportunity to ask the Administration to advise us at an appropriate time the criteria of publishing particular forms of consultation documents -- policy statement, White Paper, Green Paper and so on.

Sir, the various proposals of highway and railway projects put forward in Chapter Three: Transport Infrastructure Improvements of the Green Paper, particularly the parameters and data quoted, are basically technical in nature in respect of which the man-in-the-street is hardly able to give substantive suggestions.

Sir, the Green Paper, without reviewing the merits and demerits of the transport strategy proposed in the 1979 White Paper and the effects of its subsequent implementation, continues to adopt the main principles and measures formulated in 1979 as a basis upon which new proposals are built. This, I think, is one of the areas where the Green Paper has erred.

It is obvious that traffic congestion is getting more serious in Hong Kong. The worsening situation is really disappointing. Does this reflect inadequacy of the transport strategy and policy measures formulated in 1979? Or are there any other reasons for traffic congestion? This is really a question that demands serious examination. The Green Paper, however, has failed to provide a direct analysis on the traffic congestion, in particular, the root of the problem. I would say that discussions of the Green Paper and its proposed transport strategy will not be meaningful unless and until the above questions have been answered.

Sir, I would like to turn now to the area I have been assigned to cover in this motion debate, namely, the relationship of town planning, land use planning, the Metroplan and port and airport development strategy with the transport infrastructure.

As the focus of the Green Paper is on the formulation of transport strategy, the items for which I am responsible have not been dwelt on in any depth in the document.

Nevertheless, land use planning as a means to diversify demand on transport services has been raised in Chapter Five: Managing Road Use of the Green Paper. The proposal, mentioned briefly in the paper, looks sound enough.

Sir, whether or not there is smooth transport flow in the urban areas depends, first and foremost, on traffic throughput and the planning of transport network which should be incorporated as part of overall town planning.

The inter-relationship between different land uses must be carefully considered in town planning. Factors like appropriate distribution and likelihood of unnecessary demand for transport being generated should be taken into account as well. An accurate projection must be made of the maximum traffic throughput and the size of the basic transport network consistent with demand. Adequate and appropriate distribution of parking places is also another factor to be considered in the planning process. By so doing, it can economize the use and occupation of roads by vehicles and thus diseconomy, inconvenience and traffic congestion can be avoided. Only with a well-planned transport layout, plus proper management which is essential, can there be a chance for smooth traffic flow in the urban areas.

Sir, our effort to solve the problem of traffic congestion has not only been hampered by our own natural environment, but also by past neglect of town planning. Traffic in the metropolitan area had not been part of planning and therefore the undesirable effects of such neglect have surfaced today. In addition, our overall traffic management is obviously inadequate and this is also one of the main reasons for the worsening problem.

Nevertheless, town planning can be taken as a solution to help alleviate traffic congestion in the territory. Therefore, in a new development or re-development programme, we must think carefully of the demand for goods and passenger transport so generated and of the corresponding transport facilities needed to cope with it.

Traffic and transport problems must be accorded serious consideration in the Metroplan now in progress. We should now be fully prepared that with the implementation of the Metroplan, traffic congestion in the metropolitan area can be further improved. In re-developing the old districts, we can systematically rearrange the road network and increase parking places. Before developments in the newly-developed areas get under way, we must make an assessment of the overall transport demand to make sure that the new development programmes and transport

infrastructure dovetail with each other.

The Green Paper has not mentioned anything about the relationship between the future port and airport development strategy and transport infrastructure. In fact, both airport and port facilities need infrastructural support in the form of sound traffic systems and transport network before they can function to maximum economic effect. The airport and port facilities themselves will generate transport demand, and therefore an adequate supply of transport facilities must be available to solve the problem.

The decision of building a new international airport and of constructing "new-generation" port facilities will have far-reaching effects on the location and time of building a new transport network. The Government must therefore carefully consider and study its transport strategy.

I believe the decision of building a new airport will have greater impact. Adequate transport infrastructure will be needed to cope with the operation of the new airport and the impact of closing down the Kai Tak Airport will have to be taken into account as well. But all these will only happen after the year 2001. The brief report of the Second Comprehensive Transport Study only mentioned that our transport investment programmes to be launched in the 1990s were expected not to be affected by the relocation of the airport. There is still, in fact, sufficient time for us to upgrade our transport infrastructure to meet the new demand that might be generated by the relocation.

Sir, basically I support the transport strategy proposed in the Green Paper. The three objectives set out in the major parts, I believe, are consistent with Hong Kong's demand.

Sir, with these remarks, I support the motion.

MRS. SO (in Cantonese): Sir, transport has always been a matter of public concern and the Government published the Green Paper on Transport Policy to seek public views on this matter in May this year. Though the Green Paper covers many aspects of the problem, there remains certain uncharted areas and some of the proposals contained therein need further consideration.

Public transport has all along played a very important role in our transport system. The Green Paper points out that one of the objectives of our public transport policy is to continue improving the quality of public transport services. However nothing specific has been mentioned about how the Government is going to establish its role within the management framework so that direct and effective control may be introduced over the quality of public transport services.

As a matter of fact, the quality of public transport services has been the main subject of public complaint. The Green Paper only highlights how public transport companies may be provided with favourable operation conditions while factors which may improve the quality of services have been neglected. Besides, though the practice to calculate the profits of the public transport companies in terms of their fixed net assets has repeatedly drawn criticisms, the issue has not been discussed at all in the Green Paper.

In the face of the poor quality of the public transport services, people may incline to choose some personalized form of transport. Government policies therefore should gear towards improvement of the competitiveness of different modes of public transport. There should be positive measures to encourage the public to travel by public transport. Influences should not be "exerted" on public preferences by way of offering public transport companies favourable operation conditions.

While the public are encouraged to make use of public transport services, an effort should be made at the same time to expand the public transport network, or else the problem will not be solved.

I support the proposal in the Green Paper that the Mass Transit Railway systems should be expanded as a major effort to improve public transport services, because rail capacity is large and it may relieve road congestion as well as air and noise pollution caused by vehicles. However, bus services should be enhanced in areas not reached by the rail. As to the proposed railway expansion projects, I believe that the MTR island line should be further extended westward to cope with the rapid development of the Central and Western districts in recent years. Furthermore, an early decision should be made as to when work will commence on the Route 7 project so that an expressway will be completed at an early date to provide the eastern and southern districts with an efficient transport network.

With regard to the control of road use, the Green Paper proposes to regulate the

volume of traffic by fiscal means. Past experience has shown that any improvement brought about by an increase in tunnel tolls only lasted for a short while. It failed in the long run to be an effective solution to the congestion problem of the tunnels. Could Government, therefore, follow the example of some big cities overseas to restrict the time for goods vehicles using the tunnels so that the roads may be more effectively used?

It is proposed in the Green Paper that fuel tax increases should be introduced to reduce vehicle trips on roads. Drivers are not offered any alternatives in the face of this aggravated burden. For those who have to use the roads anyway, such as taxi drivers, an increase in driving expenses will not make them reduce their trips on the road. The proposal therefore cannot neatly tackle the problem of the small goods vehicles which are actually the abusive road users. Furthermore, road space has been found inadequate mainly because of the congested use of the road by most vehicles during peak hours. Fuel tax increases will be specifically unfair to road users off the peak hours.

All in all, Hong Kong is under the restraint of having to accommodate a sizable population within a limited expanse of land. For traffic to be smooth, we have to expand our public transport systems and monitor the quality of their services. Any control to be imposed on vehicles using the road should be devised on basis of equity and sensible judgement.

Sir, with these remarks, I support the motion.

SECRETARY FOR TRANSPORT: Sir, I am most grateful to Members for the breadth and depth of their views expressed in this debate. I sense in my observation this afternoon that Members are generally supportive of the principles as stated in the Green Paper. I shall therefore focus on a few major areas of concern with a view to elaborating or clarifying those issues. Some of the issues touch upon other policy programmes which I shall take up separately after this meeting.

First, Sir, on the accuracy of the transport forecasts on which the proposed infrastructure programmes are based. Sir, no forecast can ever claim to be accurate, whatever the efforts taken in the data collection and projection assumptions. The important thing is to ensure that they can be revised and updated from time to time to meet changing needs and circumstances.

The First Comprehensive Transport Study (CTS-1) forecasts were based on the decisions made in 1976. That travel demand exceeded the original forecasts was due mainly to a much faster growth in the economy.

In the present Second Comprehensive Transport Study (CTS-2) we have enhanced the computer transport planning model by incorporating the latest techniques of transport planning and modelling technology. This should facilitate updating of the data base. For example, any slowdown in the increase rate of private cars or changes in travel demand will be fed into the computer to assist a flexible adjustment of any management measures.

The second aspect, Sir, is on the future transport requirements of infrastructure. The proposed transport infrastructure programme has taken into account the transport needs of public housing programmes, the transport implications of Metroplan and the future port and airport development strategies. The proposed road and rail projects are needed irrespective of whether the airport will be relocated, although adjustments are necessary to the timing and scale of some of the proposed projects.

The highway construction programme, as proposed, is intended to improve the north-south and east-west road links to meet the need for linking the new towns and the urban centres, and providing additional harbour crossings and cross border links. With the completion of the Eastern Harbour Crossing, Kwun Tong By-pass, the Tate's Cairn Tunnel, Route 5 and the widening of Tai Po Road, the north-south transport links in the eastern part of the territory will be well-established by the early 1990s.

Neither have we forgotten the importance of improving conditions of our local and distributor roads. Improvements in the form of flyovers and road widening schemes at a total cost of over \$3 billion have been proposed. This is an on-going commitment.

As regards the railways, these have attracted considerable interest. Whether the northwest urban link will be ending in Yuen Long or Tuen Mun will be one of the subjects of a territorial rail strategy study to be commissioned towards the end of this year. This would take into account fully their respective engineering feasibility and financial and economic viability.

As regards the suggestion of a dedicated rail link to serve the future airport, the feasibility of such a link is now being examined by the Port and Airport Development Studies.

Sir, the importance of effective co-ordination of public transport services is fully accepted. Not only would unfettered competition add to road congestion in areas of high demand, but the resultant wasteful use of resources is liable to start a vicious circle leading eventually to higher fares on all modes, fewer choices and inadequate services for the less populated areas. District boards have called for flexible application of the co-ordination policy to allow adjustments to changing demands. This is in fact the current practice. To cope with the Mass Transit Railway congestion problems during the peak hours, for example, bus services have been introduced along the Nathan Road Corridor to give an alternative for Mass Transit Railway commuters.

There is, however, a practical limit to how far we can go. One important constraint is the shortage of bus terminus facilities in the urban centres.

On rail services, the purpose of establishing the rail corporations is to provide flexible organization structures which could operate on prudent commercial basis, capable of responding flexibly and speedily to changes in market demand to meet the full range of services expected of modern railways. Government is now reviewing its relationship with the corporations, and will take fully into account all views and suggestions including the operation of railways, the interface with public transport operations, their monitoring and control, and broad strategies.

Sir, concern on franchised bus services has been expressed, and rightly so because bus services will always remain the major passenger carrier. In areas not served by railways, they are the main mode of scheduled public transport. Bus services will continue to improve and expand to meet the travelling demands of new development areas, and satisfy growing public expectations.

It is Government's policy also to promote ferry services wherever practicable, to help relieve road congestion. Recent studies, however, have shown very limited scope for ferry operation expansion. A recent assessment of the feasibility of using ferries to relieve road and rail congestion along the Nathan Road Corridor showed that even by assuming a maximum deployment of high-speed ferries with full feeder bus services, the diversion of passengers from the Mass Transit Railway and cross harbour buses would be insignificant.

The rapid growth in goods vehicle traffic and their dominant use of road space

is a major concern. A greater use of rail and waterborne transport has been suggested. The possibility of providing a freight line between Hong Kong and China will be considered in the territorial rail strategy study which I mentioned earlier.

But the scope of handling internal freight through rail and waterborne transport is limited as this would involve double handling; from rail or barge to lorries to final destination and vice versa. Given the small size of the territory and the shortage of land for freight yards and other associated cargo handling facilities, the freight handlers and consignees would prefer the direct door-to-door service offered by goods vehicles. Also, the freight handling capacity of the two railway lines has little room for expansion.

This means, Sir, that goods vehicles would remain the main carrier for internal goods. The trucking trade must therefore be encouraged to use their vehicles more efficiently while the use of goods vans as a cheap substitute for private cars should be discouraged as far as possible. Encouraging the carriage of freight traffic outside the peak hours is one method. On certain roads, the loading and unloading of goods vehicles during specific hours is already prohibited by means of clearway restrictions.

Finally, Sir, the importance of transport and land use planning has been underlined in this debate. Effective integration will not only reduce pressure on our transport system but also improve the environment. The Transport Branch and departments are working closely with the transport and land planners to ensure a very close co-ordination between the two teams of planners. Current examples are the Port and Airport Development Studies, the Metroplan and the major reclamation studies.

Sir, to conclude, this debate has given the Government a good opportunity to affirm our commitment to the development of a comprehensive transport strategy including the expansion of transport infrastructure, improvement of public transport and the effective management of road use. This is crucial to the continued prosperity and growth of Hong Kong.

Sir, with these remarks, I support the motion.

MISS TAM: Sir, I welcome the Secretary for Transport's reassuring speech in his consideration of the points raised by my colleagues in this debate. Indeed, I believe

my colleagues had spoken with great authority on the subject that they decided to touch upon. You have heard some of my colleagues from the district boards explaining the situation in their local areas, such as lack of provision of transport in Tuen Mun, congestion resulting from Eastern Harbour Crossing construction in Kwun Tong, lack of lorry parking spaces in north and west Kowloon. These are not small matters; for it is true the effective implementation of transport policy really affects the quality of life of the Hong Kong people who live and dwell and travel in this small area and who will directly benefit from a good or suffer from a bad implementation of policy.

You have also heard my colleagues who, through their professional experience and involvement with different advisory boards or public service, have acquired the knowledge of how the transport co-ordination model, the operation of fixed-track systems and other transportation methods have been carried out with deficiency or efficiency.

You have heard suggestions as to how to raise funds, to finance further fixed-track projects, the need to co-ordinate development of transport for land use and housing planning and, none the less, the development of port and airport facilities. I hope in this late hour of the evening the Secretary for Transport will enjoy all this food for thought. There is one common feature in the way we approach the problem. In spite of the fact that we have chosen specific subjects, I think in certain areas our views are the same. I think the first point is we believe that the resources we have at present should be maximized. Hence you have heard suggestions of better utilization of seaborne transport, staggered hours, and perhaps a diversification of sites for business centres. The other subjects on which we seem to have a great degree of consensus is that the co-ordination between road development and implementation or operation of fixed-track traffic through the two statutory corporations needs a further look. And we really look forward to the answer that the Government will give us in the future.

Finally, my feeling is that at the moment our thoughts are on Hong Kong people saving Hong Kong. This evening, I hope we strike the first chord of a new theme and that is: Hong Kong people building Hong Kong.

Question on the motion put and agreed to.

Private Bill

Second Reading of Bill

SAILORS HOME AND MISSIONS TO SEAMEN INCORPORATION (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 28 June 1989

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

Bill read the Second time.

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

Committee stage of Bill

Council went into Committee

SAILORS HOME AND MISSIONS TO SEAMEN INCORPORATION (AMENDMENT) BILL 1989

Clauses 1 to 5 were agreed to.

Council then resumed.

Third Reading of Bill

MR. BARROW reported that the

SAILORS HOME AND MISSIONS TO SEAMEN INCORPORATION (AMENDMENT) BILL 1989

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

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

Bill read the Third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 19 July 1989.

Adjourned accordingly at fourteen minutes to Eight o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Securities (Insider Dealing) Bill 1989, Temporary Control of Density of Building Development (Kowloon) Bill 1989, Drug Trafficking (Recovery of Proceeds) Bill 1989 and Privileges and Immunities (The International Committee of the Red Cross) Bill 1989, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.