

1 HONG KONG LEGISLATIVE COUNCIL -- 20 May 1992

HONG KONG LEGISLATIVE COUNCIL -- 20 May 1992 1

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 20 May 1992

The Council met at half-past Two o'clock

PRESENT

THE DEPUTY PRESIDENT

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

THE CHIEF SECRETARY

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

THE FINANCIAL SECRETARY

THE HONOURABLE NATHANIEL WILLIAM HAMISH MACLEOD, C.B.E., J.P.

THE ATTORNEY GENERAL

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

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

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

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

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

THE HONOURABLE DAVID LI KWOK-PO, O.B.E., J.P.

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

THE HONOURABLE ANDREW WONG WANG-FAT, O.B.E., J.P.

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

THE HONOURABLE EDWARD HO SING-TIN, O.B.E., J.P.

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

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

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

THE HONOURABLE MRS MIRIAM LAU KIN-YEE, J.P.

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

PROF THE HONOURABLE EDWARD CHEN KWAN-YIU

THE HONOURABLE VINCENT CHENG HOI-CHUEN

THE HONOURABLE MOSES CHENG MO-CHI

THE HONOURABLE MARVIN CHEUNG KIN-TUNG, J.P.

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE TIMOTHY HA WING-HO, M.B.E., J.P.

DR THE HONOURABLE HUANG CHEN-YA

THE HONOURABLE SIMON IP SIK-ON, J.P.

DR THE HONOURABLE LAM KUI-CHUN

DR THE HONOURABLE CONRAD LAM KUI-SHING

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE LEE WING-TAT

THE HONOURABLE GILBERT LEUNG KAM-HO

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.

THE HONOURABLE FRED LI WAH-MING

PROF THE HONOURABLE FELICE LIEH MAK, O.B.E., J.P.

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

THE HONOURABLE HENRY TANG YING-YEN, J.P.

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

DR THE HONOURABLE SAMUEL WONG PING-WAI, M.B.E., J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE HOWARD YOUNG

THE HONOURABLE ZACHARY WONG WAI-YIN

ABSENT

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

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

DR THE HONOURABLE LEONG CHE-HUNG

THE HONOURABLE MICHAEL HO MUN-KA

THE HONOURABLE MISS EMILY LAU WAI-HING

THE HONOURABLE NG MING-YUM

DR THE HONOURABLE YEUNG SUM

IN ATTENDANCE

MR DAVID ALAN CHALLONER NENDICK, C.B.E., J.P.  
SECRETARY FOR MONETARY AFFAIRS

MR JOHN CHAN CHO-CHAK, L.V.O., O.B.E., J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

MR CHAU TAK-HAY, J.P.

SECRETARY FOR TRADE AND INDUSTRY

MR RONALD JAMES BLAKE

SECRETARY FOR WORKS

MR MICHAEL SZE CHO-CHEUNG, I.S.O., J.P.

SECRETARY FOR CONSTITUTIONAL AFFAIRS

MR ANTHONY GORDON EASON, J.P.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

DR LEE SHIU-HUNG, I.S.O., J.P.

SECRETARY FOR HEALTH AND WELFARE

MR IAN ROBERT STRACHAN, J.P.

SECRETARY FOR SECURITY

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.

Import and Export (Strategic Commodities) (Amendment) Regulation 1992.....	
148/92	
Public Order Curfew (Variation) (No. 2) Order	
1992.....	152/92
Smoking (Public Health) (Notices) (Amendment) Order	
1992.....	153/92
Cremation and Gardens of Remembrance (Regional Council) (Amendment) Bylaw 1992.....	154/92

Exhumation (Fees) (Regional Council) Bylaw..... 155/92

Public Cemeteries (Regional Council)  
(Amendment) Bylaw 1992.....  
156/92

Waste Disposal (Chemical Waste) (General)  
Regulation (L.N. 20 of 1992) (Application of  
Parts II, VII and VIII) Notice 1992.....  
157/92

Specification of Public Offices.....  
158/92

#### Sessional Paper 1991-92

No. 76 -- Revisions of the 1991-92 Estimates approved  
by the Urban Council during the fourth quarter of  
the 1991-92 Financial Year

#### Oral answers to questions

##### Water catchment areas

1. MR HOWARD YOUNG asked: In view of the stable water supply to Hong Kong from China, will the Government inform this Council whether it will review the policy on water catchment areas and whether it will lift the existing restrictions on developments within the water catchment areas?

SECRETARY FOR WORKS: Mr Deputy President, it is the Government's policy to maintain the existing water catchment areas for the territory as they provide the gathering grounds for an important and valuable source of our water supply. One-third of our supply is from the natural yield from these areas. It would be unwise to rely solely on the supply from China, which is extracted from a single river source and is provided through a delivery system over a long distance. Furthermore any loss of water from our gathering grounds in Hong Kong would have to be made good by buying more water

from China.

Whilst restrictions on catchment areas must be imposed so as to ensure a high quality of water from the catchment areas, a flexible approach is nevertheless adopted so as to maximize the utilization of land territory-wide. Let me illustrate how we control the use; such controls will of course vary depending on circumstances. Generally, any existing use of catchment areas is largely maintained. The restriction is more strict on crown land than on leased land. More stringent control is imposed if a proposed development is nearer to the point of water collection or a reservoir. Lesser restrictions apply to community-wide development, such as recreational facilities. Where development is permitted, very stringent criteria are imposed to ensure no pollution of the water run-off within the catchment area.

In line with the world trend to preserve valuable sources of water, it is not the intention of the Government to lift restrictions on existing catchment areas in Hong Kong. I hope that I have been able to assure you, however, that the restrictions are imposed in a manner that nevertheless does result in fair and reasonable division between water catchment and other uses.

MR HOWARD YOUNG: Mr Deputy President, although the Secretary has replied that stringent criteria are used to prevent pollution within water catchment areas, is the Government aware that there have been complaints that some of these areas may actually become pollution creating areas in that not being well maintained as they are they tend to have rubbish and other refuse caught up there?

SECRETARY FOR WORKS: Mr Deputy President, the monitoring of water quality in the catchment areas is undertaken if there are gathering points which are subject to undesirable flows of contaminated water; these are temporarily closed. However, in conjunction with the Environmental Protection Department the long-term action is to ensure that the quality of water into the gathering points is at an acceptable high level, and if any gathering points are temporarily closed, it is our intention that they will be reopened in the future after any contaminating material has been dealt with.



MR LAU WONG-FAT (in Cantonese): Mr Deputy President, as there are stringent controls over developments in catchment areas, local residents cannot construct their houses as permitted under the Small House Policy. Is the Administration concerned about the predicaments of these people and what measures have been taken to help improve their living conditions and meet the housing needs arising from population growth?

SECRETARY FOR WORKS: Mr Deputy President, as I have said, the restrictions are applied in a flexible manner and particularly where existing land use is involved. Particular problems are brought to the attention of my Water Supplies Department staff who, in conjunction with the other government officials concerned, will address each and every problem as it is brought to their attention. And if there is opportunity for flexibility then this will be applied.

MR GILBERT LEUNG (in Cantonese): Mr Deputy President, the Community and New Territories Affairs Panel visited the catchment area in Lam Tsuen valley yesterday and found that some gathering points had fallen into disuse since 1983, and that the streams flowing through it were severely contaminated. Could the Administration inform this Council whether it will consider the closure of Lam Tsuen catchment area?

SECRETARY FOR WORKS: Mr Deputy President, I think that there are some three major intakes within this particular location. Two of these gathering points have certainly been closed on a temporary basis. However, it is, as I stated, our intention in the future to reopen these gathering points and in the meantime a third gathering point is serving to catch quite valuable water from the area in question.

MRS PEGGY LAM (in Cantonese): Mr Deputy President, some of the catchment areas have been temporarily closed, but such "temporary" closure can be as long as a decade. Could the Administration advise this Council how it will define the term "temporary" and how many years will be considered "temporary"?

SECRETARY FOR WORKS: Our basic objective, Mr Deputy President, is to maintain our present catchment areas. "Temporary" can be defined as: for as long as it is necessary to ensure that any contaminants in the gathering of water from the area

concerned can be brought under control and that the water quality can again be restored to a satisfactory condition.

MR TIK CHI-YUEN (in Cantonese): Mr Deputy President, as Hong Kong depends mainly on China for water supply, there will be a lesser role played by the catchment areas in the supply of water. Although the Administration has no plan to close all the catchment areas, will a review be conducted as to the extent of the catchment areas and the stringent criteria imposed, so as to minimize the adverse effects on the livelihood of residents?

SECRETARY FOR WORKS: I believe, Mr Deputy President, that I have stressed that flexibility is applied in our management of the controls over catchment areas. Basically, we wish to retain the total area of catchment; and within that control, the various types of use are carefully considered before a decision is made which may allow use in a particular area.

MRS SELINA CHOW: Mr Deputy President, with reference to the visit that some of us made yesterday to Lam Tsuen and Tai Hang Tsuen, we were told by the Water Supplies Department representative there that the two temporarily closed intake points since 1983 would be permanently closed quite soon. Could the Secretary please clarify how he can reconcile what he has informed this Council just now, that is to say, there is the likelihood that these intake points would be reopened, and the information supplied to Members yesterday that they will be closed permanently quite soon?

SECRETARY FOR WORKS: Mr Deputy President, I am aware that this area has been under detailed scrutiny. It is, as I said, our general policy to reopen all gathering points on an "as and when" basis. There are three catchment points within this particular area; two of them have been closed, and the third remains open. If there is any ambiguity in the replies that I have given today, I will be happy to supply further information. (Annex I)

DR CONRAD LAM (in Cantonese): Mr Deputy President, the Secretary has mentioned in the second paragraph of his reply that where development is permitted, very stringent criteria are imposed to ensure no pollution of the water run-off within the catchment area. Can the Secretary inform this Council how stringent the criteria are, and whether prosecutions have been taken out for contamination of water run-off in catchment area?

SECRETARY FOR WORKS: Mr Deputy President, basically, the criteria require the design of the development to be such that any run-off from the development itself is piped in a manner which ensures that there will be no loss of water from the piped system until it is clear of the catchment area. I cannot give any examples to the second part of the question, Mr Deputy President, but I will search our records and provide that information. (Annex II)

MRS RITA FAN: Mr Deputy President, in answer to a supplementary question the Secretary has said that intake points are temporarily closed and in the meantime improvements will be made to the water quality in order that the intake points can be reopened. During our visit to Lam Tsuen yesterday, we found that the two intake points in Tai Hang were temporarily closed and all we could see was that they were, in effect, being closed by leaves, sand and all other natural material, and we could not see any evidence of work being done to try to improve the water quality or the intake points themselves. Can the Secretary please look into this and perhaps provide me with a written reply as to what work has been done by the Water Supplies Department in these areas to improve the water quality of these temporarily closed intake points?

SECRETARY FOR WORKS: I will certainly undertake, Mr Deputy President, to provide a further written response. (Annex III) I would say that the fabri-dam in question is part of the control measures which are used to allow any contaminated water to be quickly discharged from the area, and this will be part of the answer.

Dangerous slopes

2. DR HUANG CHEN-YA asked (in Cantonese): In view of the recent landslip in Baguio Villa, will the Government inform this Council:

(a) of the number of dangerous slopes in the territory at the moment and their distribution by district;

(b) what mechanism is in place to monitor the safety of these slopes;

(c) of the number of dangerous slopes on which preventive works were carried out in 1991-92 and the expenditure involved; and

(d) of the amount of provision allocated for preventive works on dangerous slopes in this financial year and the expected number of such slopes involved?

SECRETARY FOR WORKS: Mr Deputy President,

(a) Slope is only classified as dangerous when it poses an immediate and obvious threat to public safety, in which case immediate steps are taken to deal with the problem and remove the danger. For other slopes it is only after a detailed geotechnical stability investigation that we know whether or not a slope is liable to become dangerous during extreme rainstorms.

A long-term programme of geotechnical stability investigations has been in progress during the past 16 years. This programme deals on a risk priority basis with the 10 000 or so slopes or items that have been catalogued. So far 4 300 of these items have been investigated, of which 880 have required preventive works. Works have been completed on 750 of these. Of the remaining 130, on which preventive works are in hand or will commence shortly, 35% are located in the New Territories, 10% in Kowloon and 55% on Hong Kong Island.

(b) Government departments responsible for the maintenance of a slope are advised by the Geotechnical Engineering Office (GEO) if the slope requires works. These works are then designed by it at office and constructed under their supervision, under the Landslip Preventive Measures Programme. If any slope is of immediate and obvious danger it is injected immediately into the programme and monitored closely until works have been completed and the slope stabilized. Emergency measures will be implemented if necessary to safeguard life prior to completion.

For privately owned slopes identified as requiring preventive works a statutory order is served on to the owners under the Buildings Ordinance. This

requires that an appointed Authorized Person be responsible for monitoring the stability of the slope and giving warning of impending danger until preventive works are completed. A copy of the statutory order is posted at the site to inform occupants of the situation.

(c) During the 1991-92 financial year, landslip preventive measures were completed at 34 government slopes and retaining walls, and works commenced at 21 others. Expenditure on the Landslip Preventive Measures Programme was HK\$62 million. During the year preventive measures were completed for 22 private slopes.

(d) Finally, in the financial year 1992-93, landslip preventive works will be in progress on a total of 52 government slopes and retaining walls. The expenditure is expected to be \$66 million. It is anticipated that preventive measures will be completed for 20 private slopes.

DR HUANG CHEN-YA (in Cantonese): Mr Deputy President, are the slopes at Baguio Villa and Kennedy Road included in the Catalogue of Slopes? The Administration has so far investigated only about 40% of the slopes. In 1982 and 1985, the Administration spent \$80 million and \$75 million respectively on landslip preventive works, but the expenditure for this purpose was slashed in 1991-92 and 1992-93; what is the reason? Is it because of the expenditure of the airport projects? In view of the recent landslips, will the Administration consider increasing the expenditure in this regard?

DEPUTY PRESIDENT: Dr HUANG, you have a number of questions in that one long question. Would you ask them one at a time by starting with one question, please? I shall have to rule on the others because we have some 12 people wanting to ask supplementaries. So, the first question first, please.

DR HUANG CHEN-YA (in Cantonese): Mr Deputy President, the Administration spent \$80 million and \$75 million in 1982 and 1985 respectively on landslip preventive works. The expenditure for this purpose has been slashed in recent years; what is the reason? Is it because of the expenditure in the airport projects?

SECRETARY FOR WORKS: Mr Deputy President, the Landslip Preventive Measures Programme was focused initially on those slopes which had a higher priority in terms of stability risk. I am glad to say that those higher risk slopes have been dealt with, as was evidenced from the last severe rainstorm when all of the slopes that had been included in that programme remained satisfactory. The ongoing programme is one which requires quite detailed investigation at the slopes in question by means of site investigation drillings. It requires quite detailed evaluation of those results before any programme of works can be put in place for the slopes in question. This programme is ongoing; it is controlled by the Geotechnical Engineering Office, and the rate of expenditure is one which is set by their own programme. Any difference in expenditure which has been referred to is not related to airport expenditure because the Landslip Preventive Measures Programme is allowed to proceed as an item in its own right.

DEPUTY PRESIDENT: I will have to call on other Members, Dr HUANG, since there are so many waiting to ask supplementaries. And I shall take them in the order of Members who have asked the least number of questions up to now because I do not think we can get everyone satisfied.

MR STEVEN POON (in Cantonese): Mr Deputy President, the residents at Baguio Villa were caught off guard at the time of the landslip. Can the Administration inform this Council whether there is any plan to educate the public on how to respond in case of a landslip so as to ensure as far as possible the safety of their lives and properties? If yes, when can such a plan be announced? If not, why not?

SECRETARY FOR WORKS: Mr Deputy President, I have already announced that the detailed report would take one month to be completed. We are on track to achieve that date; as and when the report is completed, we will then examine ways in which the relevant information can be announced.

MR EDWARD HO: Mr Deputy President, according to the Secretary's reply, 4 300 of the 10 000 slopes catalogued have been investigated. Will the Secretary please inform this Council whether any of the remaining 5 700 slopes are dangerous? And how can an opinion be formed if they have not been investigated?

SECRETARY FOR WORKS: Mr Deputy President, in drawing up this initial catalogue of man-made slopes, the actual slopes were scrutinized through a consultancy at the time. Each of the entries into the catalogue in relation to slopes contains certain basic information which can be obtained by visual inspection. On the basis of that initial visual inspection, the risk priority was established and the programme entries for the particularly high risk slopes were made. Of the remaining slopes, as I have indicated, they are all within a much lower risk priority and will be dealt with as part of the Long Term Measures Programme. But I would emphasize that the investigation of each and every case does take time. However, I can assure Members that those slopes are all in a lower risk priority and if there was any evidence of an unstable condition emerging, then it would be dealt with immediately.

MR HENRY TANG: Mr Deputy President, in his main reply the Secretary says that the privately owned slopes are the responsibility of the owners who are to carry out the preventive works once the Geotechnical Engineering Office identifies the slope as being dangerous. Will the Government inform this Council, in the case of privately owned slopes, if it is the Geotechnical Engineering Office or the owners who are responsible for regularly inspecting the slopes to ensure the integrity or safety of the completed remedial works? I hope the Secretary's reply will be more comprehensive than his earlier reply to Mr POON's question.

SECRETARY FOR WORKS: The Geotechnical Control Office are responsible, Mr Deputy President, for monitoring the proposals put forward by the Authorized Person appointed on behalf of the owner to design the measures which will be applied to the slopes in question. The carrying out of those works will be monitored by that Authorized Person in accordance with his obligations under the Buildings Ordinance. When those works have been completed, so far as is engineeringly possible, the stability of the slopes will have been secured. There may be such items as ground anchors which require regular monitoring, in which case the monitoring arrangements would be included in the design package approved by the GCO. But the slopes in question are the responsibility, in the long term, of the owner in question.

MR CHEUNG MAN-KWONG (in Cantonese): Mr Deputy President, about 2 000 squatters

are reported to be living on dangerous slopes. Can the Administration release the information on dangerous slopes and give priority to the rehousing of these squatters in order to ensure the safety of their lives?

SECRETARY FOR WORKS: Mr Deputy President, most of the steep slopes on which squatters live have been the subject of separate geotechnical studies and they are not included in the catalogue of slopes. These studies indicated that some 64 000 squatters were originally living on terrain which was regarded as especially vulnerable to landslips during intense rainfall. We now estimate that there are fewer than 2 000 remaining on these vulnerable slopes. All of these people will be rehoused by early 1994. In the meantime, at the commencement of a year, squatters on these slopes are informed by way of leaflets that they are living on a terrain which could become potentially dangerous during a heavy rainstorm. These warnings are repeated by way of radio announcements in the event of rainstorm warnings becoming necessary, and arrangements are made for such squatters to be rehoused temporarily during the immediate period of any rainfall emergency. Squatters are also encouraged to report immediately any evidence that they may see of slope instability, such as the dislodgement of material. If such reports are received they are investigated immediately by officers of the Geotechnical Engineering Office and appropriate action is taken.

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, there are 2 000 squatters now living on dangerous slopes. Has the Administration considered taking some contingency measures, such as rehousing them in public housing estates or temporary housing areas during the rainy season this year?

SECRETARY FOR WORKS: Mr Deputy President, as I stated, the Housing Department does have a rehousing programme in place and I am informed that all squatters living on dangerous slopes will be rehoused by early 1994 at the latest. As I said, in the meantime, if there was any indication of more immediate danger then this would be taken up with the Housing Authority and appropriate action could be taken.

DR SAMUEL WONG: Mr Deputy President, will the Secretary for Works inform this Council how many privately owned slopes have so far been identified by the GCO as unstable for which statutory orders have been issued, and whether there is a time limit by



which preventive works must be completed?

SECRETARY FOR WORKS: I do not have with me a total figure, Mr Deputy President, but I will provide that for Dr WONG. (Annex IV) In the meantime, I can say that the period of time which is needed varies according to the extent of the work which has to be undertaken. The issuance of a statutory order is processed as quickly as the information becomes available and attention is paid by the Geotechnical Engineering Office to ensure that the proposals from the Authorized Person are expedited through the checking procedure.

MR ALBERT CHAN (in Cantonese): Mr Deputy President, the Secretary has said that there are only 2 000 squatters living on dangerous slopes. I am doubtful about the validity of this figure. There are in total 280 000 people now living in squatter areas most of which are situated on slopes and the officials of the Geotechnical Engineering Office have mentioned several times the danger of living on such slopes. Can the Administration inform this Council whether it will have an overall plan for the early resettlement of all the squatters currently living on such slopes?

SECRETARY FOR WORKS: Mr Deputy President, there are fewer than 2 000 squatters on especially vulnerable slopes. There are squatters on slopes which are not considered vulnerable and which are much flatter and therefore there is less risk to squatters on those slopes. The programme for especially vulnerable slopes is to complete rehousing by early 1994.

Housemen in public hospitals

3. MR ANDREW WONG asked: Will the Government inform this Council:

(a) of the working hours of housemen in public hospitals; and

(b) whether they are required to work overtime; if so, what the amount of overtime is on average and to what extent it affects the standard of service provided to the patients?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, housemen refer to medical graduates who work as interns in approved hospitals. The internship period lasting for 12 months is necessary to provide practical training for these graduates before they become eligible for full registration under the Medical Registration Ordinance. Such training is regarded as a continuation of education for interns who are supervised by the medical schools of the two universities during this period.

The work schedule of interns is drawn up by their heads of departments taking into account the operational requirements and training needs. Apart from scheduled duties within office hours such as outpatient clinics and ward rounds, they are also required to be on-call in the hospital to cater for the needs of patients. Accommodation is provided to them for this purpose but the frequency of such on-call duties will vary between individual hospitals and different specialties within each hospital according to their activity level and case mix.

It is difficult to apply the concept of overtime on interns given the need to provide them with good exposure and practical experience. In discharging their duties, interns are supervised by the Duty Medical Officer, Senior Medical Officer or Consultant in-charge to ensure that the standard of service provided to patients is maintained at all times.

MR ANDREW WONG: Mr Deputy President, I understand housemen or interns are often required to work for more than 30 hours consecutively. Will the Secretary for Health and Welfare confirm that these very long hours, though they are not considered to be overtime, have neither affected the state of health and mind of the housemen nor affected the standard of their service to patients?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, I am aware that some interns have to work for long hours per week but this is essential for their training and registration requirements. The scope of duties and working hours of interns in Hong Kong are in line with those currently practised in the United Kingdom and other advanced countries. Such interns are supervised by the Duty Medical Officer, Senior Medical Officer and Consultant-in-Charge, and if necessary, advice and assistance can be obtained by the interns from their supervisors.

MR CHEUNG MAN-KWONG (in Cantonese): Mr Deputy President, from the reply of the Secretary just now, I think a very important question raised by Mr Andrew WONG has not been answered and that is whether overtime work has affected the standard of service of housemen and put them under stress. If that is the case, can the workload of housemen be reduced and redistributed to other medical and nursing staff?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, as I have mentioned, there are senior staff who will provide advice and assistance to the house officers if and when necessary. There is no adverse effect on the standard of service which is maintained satisfactorily at all times. In addition, there are also improvements within the hospital environment to assist the house officers. For instance, in recognition of the workload of interns the manning ratio of clinical units has been improved over the years to provide them with adequate supervision and guidance; new grades, like ward stewards, have also been introduced to relieve nursing and other medical staff from non-clinical duties, thus allowing them to concentrate on the provision of supporting services to interns and other doctors. Furthermore, the Hospital Authority has formulated plans to provide improvements in the hospitals by installing additional facilities for patients and visitors, eliminating camp beds and relieving the congestion environment in wards. All these will help to give a better working environment for interns, and also help in the overall maintenance of standard of service for the patients.

DR CONRAD LAM (in Cantonese): Mr Deputy President, I remember that I had no leave entitlement when I was an intern. May I know how many days of leave an intern can get in a year at present? And if an intern should find himself not physically fit to cope with the work demand, how can he get his leave according to current practice?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, my own experience is the same as Dr Conrad LAM's; during my intern days I also had no leave myself. The present arrangement has improved and all interns are eligible for 12 days of leave for every six-month period, or six days of leave for every three-month period. In addition, if they need further assistance and if they cannot cope with the situation, I am sure that the heads of clinical units will exercise their discretion in the light of the requirements for training and operational needs.

MR JAMES TO (in Cantonese): Mr Deputy President, the idea of overtime mentioned in the third paragraph of the main reply does not apply to interns because of the very wide scope of work they are exposed to. Given that a person's energy is limited, does the reply mean that the specified duties together with all the on-call duties that an intern is expected to do are tantamount to work duties of 24 hours a day?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, in some cases it is positive that interns have to work long hours, sometimes stretching over 30 hours. But I have to emphasize that the long working hours are a tradition of the training for physicians to provide them with opportunities to gain practical experience through observation of patients over time. In performing their duties, interns will develop a close relationship with their patients and have a sense of responsibility to them that does not start and stop at any scheduled time.

PROF FELICE LIEH MAK: Mr Deputy President, as a doctor's work, in real life, entails long hours and the ability to withstand stress, will the Secretary please confirm that during the internship period this is also one aspect of the training, that is, testing the doctor's ability to work long hours and to withstand stress?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, as I have mentioned in my main reply and in the supplementary answers, the performance of interns during this internship period is really a test of their experience and also to provide them with ample opportunity to have good exposure in terms of training experiences, and also to ensure that they have the opportunity to be exposed to all the opportunities to acquire the necessary skills through practical training. Furthermore, the two universities also exercise their supervisory role through the heads of departments who are responsible for drawing up the working schedules of interns. And in case there is any need for further advice, the universities, through their Director of Post-Graduate Studies, will also provide the necessary counselling advice.

MR MAN SAI-CHEONG (in Cantonese): Mr Deputy President, as many doctors in the public sector have gone into private practice or emigrated overseas in recent years, the workload of housemen in public hospitals has become extremely heavy. Will such situation affect their morale? And in the meantime are there any signs that those doctors who have emigrated will return and join the government and other hospitals,

thereby improving the working conditions of housemen?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, there is no evidence that because of the movement of doctors out of public hospitals interns have to shoulder heavier amounts of work. On the other hand, as I have mentioned earlier on, because of the improvements in the manning ratio of clinical units this staffing situation has improved a lot over the past years and has been a great help to the interns as far as the need for advice and guidance is concerned.

MR PETER WONG: Mr Deputy President, I find it hardly credible that a doctor has to work for 30 continuous hours to prove himself. Would the Secretary accept that this is more a case of bad management than a test of stamina?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, as I have mentioned, the frequency of being on-call and the duration of working varies between hospitals and within the same hospital between different specialties. And furthermore, it is not solely the interns who have to shoulder all the duties; they are also assisted by other interns and Senior Medical Officers and Consultants-in-Charge. So the amount of the work schedule allocated to an intern is really up to the head of the clinical department who will take into account the need for training and also for service.

MR ANDREW WONG: Mr Deputy President, the Secretary for Health and Welfare said in his main reply that interns discharging their duties are supervised by the Duty Medical Officer, the Senior Medical Officer or the Consultant-in-Charge. Will and can the good Secretary confirm that interns are never left alone to treat patients, not even in the wee morning hours of say 3 am or 4 am?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, as I have mentioned, the interns work as a team in the clinical unit. They are given assistance and advice by the Duty Medical Officer, Senior Medical Officer and also the Consultant-in-Charge. In addition, they also have the opportunity to consult their senior staff in case they need further advice; so in that connection I can confirm this is the arrangement in the hospitals.

Advisory committees

4. MR TIK CHI-YUEN asked (in Cantonese): Will the Government inform this Council of the following:

(a) the policy upon which the composition of various advisory committees is determined at present;

(b) the factors governing the appointment of individual members to various advisory committees; and

(c) whether there is a policy to appoint Legislative Council Members, especially those returned by election, to join various advisory committees?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, the function of advisory committees is to tender advice to the Government in accordance with their terms of reference. There are, at present, over 400 advisory committees. In general, the Government's aim is to ensure that the composition of these committees, and their membership are such as to provide, in each case, the best and the most comprehensive advice to the Government in their areas of concern. This may mean, in some cases, that membership are drawn from a broad spectrum of the community, while in others membership are drawn from particular sectors with the relevant expertise.

There is no universally applicable policy of appointing Legislative Council Members to advisory committees, but I must also stress that membership of this Council is not, of course, a bar to appointment to advisory committees. In short, Mr Deputy President, the Government believes in the best man and woman for the job.

MR TIK CHI-YUEN (in Cantonese): Mr Deputy President, the work of most of the advisory boards and committees, for example the Health and Medical Development Advisory Committee, is related to the livelihood of the people. There is a great need for these advisory boards and committees to take the public's views into account. Could the Administration inform this Council how many of those appointed to advisory bodies are representing the views of the public?

DEPUTY PRESIDENT: Secretary for Constitutional Affairs, did you get the question?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: I will attempt to do my best, Mr Deputy President. As I said in my main reply, the Government, in appointing members to advisory boards and committees, will have due regard to the terms of reference and functions of the board or committee concerned. In this connection it will definitely take into account the desirability of appointing people who have been elected in one form or another to various forums.

MR WONG WAI-YIN (in Cantonese): Mr Deputy President, I learnt that some people had refused to be appointed by the Government because as members of advisory boards or committees, they are subject to the confidentiality rules. In this respect, the Government might have lost some professionals or those in the trade. Given that our system of government is becoming more and more open and democratic, will the Administration consider reviewing the confidentiality requirement and thereby increasing the transparency of our system of government?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, my understanding is that the requirement for confidentiality is an important consideration for some boards and committees so as to facilitate the exchange of ideas and for the formulation of sound policies. This, I am afraid, is a requirement even in the most democratic and open societies. This does not mean that such matters need to remain confidential forever but there is a time and place for the release of such information. So I am afraid, Mr Deputy President, I cannot give a positive answer to that question.

MR CHEUNG MAN-KWONG (in Cantonese): Mr Deputy President, I would like to follow up the question on confidentiality raised by Mr WONG Wai-yin. Could I ask whether confidentiality refers to the confidentiality of the consultative documents or that of members' discussions? If the documents need to be kept confidential, will this be a block to the views of the public on issues of community concern?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, this is a difficult question to give a generalized answer to. The documents themselves, as they are

marked confidential, must be confidential. But as to discussions of the matters concerned, one could envisage a situation where one could have a discussion on a particular matter without referring to or relating it to the fact that it is under consideration or discussion in a particular forum.

MR FRED LI (in Cantonese): Mr Deputy President, given that many members of advisory boards or committees are appointed in their personal capacity, but they are in fact members of many other organizations. If a member is appointed to an advisory board or committee in his personal capacity and the consultation process needs to be kept confidential, but at the same time the Administration expects him to solicit the views of the public and the organization to which he belongs, how will the Administration resolve the conflict?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, if a particular person is appointed to a particular committee in his personal capacity, then I think that will remain the case; we do not require or demand that he reflect the views of the association or committee he might belong to.

MR HOWARD YOUNG: Mr Deputy President, has the Secretary for Constitutional Affairs worked out mathematically that if, by some stretch of the imagination, all the so-called best men and women for the job and those who can reflect public opinion were confined to the elected Members of this Council, then that would average each elected Member joining 10.25 committees and therefore would have little time to do anything else?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, that is an interesting statistic which I have not worked out myself. But I am glad to share with Members the Government's record on the appointment of elected Members to boards and committees. Since September 1991 we have appointed or reappointed 14 elected Legislative Council Members to various boards and committees, and currently 9 boards/committees are chaired by elected Members.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, appointing members to advisory



boards or committees is the responsibility of the Hong Kong Government or the future SAR Government. But I understand that in drawing up the list of appointed members to the Airport Consultative Committee, the Hong Kong Government has discussed it with the Chinese authorities. Will the Administration inform this Council whether it is necessary to consult the Chinese side when it appoints members to advisory boards or committees? If not, will the Administration give such an assurance?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, Members are of course aware of the background to the Airport Consultative Committee and the system of appointment to it; the requirement for consultation is laid down in the Airport Memorandum of Understanding. As to the second part of the question, Mr Deputy President, it is a hypothetical one and I do not wish to give an answer.

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, will the Administration provide this Council with an up-to-date breakdown of the number of Legislative Council Members appointed to various advisory bodies who have been elected by functional constituency or direct election or appointed by the Government, and also the number of Members who have been appointed to more than one advisory bodies?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, that is a very detailed question on statistics and I undertake to supply them after this meeting. (Annex V)

Pollution-reducing measures for West Kowloon Reclamation project

5. MR FREDERICK FUNG asked (in Cantonese): To ensure that while the West Kowloon Reclamation project is in progress, the residents in the vicinity would not be unduly affected by air pollution, noise pollution, and water pollution, will the Government inform this Council:

(a) what special conditions have been laid down in the tender and contract documents requiring the contractors to carry out the necessary measures in reducing pollution; and

(b) what special monitoring measures the Government will take?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the works contracts for the West Kowloon Reclamation will contain conditions requiring the supervising engineer to minimize pollution by employing trained staff using equipment and methods agreed before work commences for the purpose. Conditions will also be included to minimize water and noise pollution, suppress dust, and ensure environmentally acceptable methods are used for disposing of wastes. If pollution is detected, the engineer may be required to stop the work until it is abated.

By September this year a consultant will be employed in a new West Kowloon environmental project office to monitor the measures taken to minimize air, water and noise pollution in relation to the construction projects in West Kowloon. The consultant will report to the Environmental Protection Department and will be responsible for investigating any pollution problems that arise, recommending remedial action and liaising with the project engineers to implement such action.

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, given that there will only be one consultant in the West Kowloon environmental project office, could the Secretary inform this Council whether there will be an overall plan and sufficient manpower to monitor the project so as to ensure that contractors will really abide by the conditions laid down in the contracts? If yes, will the Administration inform me in writing of such a plan and its staff establishment?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, responsibility for supervising the various contracts, as I have said, rests with the supervising engineers, and the supervising engineers are answerable to the project offices of the various works departments who control the contracts. The supervising engineers therefore have comprehensive conditions which must be complied with in relation to their contracts. The environmental monitoring which will be done by the consultant and a small staff working for him is a back-up to the permanent arrangements within the contracts to prevent environmental pollution. I will provide Mr FUNG with more details on the constitution of the Environmental Consultants Team in writing. (Annex VI)

MR STEVEN POON (in Cantonese): Mr Deputy President, in view of the large number of

residents living around West Kowloon district, will the Administration inform this Council how it will ensure that vehicles going to and from the works sites will not give rise to traffic congestion as well as noise and dust pollution?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, environmental impact assessments have been conducted for all the West Kowloon construction projects and, as part of these assessments, it has been found that dust pollution and noise pollution will be controlled and will not be such a serious problem to residents. As far as dust is concerned, there are the normal requirements for protecting loads as they move to and from reclamation and through urban areas and these controls will be exercised. It is also, I think, relevant to mention that a good deal of the transportation of materials to and from the reclamation areas of West Kowloon will be done by marine vessels rather than by road transport.

MR JAMES TO (in Cantonese): Mr Deputy President, in his main reply, the Secretary has given the impression that some works may have to stop if pollution is detected. Will the Administration consider adopting more practical measures, for instance, specifying in the works contract that the contractor will be subject to a fixed fine or certain charges be deducted from the contract fees if he fails to observe, for a number of times, the anti-pollution requirements in the contract and that the Administration reserves the right to terminate any contract if non-compliance should exceed a certain number of times?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, all the emphasis in these works is on preventing pollution. The power to stop work is not expected to be invoked except in the most extreme of cases, and therefore the suggestion of putting into place complex contractual arrangements to provide for fines, should environmental problems cause delays, is not necessary.

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, will the Administration inform this Council whether water quality will deteriorate or improve as a result of this project, and of the measures that are included in the project to alleviate water pollution?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the simple answer is that conditions will deteriorate slightly before they improve, but when they improve they will improve considerably. The northern part of the works areas, which involve at the moment untreated sewage flowing into the harbour, will be connected to the North West Kowloon Sewage Treatment Scheme which is due to be commissioned in August this year, so that the problems in that particular part of the reclamation will start to be ameliorated as the rest of this year and the following years progress. In the southern areas the connections of sewage outfalls to this same system will be done progressively as the reclamations proceed, so that by the time the reclamations are completed, there will be connections to this scheme in relation to the whole of the West Kowloon Reclamation and the conditions in the harbour will be improved considerably.

MR MAN SAI-CHEONG (in Cantonese): Mr Deputy President, regarding the West Kowloon Reclamation project, will priority be given to the works programme or the anti-pollution arrangements if conflict arises between the two? Will there be a conflict in the role played by the Secretary who is responsible for environmental protection on the one hand and implementation of works projects on the other?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, there will be no conflicts. The works have to be completed on certain programmes; the measures which have been put in place to deal with pollution are such as to make the prevention of pollution a priority. The possibility of pollution arising which may require works to stop and cause delays is therefore regarded as an extreme situation. And any delays that would be incurred would be expected to be short and therefore would not cause undue delay in the overall programme.

#### Public safety measures against violent crime

6. MRS SELINA CHOW asked: In view of the dramatic increase in violent crime, particularly cases of robbery in which machine guns and hand grenades have been used, will the Government inform this Council what steps have been taken to protect public safety and enlist public support when such crimes occur?

SECRETARY FOR SECURITY: Mr Deputy President, despite recent high-profile cases of armed robberies in which genuine firearms and pistol-like objects have been used, the actual number of such robberies has decreased steadily during the first quarter of 1992. There were 61 in January, 32 in April. I am not at all complacent, but I would wish to put violent crime into that perspective.

We will continue to take measures on a number of fronts to protect public safety and enlist public support to combat violent crimes. These include maintaining close liaison and communication with China since some, but by no means all, such crime has a cross-border dimension; we have increased police patrols in high risk areas; we are improving police equipment; and we also encourage the community to support our efforts to counter crime.

Over the years, we have built up close co-operation and liaison with the Chinese authorities through Interpol. The Hong Kong police and mainland public security officials work closely together through regular cross-border liaison, visits and, on occasions, co-ordinated operations. The Commissioner of Police has recently been in China to discuss cross-border crime, including firearm offences. During this visit, it was agreed that liaison between the two sides should be stepped up through a Chinese police liaison officer being stationed in Hong Kong. Communications between the Hong Kong police and Chinese counterparts in Guangdong and Shenzhen are being strengthened to co-ordinate action in serious cases. Such measures should help to ensure a better flow of information on the movement of criminals and of firearms across the border.

Better liaison with China is being reinforced by resolute and effective action by the police within Hong Kong. This includes more high-profile patrols in areas prone to armed robberies such as goldsmith and jewellery shops. Swift police action has also resulted in the arrests of several persons connected with recent armed robberies. To ensure that that equipment continues to meet present-day police needs, the police have recently undertaken a comprehensive review of their provision of arms and ammunition. A number of improvements have been suggested, including more effective ammunition and revolvers, speed-loading equipment and a new style of holster. The Administration is considering these proposals as a matter of urgency.

The police continue to need the assistance and co-operation of the public in the fight against crime. We must all be willing to take time to report crime and then,

if necessary, give evidence in court. We underline this message in all our anti-crime publicity. To this end, for instance, the police have held meetings with various taxi associations to enlist their assistance, as taxi drivers are often able to provide information on the whereabouts of criminals in the event of crime. District Fight Crime Committees also provide many useful proposals on ways to combat crime and help to disseminate the fight crime message to residents in local communities.

MRS SELINA CHOW: Mr Deputy President, with reference to the second paragraph of the reply, what measures are being taken to encourage the community to support the Government's efforts to counter crime; and specifically what improvements will be made to reporting procedures to positively facilitate citizens to come forward?

SECRETARY FOR SECURITY: Mr Deputy President, encouraging the public to assist the police in the fight against crime and, in particular, making it easy for the public to report crime in police stations is a matter which is constantly under review by the Fight Crime Committee. We have made a number of major improvements over the years in the Fight Crime Committee: we have made it easier for people to fill out forms when they are reporting specific crimes, we are trying to make report rooms themselves in police stations more user-friendly, and we are doing all that is possible to ensure that the public is put to the least possible inconvenience when reporting crime, whilst on the other hand ensuring that the full facts of each case are reported to the police for investigation.

MR SIMON IP: Mr Deputy President, I would describe the recent incidents involving the use of firearms -- AK47s and grenades -- as urban warfare. The question which I would like to ask the Government -- a question which has been asked before but I do not believe a satisfactory answer has been given -- relates to the Gurkhas. We have several thousand Gurkhas in Hong Kong who will be leaving Hong Kong for their native Nepal, probably to unemployment. They are a well known disciplined force, very well trained for combat, very well disciplined and very loyal and dedicated. Could I ask whether there is any consideration being given to engaging these men, once they return to Nepal, to come back to Hong Kong? I understand that about a quarter of them actually can speak Cantonese, but even those who cannot speak Cantonese should be able to form some kind of combat force to deal with the situation we have at the moment.

SECRETARY FOR SECURITY: Mr Deputy President, we have been looking actively at the possibility of employing some Gurkhas who are being made redundant. This is actually something that the Secretary for Education and Manpower has been looking at in the context of the importation of labour scheme.

MRS MIRIAM LAU: Mr Deputy President, in relation to crimes involving machine guns and grenades where the public's own safety is at stake, can the Secretary inform this Council how the public can assist and co-operate with the police in combating this type of crime, and how the Administration intends to go about educating the public as to how such assistance or co-operation should be rendered by the public?

SECRETARY FOR SECURITY: Mr Deputy President, when there is violent crime on the streets involving AK47s and hand grenades, clearly it is not in the public interest for the public themselves to get involved at all; this is a matter for the police force. We are actually reviewing at present not only the arms and ammunition of the police force but the sort of protective equipment which the police require to deal with things such as AK47s and hand grenades specifically, and we are looking at proposals currently from the Commissioner of Police on the need for specific, better protective equipment for the police force itself.

MRS PEGGY LAM (in Cantonese): Mr Deputy President, the Secretary mentioned in the fourth paragraph of his reply that there had been arrests of several persons connected with the recent armed robberies. Could the Secretary inform this Council of the number of criminals arrested, and of the number of armed robberies that have been detected since this January?

SECRETARY FOR SECURITY: Mr Deputy President, thus far this year, that is in the first four months of 1992, eight persons have been arrested for robberies involving genuine firearms, and 27 persons have been arrested for robberies with pistol-like objects. In addition to that, following the shoot-out incident in Lee Tak Street in Tai Kok Tsui on 24 April, eight persons have been arrested; three have been charged with robbery, three with attempted murder, and two with handling stolen goods. I understand from the police that further arrests are expected in this and other high-profile cases recently. As to the number of cases where arrests have been made

in 1992, I do not have those figures, Mr Deputy President, and I shall provide a written answer. (Annex VII)

MRS RITA FAN: Mr Deputy President, in view of the much more frequent use of firearms, including grenades, and the threat they pose to the police force and to members of the public, what measures has the Government taken to train police officers and to educate the public in order to reduce risk and enhance public safety as far as possible?

SECRETARY FOR SECURITY: Mr Deputy President, the training of the police to deal with this different type of violent crime is ongoing within the force at present. The police, as I have said earlier, are requesting additional equipment; they have adopted new operational measures, especially for their specialist forces who deal with these types of violent crime, forces who are specially trained. These forces have continued to undergo ongoing tactical training on how to deal with these types of violent crime, particularly involving hand grenades. As for the public, it is not, as I said earlier in answer to a question, something that the Government wants the public to be involved in. The public have got to let the police arrest these people and bring them to justice.

MR MARTIN BARROW: Mr Deputy President, in the fourth paragraph of his answer the Secretary has mentioned the police's recent successes in making arrests. Would he advise if more could be done to publicize these successes in both Hong Kong and Southern China as this should have a helpful deterrent effect, as well as being good for police morale?

SECRETARY FOR SECURITY: Mr Deputy President, I will take up this suggestion from Mr BARROW with the Police Public Relations Bureau.

Written answers to questions

Value for money studies



7. MR LAU CHIN-SHEK asked: Will the Government inform this Council of the following:

(a) the number of "value for money" studies conducted by the Government over the past three years;

(b) the Government departments involved and the subjects of the studies; and

(c) whether improvement measures have been adopted in respect of staffing and operational requirements following the findings of these studies, and if so, what these measures are?

SECRETARY FOR THE TREASURY: Mr Deputy President, the Government has conducted 48 value for money studies in the last three years. The government departments involved and the subject of the studies are set out in the Annex.

All the studies have recommended improvement measures in terms of staffing and/or operational procedures. Some examples of the measures introduced are:

- improved productivity and the introduction of a new accounting framework (Operating Services Account) for Electrical & Mechanical Services Department workshops

- major organizational changes to Registrar General's Department

- the introduction of modern office technology in Information Services Department leading to improved productivity and savings in staff

- improvement to methods and procedures for street-cleansing in both Urban Services Department and Regional Services Department and proposals to contract out street-cleansing leading to significant increase in productivity

- simplifying handling procedures and relaxing review cycles for a variety of social security allowances enabling revision of manning standards and merging of smaller field units

- modification of inspection frequencies, computerization of factory records for better inspection scheduling and controls in the Women & Young Persons Division of Labour Department

- introduction of modern office equipment to improve productivity in typing pools

- introduction of a central telephone enquiry system in CNTA to enable better service to the public

- rationalization of activities in Public Enquiry Service Centres to enable the closing of some underutilized Public Enquiry Service Centres

Over 2 900 posts have been saved as a result of the studies.

## Annex

Departments Subjects

Correctional Services Manpower Review of Escort Unit

Department

Manpower Review of Medium-security

Institutions

Manpower Review of Minimum-security

Institutions

Manpower Review of Centre Institutions

Review of Correctional Services Industries

Manpower Review of Maximum-security

Institutions

Education and Manpower Review of Roles & Responsibilities  
Branch of Schools Education

Electrical & Mechanical Top-down Management Study  
Services Department  
Review of Workshops

Highways Department Review of Provision of Direct Labour Force

Immigration Department Top-down Management Study

Information Services Review of Information Services  
Department Department

Registrar General's Top-down Management Study  
Department  
Review of the Microfilm Search System in  
Company Registry

Security Branch Review of the Triad Renunciation Scheme

Water Supplies Top-down Management Study  
Department  
Review of Customer Services

Buildings & Lands Management (Consultancy) Study of  
Department Survey and Mapping Office

Departments Subjects

Census and Statistics Top-down Management Study  
Department

Environmental Protection Top-down Management Study  
Department

Legal Aid Department Review of Costing Information and  
Evaluation of Cost-effectiveness of

Legal Aid System

Post Office Automation of Postal Counter Services

Regional Services Value for money Studies on:

Department

Cleansing

Nurseries

Minor Works Teams

Revision of Refuse Collection

Vehicle Routes Based on Revised  
Time Standards

Manning Scale for Libraries

Supporting Staff

Litter Picking at Roadside Amenity

Plots and Planters

Dual-bin Collection Operations

Horticultural Maintenance

Cleansing Service in Indoor

Recreation Centre

Street Cleansing -- Phases I & II

Animal Carcase Service

Transport & Stage Setting Services

Desludging Services for Vietnamese

Detention Centres

Housing Department Value for money Studies on:

Delegation of Office Rent

Collection Duties

Squatter Control Duties

Staffing Requirement for the

Implementation of the Double Rent  
Policy

Departments Subjects

Urban Services Value for money Studies on:

Department

Passive Amenities

Combining Park-keeping Duties with  
Gardening Services

Contracting out of Cleansing

Services of Parks and Playgrounds

Contracting out of Street Cleansing

Recreation and Sports Officer Grade

Manning Ratio for Health

Inspectorate in the District

Hygiene Sections

City & New Territories Top-down Management Study

Administration

Review of Public Enquiry Service

Centres (PESC) and Follow Up Study

Review of Works Teams

Civil Service Branch Review of Staff Housing Section

Labour Department Review of Mines Division

Review of Women & Young Persons  
Division

Review of Employment Services  
Division

Review of Employees' Compensation  
Division

Review of the Distribution of  
Branch Offices

Finance Branch Review of Typing, Messengerial &  
Photocopying Services

Review of Secretarial Service in FB

Inland Revenue Top-down Management Study  
Department

Departments Subjects

Hospital Services Review of Manpower Provision for  
Department/Department Pharmacist & Dispenser Grade in  
of Health Hospitals and Clinics

Automation of Revenue Collection in  
Clinics

Floating Clinics

Public General Outpatient  
Department Pilot Study

Social Welfare Review of Social Security Field  
Department Units (3 phases)

Review of Group Work Units

Service-wide Asset Register (AR) & Asset  
Replacement Programme (ARP)  
Review of Community Related  
Facilities (CRF's)

Director of Administration Review of the Hansard Production  
Process for Councils Division

Survey on Pilot Networking P C and

Fax Machine in CGO (FAXNET)

Recreation and Culture Review of Voluntary Agency Camps  
Branch

Housing Society development plans

8. MR LAU CHIN-SHEK asked: Will the Government inform this Council whether there are plans to allocate funds to the Housing Society for development purpose in the 1992-93 Financial Year? If so, what are the details of the development plans and their financial arrangements?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the Hong Kong Housing Society's rental and flats-for-sale projects are funded from its own resources. It is open to the Society to apply to the Government for low-interest loans from the Development Loan Fund for its rural public housing and urban improvement projects however. The Administration understands that the Housing Society has no plans to apply for funds during 1992-93.

Airport bus routes

9. MR HOWARD YOUNG asked: As there are no airport bus routes between Kai Tak Airport and West Kowloon at present, will the Government inform this Council whether it will consider inviting interested parties to operate one or more new airport bus routes to cover this area in view of the increase in the number of hotels in the Mong Kok and Yau Ma Tei areas?

SECRETARY FOR TRANSPORT: Mr Deputy President, an airport bus service (Airbus Route A4) for Mong Kok was introduced by KMB in January 1990. The service was later extended to the China Ferry Terminal. However, utilization had remained low. Due to sustained financial loss, the service was cancelled in May 1991 following consultations with the Yau-Tsim District Board.

During the Lunar New Year holidays this year, KMB tested a new service (Airbus

Route A8) from Kai Tak to the MTR Prince Edward Station. Only 15% of the available capacity was taken up. Its utilization rate suggests that the market in West Kowloon for an airport bus service would remain weak in the short to medium term.

Eleven hotels opened in Mong Kok and Yau Ma Tei over the past three years. Ten of them have their own transport services to Kai Tak. There are therefore no plans at this stage to invite interested parties to operate an airport bus service for West Kowloon.

Nevertheless, we will continue to take full account of growing hotel accommodation in Mong Kok and Yau Ma Tei and keep the demand for an airport bus service under review.

#### Overseas domestic workers

10. MRS ELSIE TU asked: In relation to overseas domestic workers applying for extension of stay to seek redress from employers, would the Government inform this Council of the following:

(a) whether the usual extension is for three to seven days, renewable for very short periods at a charge of \$115 each time;

(b) whether action through the Labour Department/Tribunal, and where necessary the Courts, takes from three months to one year or more;

(c) whether such workers are prohibited from working for their living during the waiting period and usually have to depend upon friends or relatives;

(d) whether the workers can sign a new contract before the case has been judged, and if not, why not;

(e) whether the Government has evidence that most workers fail to pursue their cases because of the above disincentives; and

(f) whether the Government has examined the above treatment of workers to ensure consistency with the Bill of Rights?



SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the answers to Mrs TU's questions, in the order in which they are asked, are as follows:

(a) Foreign domestic helpers whose contracts have been terminated prematurely are normally permitted to remain in Hong Kong for a period of two weeks so as to settle their affairs and make arrangements to leave Hong Kong. However, if foreign domestic helpers have a genuine reason for needing to remain in Hong Kong beyond the two weeks permitted, for example, if they have been unfairly treated and are seeking redress, they may apply for an extension of stay in order to pursue a claim against their former employers. The current period of extension currently ranges from five to 17 weeks depending on the circumstances of individual cases. A standard fee of \$115 is charged for each extension.

(b) Conciliation meetings arranged by the Labour Department normally take place within four weeks of the receipt of a request from a foreign domestic helper. If the dispute is subsequently brought to the Labour Tribunal, the waiting time for the hearing could be up to four months.

(c) Since foreign domestic helpers are admitted for employment with specific employers under specific contracts, they are not normally allowed to work for new employers during this waiting period.

(d) Foreign domestic helpers are allowed to change employment only in exceptional circumstances, for example, where a foreign domestic helper has been unfairly treated or where an employer is unable to continue with the contract because of financial difficulties, emigration, transfer abroad or death. The Immigration Department considers the circumstances of each case to see whether there are strong humanitarian or compassionate grounds to justify exceptional treatment.

(e) In our experience, aggrieved foreign domestic helpers have been willing to pursue their cases. In 1991, Labour Department dealt with 908 such cases, of which two-thirds were settled after conciliation.

(f) The Government has examined the implications of the Bill of Rights in this context. Section 11 of the Bill of Rights Ordinance provides that as regards persons not having the right to enter and remain in Hong Kong, the Ordinance does not affect any immigration legislation governing entry into, stay in and departure from Hong Kong, or the application of any such legislation.

Plot ratio of GIC land

11. MR ERIC LI asked: Will the Government inform this Council:

(a) what criteria have been adopted in determining the plot ratio of Government/Institution/Community (GIC) land;

(b) why the plot ratio of GIC land has been set at a level lower than that of the land granted for industrial, commercial or residential use; and

(c) in view of the current practice that the total area of land to be granted every year is subject to discussion and approval by the Sino-British Land Commission, and given the extremely high opportunity costs of land for commercial and residential uses at present, whether consideration has been given to improving the plot ratio of GIC land to achieve optimization of land use?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, GIC facilities are normally designed to meet the requirements of the end-user. The intensity to which GIC sites are developed is generally determined therefore in accordance with a schedule of accommodation related to their use and planning standards and guidelines. For example, the site requirements of a school are different from those of a government office building, or a polyclinic, or a divisional police station and so on.

Plot ratio is thus not a determining factor in deciding how and to what intensity GIC sites should be developed. Nor is it appropriate to compare the development intensity of GIC sites with that of industrial, commercial or residential sites by reference to plot ratios.

Nevertheless, the Administration recognizes the need to optimize land use. To this end, the use of GIC sites is kept under review to take account of changing circumstances and the requirements of end-users; where sites are found to be under-utilized, steps will be taken to optimize their use, if necessary, by redevelopment.

Land use optimization is also assisted by including GIC uses within comprehensive development schemes or revised use projects on GIC sites where this is acceptable

both to the users and the Town Planning Board.

#### Government-employed consultancies

12. MISS EMILY LAU asked: In view of the growing concern of Legislative Councillors over Government's tendency to employ consultants on projects big or small, will the Administration inform this Council of:

- (a) the criteria for determining when consultants are to be employed;
- (b) the mechanism for vetting departments' applications to hire consultants;
- (c) the number of consultancies that have been commissioned in the past two years and their cost?

SECRETARY FOR WORKS: Mr Deputy President, the criteria used for determining the need for consultants to be employed are firstly, whether there are qualified staff with the requisite skills available to undertake the work in the Civil Service and if not, whether the length of the assignment justifies the Government recruiting or training staff. The criteria recognize the need to keep in-house resources fully occupied and to maintain a reasonable level of technical experience and expertise within the Government. Officers responsible for the approval of expenditure and appointment of consultants are aware of the need to strictly observe the above criteria.

If a Director considers it necessary to employ consultants for a particular task, he is required to make a written submission to the Secretary for the Treasury to justify his case. Approval will only be given if the Director can demonstrate in his submission that:

- (a) there is a clear need to employ a consultant having taken into account in-house resources and the nature of the task itself;
- (b) the proposal has the support of the relevant policy branch; and
- (c) no other government department has the resources to undertake such work.

The selection and appointment of consultants for individual projects are subject to the approval of the Secretary for the Treasury who is advised by the Central Consultants Selection Board (CCSB) for general consultancy studies. Authority to approve the selection and appointment of engineering and architectural consultants has been delegated to the Engineering and Associated Consultants Selection Board (EACSB) and the Architectural and Associated Consultants Selection Board (AACSB) respectively.

The number of consultancies commissioned in the last two years (since April 1990) and their costs are as follows:

	Cost	
No	HK\$	M
General Consultancies (CCSB)	43	269
Engineering & Associated Consultancies (EACSB)	131	2,155
Architectural & Associated Consultancies (AACSB)	28	114
Total	202	2,538

Operation waiting time for an eye disease

13. MR HENRY TANG asked: Will the Government inform this Council how long, on average, a member of the public has to wait before he can receive an operation in a public clinic/hospital for an eye disease, for example a cataract, and whether there are plans to shorten the waiting time?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, the waiting time for ophthalmological operations will vary depending on the nature and severity of the disease involved. While ocular emergencies are normally handled by the Accident and Emergency Department of public hospitals, urgent referrals are also accepted by the Argyle Street Ophthalmic Centre, Tang Chi Ngong Eye Clinic and Prince of Wales

Hospital. In all cases, surgery is arranged almost without waiting or within days/weeks depending on the degree of urgency involved.

Patients with non-urgent cases such as cataract are placed on the waiting list for surgery. The waiting time ranges from between four and six months (at the South Kwai Chung Clinic, East Kowloon Polyclinic and Tuen Mun Hospital) to between 16 and 18 months (at the Argyle Street Ophthalmic Centre, Tang Chi Ngong Eye Clinic and Prince of Wales Hospital). Patients are given the information on waiting time and may request for an early appointment at another hospital or clinic. Regular follow-up consultations are provided to these patients to detect any deterioration of their conditions and to provide priority arrangements where appropriate.

In the long term, Hospital Authority is planning to integrate its existing services with the Department of Ophthalmology in Prince of Wales Hospital to provide a network of three tertiary referral centres and eight secondary referral centres. This will lead to better service co-ordination and help to reduce the waiting time for eye surgeries.

#### CFC refrigerants

14. DR SAMUEL WONG asked: In the light of the amendment to the Montreal Protocol on controls of chlorofluorocarbons (CFCs), will the Government inform this Council whether it will consider replacing or modifying the air-conditioning/refrigeration plants in government buildings still using CFC refrigerants, and if so, what would be the estimated cost involved?

SECRETARY FOR WORKS: Mr Deputy President, Chlorofluorocarbons (CFCs) commonly used as refrigerants in airconditioning plants are regarded as ozone depleting as well as contributing to global greenhouse warming.

Since the enactment of the Ozone Layer Protection Ordinance in 1989, measures have been taken to minimize the risk of CFC escaping to the atmosphere including the use of re-cycling ancillary equipment. Plants operating with refrigerants other than CFC have been installed. These include the HCFC centrifugal chillers at the Kai Tak Airport and the Wanchai Tower III, and the Lithium Bromide Absorption Chiller at Queen Mary Hospital. The HCFCs have a significantly lower ozone depletion

and global warming potential. In the absorption system, water is used as a refrigerant which is of course CFC-free.

In the longer term, consideration has been given to replacing all existing installations by (i) HCFC-22 and (ii) absorption chillers. A capital expenditure of about \$500 million and an additional energy cost of \$30 million per annum are required if option (i) is to be pursued. The corresponding capital cost and additional energy cost per year are \$920 million and \$490 million for option (ii). A two-year re-fitting programme is expected for either option. Additional plant room space will invariably be required, which may not permit the replacement or modification of the plants in all cases.

The most economic alternative would be the adoption of a direct substitute to the refrigerant in the existing plant with only limited alteration to the plant themselves. Research and development in this field is being pursued by scientists worldwide and it is expected that the outcome would be available in about a year's time. The Government is keeping close watch on such developments.

Squatter clearance programme

15. DR CONRAD LAM asked: In relation to the squatter occupancy survey carried out in 1984-85 and the Government's plan to clear all squatter huts built on Crown lands in the urban area by mid-1990's, will the Government inform this Council:

- (a) what progress has so far been made in clearing these squatter huts;
- (b) what clearance operations have been planned for the next three years; and
- (c) when the whole squatter clearance programme is expected to complete?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the clearance of squatter huts on government land in the urban area since 1984 has reduced the squatter population from 183 000 to 56 000. Under a four-year programme from 1992-93 to 1995-96 an average of 14 500 urban squatters will be cleared each year. The aim is thus to complete the clearance of all squatter areas in the urban area by the mid-1990s.

## Private schools operation

16. MRS PEGGY LAM asked: Will the Government inform this Council what measures are in place to monitor the operation of private schools so as to protect the rights and interests of their students; and when operational problems arise in those schools, what measures will be taken to protect the students so that their studies will not be affected?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the Education Ordinance and the Education Regulations impose a range of legal obligations on operators of schools, including private independent schools, so as to ensure that:

(a) school premises are structurally safe and meet acceptable standards of fire safety, health and sanitation;

(b) each school is managed by a Management Committee, the prime responsibility of which is to ensure that the school is managed properly and that the education of pupils is promoted in a proper manner;

(c) no person shall teach in a school unless he is a registered or permitted teacher;

(d) the syllabuses, timetables and time allocation tables are subject to approval by the Director of Education;

(e) only the approved inclusive fees published in the Gazette and any additional fees which have had the prior approval of the Director of Education are charged by schools; and

(f) proper accounts are kept by schools and made available for inspection by the Director of Education and any inspector of schools.

A legal framework therefore exists to protect the interests of students of private schools. Operating within this framework, District Education Officers of the Education Department inspect schools regularly to ensure that the legal requirements are met, while subject inspectors of the Advisory Inspectorate vet the syllabuses and time-tabling arrangements of new courses and, if necessary, advise on the suitability and adequacy of teaching facilities and equipment.

Circulars are also issued to private schools from time to time to advise them on various matters concerning the operation of schools.

If an operational problem arises in a private school or a complaint is received about its operations, District Education Officers will investigate, advise or take follow-up action as appropriate. Where closure of a school is involved, the Education Department will assist the students to find suitable places in other schools as far as possible. In particular, local students who are within the age of compulsory education and who are pursuing a normal primary or junior secondary curriculum in a school which is being closed will be offered places in a school or schools in the public sector.

#### Use of Chinese in court

17. MR JAMES TO asked: Will the Government inform this Council:

(a) of the policy on the use of the Chinese Language for trials in courts; and

(b) how the Chinese language is being used for trials in courts at various levels and the number of cases heard in the Chinese language each year in these courts during the past two years?

CHIEF SECRETARY: Mr Deputy President,

(a) The policy is to move towards greater use of Chinese in the courts. The legal framework for this is now in place in the lower courts, that is, magistrates' courts and tribunals, and the Chief Justice encourages Chinese speaking magistrates to conduct trials in Chinese. In the higher courts, because of the greater complexity of the legal language used there, English continues to be the language in which the proceedings are conducted. Interpretation is provided in all cases when it is needed.

(b) The Chinese language is used to different extents in courts at different levels. Almost all the trials conducted by Special Magistrates are conducted in Chinese. These trials are for minor offences such as hawking and littering and they form a very large proportion of all cases dealt with by the courts. The vast majority



of cases dealt with in the Small Claims Tribunal and the Labour Tribunal are also conducted in Chinese. Cases dealt with by Permanent Magistrates may be conducted in Chinese or English, or partly in Chinese and partly in English, depending on the choice of the Magistrate and Counsel. However, no statistics are kept. As regards the language used in proceedings in higher courts, as indicated earlier, because of the greater complexity of the legal language used, English continues to be the language in which the proceedings are conducted in the District and Supreme Court. Nevertheless, section 5(3) of the Official Language Ordinance provides that any party or witness in any proceedings in any court may use either English or Chinese or any other language as the court may permit.

#### Squatter areas facilities

18. DR CONRAD LAM asked: In view of the recent outbreaks of fire in the Diamond Hill squatter area, will the Government inform this Council what measures will be taken to ensure that residents in squatter areas already scheduled for clearance will not be vulnerable to accidents such as fire hazards and flooding due to the inadequate provision or poor maintenance of basic facilities?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, a programme to improve conditions in squatter areas by providing basic services and safety facilities was introduced in 1983. The programme included fire prevention education, the provision of firebreaks and drainage facilities, the installation of fire mains and hydrants in strategic locations, and the clearance of squatter dwellings most vulnerable to landslips. The programme covered 99 squatter areas at a total capital cost of \$182 million and was completed in 1990.

The services and facilities provided through this programme have been effective in reducing fires, serious landslips and flooding in squatter areas. A follow up programme of regular inspection, maintenance and repair has been put in place by the Housing Authority to ensure their continued effectiveness until the squatter areas are cleared.

#### Kindergarten teacher training

19. MR NG MING-YUM asked: Will the Government inform this Council:

(a) how many kindergarten teachers were trained in each of the past three years; and what were the annual demand for and supply of these training places during the same period;

(b) whether the Government has received any complaints during the past three years from trained kindergarten teachers concerning difficulties in finding jobs or in obtaining the normative salary recommended by the Government; and if so, what kind of assistance has been given to the complainants; and

(c) how many kindergarten teachers are expected to be given training in each of the next five years; and what measures Government will take to encourage heads of kindergartens to release their teachers for training and to employ more trained kindergarten teachers?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the answers to Mr NG's questions are as follows:

(a) The number of kindergarten teachers trained in each of the past three years was:

1988-89 1989-90 1990-91

Qualified Kindergarten 227 224 226  
Teachers (QKT)

Qualified Assistant 484 274 358  
Kindergarten Teachers  
(QAKT)

----- ----- -----

711 498 584

== == ==

The annual demand and supply of training places for the same period (that is, the actual intake and capacity of the training courses in the relevant years) were:

	1988-89	1989-90	1990-91			
	QKT	QAKT	QKT	QAKT	QKT	QAKT

Actual intake	240	518	237	289	280	379
---------------	-----	-----	-----	-----	-----	-----

Capacity	240	720	240	720	300	720
----------	-----	-----	-----	-----	-----	-----

(b) The Education Department has not received any complaints from trained kindergarten teachers concerning difficulties in finding jobs or in obtaining the normative salaries during the past three years.

(c) The number of kindergarten teachers expected to receive training in courses provided by the Government in each of the next five years is 960. The Hong Kong Polytechnic also runs a certificate course in pre-primary education which has an annual intake of about 130.

Measures specifically aimed at encouraging heads of kindergartens to release their teachers for training include offering a variety of modes of attendance and training times to suit different circumstances. The Education Department also provides indirect encouragement by allowing kindergarten operators to increase fees to cover the increased staff costs. A new Kindergarten Fee Remission Scheme was introduced in 1990-91 to assist needy parents so that they would not be deterred by the increased fees from sending their children to kindergartens. The Scheme was enhanced in the 1991-92 school year.

The Education Commission is considering further means of encouraging the move towards a better qualified kindergarten teaching force and is expected to make recommendations in the context of its fifth report to be released shortly.

#### First Reading of Bills

EMPLOYEES' COMPENSATION (AMENDMENT) BILL 1992

EMPLOYEES' COMPENSATION (AMENDMENT) (NO. 2) BILL 1992

## SOCIETIES (AMENDMENT) BILL 1992

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

### Second Reading of Bills

## EMPLOYEES' COMPENSATION (AMENDMENT) BILL 1992

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Employees' Compensation Ordinance."

He said: Mr Deputy President, I move that the Employees' Compensation (Amendment) Bill 1992 be read a Second time.

This Bill expands the application of the Employees' Compensation Ordinance to benefit more employees and dependants of employees killed in work accidents. It also revises the levels of penalty under the principal Ordinance and introduces minor amendments to facilitate the effective administration of the existing employees' compensation system.

The first purpose of the Bill is to expand the definitions of "employee" and "dependants" under the Ordinance. Clause 2 of the Bill extends the Ordinance's coverage to part-time domestic helpers who are currently excluded from the protection of the principal Ordinance and who, as a result, can only seek redress by claiming damages at common law if they are injured in the course of their work. In view of the increasing popularity of employing part-time domestic helpers, we propose to bring them within the ambit of the Ordinance.

Clause 3 of the Bill introduces the concept of prospective dependency into the definition of "dependants". The current definition of "dependants" is confined to dependency at the time of the employee's death. With the proposed amendment, "dependants" will include children of an employee born after his death and retiring parents and grandparents who are likely to be dependent on the earnings of the

deceased.

The second purpose of the Bill is to revise the levels of penalty for various offences under the principal Ordinance so that offences of similar gravity will carry the same maximum penalty. This is done by clauses 4, 6, 9 to 11, 13, 14 and 16 to 18 of the Bill. The realignment is necessary because the prosecutable offences were brought in at different times by various amendment Ordinances which set different maximum penalties. After this revision, the maximum fines would be set uniformly at \$5,000, \$10,000 and \$20,000, depending on the severity of the offences. The maximum fine of \$50,000 would be retained for the most serious offences of failing to secure insurance cover or to produce an insurance policy for inspection. Existing penalties which involve custodial sentences will not be affected by the amendment Bill.

The third purpose of the Bill is to introduce improvements to the procedures for determining the amount of compensation. Under clause 7, the Commissioner for Labour will be empowered to cancel his assessment of compensation on review and refer the injured employee for assessment by an Assessment Board. At present, the injured employee has to seek the Court's intervention to re-assess his compensation. Clause 7 also defines "date of issue" in a Certificate of Compensation Assessment issued by the Commissioner for Labour or a Certificate of Assessment of incapacity issued by an Assessment Board. It clarifies the time limits within which an employer must effect compensation payment to his employee or enter into an agreement of compensation with him.

By clause 8, an Ordinary Assessment Board will be vested with the additional function of assessing the overall period of absence from duty necessary as a result of the injury. This will make it easy for the Commissioner to assess the compensation payable for the days absent from work.

Other clauses of the Bill introduce minor amendments to the principal Ordinance which are considered necessary in the light of experience.

Clause 5 of the Bill removes the limit of deduction of advance payment from the amount of compensation that the Court or the Commissioner for Labour may order. This will leave it free to an employer to increase the amount of advance payment in deserving cases and deduct it from the final compensation afterwards.

Clause 12 extends the application of the Ordinance to an employee injured while

working for a foreign employer outside Hong Kong, if that foreign employer voluntarily submits his case to the jurisdiction of the Hong Kong Court. If the concerned parties choose to rely on this new provision, they can avoid having the case adjudicated in the Court of the place of injury, which may be unfamiliar to the employee or even to the employer.

Finally, clause 15 provides that compensation payable under the Ordinance to a legally aided person is subject to the first charge provision in the Legal Aid Ordinance. This is in line with the arrangement for payment of contribution to the Director of Legal Aid in other personal injury claims.

Mr Deputy President, the proposed amendments represent further improvements to the employees' compensation system and should be welcomed by employers and employees alike. The Bill has the support of the Labour Advisory Board.

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

Question on the adjournment proposed, put and agreed to.

#### EMPLOYEES' COMPENSATION (AMENDMENT) (NO. 2) BILL 1992

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Employees' Compensation Ordinance."

He said: Mr Deputy President, I move that the Employees' Compensation (Amendment) (No. 2) Bill 1992 be read a Second time.

Each year the Labour Department deals with a large number of claims for employees' compensation arising from occupational accidents. To ascertain the nature and extent of injury sustained by an employee, the Labour Department operates a two-tier system of medical clearance and assessment. Medical staff of the Department interview every injured employee in the first instance. Where the injury is considered likely to result in permanent incapacity, they refer the injured employee for assessment by a statutory Assessment Board.

Experience shows that this system of medical clearance and assessment is useful in cases involving injury of a more serious nature. For minor cases involving only a few days' sick leave, assessment by an Assessment Board is obviously not necessary. It is therefore a waste of time and money to require the employees in such cases to take leave for medical clearance at the Labour Department and require their employers to pay them wages for the absence from duty.

The Bill provides for new procedures as an alternative to employers and employees in cases of minor injury involving absence from duty of not more than seven days. Under these new procedures, an employer may agree with his employee on the amount of compensation to be paid without the need for medical clearance at the Labour Department.

The kind of agreement contemplated is of a very simple and straight-forward nature and may take either a written or verbal form. To safeguard the interest of the employee, the Bill requires the employer to report the accident and also the amount of compensation agreed with the employee to the Commissioner for Labour within 14 days after the accident. The Commissioner will see to it that the compensation agreed does not fall short of the provisions of the Ordinance. If necessary, the Commissioner may cancel the agreement and substitute his assessment instead.

Should the employer and the employee fail to reach an agreement under the new procedures, the compensation claim can still be processed in the old manner. The Commissioner will then assess the compensation payable and issue a certificate of his assessment. Alternatively, the employee may take his case to Court for adjudication.

Thus, the new procedures do not deprive employees of existing channels of redress, but offer the added advantage of a speedier mechanism for settlement of minor injury claims. Besides, the employee does not have to be absent from work for medical clearance purpose. The employer will also be able to claim reimbursement of compensation paid from his insurer sooner, without having to wait for the Commissioner for Labour's assessment.

To give effect to the proposed new procedures for compensation by agreement, it

is necessary to amend the notice of accident in Form 2, as well as Form 2A contained in the schedule to the Employees' Compensation Regulations. The Executive Council has considered the matter on 5 May 1992 and has accepted the proposed alteration in principle.

The new procedures for settlement of minor injury cases will greatly enhance the cost-effectiveness of the present system. The proposal has the support of the Labour Advisory Board and the insurance industry is agreeable to it.

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

Question on the adjournment proposed, put and agreed to.

#### SOCIETIES (AMENDMENT) BILL 1992

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

He said: Mr Deputy President, I move that the Societies (Amendment) Bill 1992 be read a Second time. The Bill seeks to replace the societies registration system provided for in the Ordinance by a notification system.

As in any civilized society we wish to preserve the right of individuals to freedom of association. But we also need to protect our citizens from criminal, and in particular triad activities and to acknowledge the Government's responsibilities for security, public safety and public order as permitted under Article 18 of the Bill of Rights Ordinance. Thus we propose to retain limited regulation of bodies and associations.

The Bill requires all societies and associations which are not otherwise approved or regulated to notify the Commissioner of Police of their establishment not later than 14 days after formation. Failure to notify will be an offence. Societies which do not comply with the notification requirement will not, however, be regarded as unlawful automatically. We are confident that this arrangement will be compatible with the Bill of Rights Ordinance.

The present Ordinance empowers the Commissioner of Police to refuse to register



a society on a number of specified grounds, including where a society is connected with an overseas political organization. The Bill proposes to substitute this by a provision whereby the Secretary for Security may prohibit the operation of a society if he considers it necessary in the interests of security, public safety and public order. This requirement is necessary to deal with criminal and other undesirable societies whose operations are prejudicial to the well-being of Hong Kong. It is, for example, established policy that we do not want Hong Kong to be used by outsiders for their political battles against China. At the same time, we would like to reaffirm that Hong Kong people have freedom of speech and that as long as they remain within the law, we cannot and will not take action against them. These policies will remain unchanged.

The Bill also seeks to amend certain presumptions in the existing Ordinance regarding existence, membership, and management of societies by restricting their application to unlawful societies only. We believe this would be consistent with the Bill of Rights Ordinance and yet enable the police to continue with their effective fight against triads.

The Bill proposes to update fines for various triad-related offences. There are suggestions that the imprisonment penalties of such offences should likewise be reviewed to ensure that they continue to be good deterrents. We see merit in this and will be proposing amendments to this effect at the Committee stage.

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

Question on the adjournment proposed, put and agreed to.

#### FIRE SERVICES (AMENDMENT) BILL 1992

Resumption of debate on Second Reading which was moved on 6 May 1992.

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).

BUILDINGS (AMENDMENT) BILL 1992

Resumption of debate on Second Reading which was moved on 8 April 1992.

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).

AERIAL ROPEWAYS (SAFETY) (AMENDMENT) BILL 1992

Resumption of debate on Second Reading which was moved on 6 May 1992.

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

Bill read the Second time.

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

Committee stage of Bills

Council went into Committee.

FIRE SERVICES (AMENDMENT) BILL 1992

Clauses 1 to 3 were agreed to.

BUILDINGS (AMENDMENT) BILL 1992

Clauses 1 to 12 were agreed to.

AERIAL ROPEWAYS (SAFETY) (AMENDMENT) BILL 1992

Clauses 1 and 2 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

FIRE SERVICES (AMENDMENT) BILL 1992

BUILDINGS (AMENDMENT) BILL 1992 and

AERIAL ROPEWAYS (SAFETY) (AMENDMENT) BILL 1992

had passed through Committee without amendment. 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 motions

DEPUTY PRESIDENT: We have two Member's motions for debate on the Order Paper. In accordance with recent practice, Members have, I understand, agreed to place a voluntary limit upon the length of speeches.

DEPOSIT PROTECTION SCHEME

PROF EDWARD CHEN moved the following motion:

"That this Council urges the Administration to consider seriously the introduction of a deposit protection scheme (DPS), taking into consideration the costs and benefits of DPS for depositors and banks of all sizes, and the wider implications for the

economy and society at large in the event of bank failures."

PROF EDWARD CHEN: Mr Deputy President, before I speak to the motion, allow me to declare my interests as a director of First Pacific Bancshares Holdings which owns the First Pacific Bank, and as Chairman of the Consumer Council which made a representation to the Government, soon after the BCCHK debacle, to urge it to consult the public on the introduction of a deposit protection scheme (DPS) in Hong Kong.

My main purpose, Mr Deputy President, in moving today's motion is not to urge the Government to introduce or not to introduce a DPS in Hong Kong. I trust the Government will be able to use its good judgement to come to a right decision after hearing the various views presented to it. But, for the Government to do so, it must be presented with fair and balanced views from all interested parties, and views which take into consideration the wider interests of the economy and society as a whole. This is what I hope today's motion debate will be able to achieve.

So far, views on a DPS for Hong Kong have mainly been expressed by banks, especially the big ones, opposing the introduction of such a scheme. Most depositors or consumers do not understand the costs and benefits of DPS for them. My speech today will therefore focus on counteracting those fallible arguments which oppose a DPS, and on the standpoints of the depositors. I shall leave it to my colleagues to speak on the negative aspects of DPS.

First, a DPS does not aim at preventing bank failures which is solely a job of the government banking regulator. DPS is never considered as a substitute, wholly or partially, for prudent supervision of banks by the Government. But, a DPS can prevent bank runs caused by groundless rumours. A confidence crisis can be avoided if the small depositors do not rush to the bank immediately when a rumour breaks out. It is estimated that about 90% of deposit accounts in most banks in Hong Kong have balances not exceeding \$100,000. A DPS can also prevent a bank failure from being contagious. Without a DPS, a bank failure will cause multiple bank runs and failures, thus threatening the stability of the whole banking system. When a single bank fails, most banks will proceed to hold excess reserves in order to protect themselves. This precautionary measure will, in turn, lead to a multiple deposit contraction. The net result is the failure of more banks. The United States bank panic in the Great Depression in the 1930s was a case in point.

We must also consider the benefits to the economy and society at large if

unwarranted bank runs and failures are avoided by a DPS. Bank failures undermine the stability of the whole financial system, cause social unrest because of the agitation of depositors, interrupt business activities, and prompt capital flight.

Second, it is a fallacy to argue that under a DPS large banks subsidize small banks. Obviously, large banks will also benefit from a greater overall financial stability under a DPS. But more importantly, the suggestion that large banks are "too big to fail" has been proved erroneous. In 1974, the largest private bank in West Germany failed. In 1984, the eighth largest bank in the United States had to be bailed out twice in one week. Locally, in 1965, the Hong Kong and Shanghai Bank encountered panic deposit withdrawal. Last year, two large banks, the Standard Chartered and Citibank were subject to heavy deposit withdrawal because of groundless rumours. In 1965, the Hang Seng Bank, which was then already one of the leading local banks, suffered from a bank run due to groundless rumours, resulting in it being taken over by the Hong Kong and Shanghai Bank. Had there been a DPS, some local banks would not have lost their independence. In real life, all banks, whether large or small, are in the same boat whenever panic deposit withdrawal arises.

One would then ask why large banks in Hong Kong should so strongly oppose a DPS. The answer lies in the existing Exchange Fund Ordinance and the nature of the highly overconcentrated, imperfectly competitive banking industry in Hong Kong. I shall return to this subject matter when I deal with consumer interests.

Thirdly, a strong argument against a DPS is the supposed "moral hazard" problem, that is, that a DPS will encourage banks and depositors to take more risks. It is said that with the protection provided by the DPS, depositors would tend to choose a bank which offers the highest interest rate regardless of security. In turn, banks would be more likely to enter into high risk business in order to sustain high interest rates.

I consider the suggested association between risk-taking and DPS illogical. In banks, risks are taken in line with managerial decisions. The degree of risks taken by banks is also related to the level of supervision imposed by the government. A DPS is not an instrument to replace effective bank supervision. A DPS will not prevent the failure of a badly-run bank, much the same as an accident insurance will not forestall accidents. It is difficult to see how a DPS could provide an incentive for a bank to alter its risk-taking behaviour for a given pattern of rate of return. If a bank chooses new portfolios, it must be because the expected profits will be

higher for a given risk. A DPS is designed to protect depositors' monies and not banks' assets. Banks which go into liquidation will not stand to benefit from any DPS.

One flaw in the "moral hazard" argument is the assumption that depositors are able to assess the soundness of a bank. But, in reality, without full disclosure of information and/or appropriate expertise, most depositors are unable to make a reliable assessment of the management, as well as the solvency, of a bank. In Hong Kong, banks are typically insufficiently transparent. For example inner reserves are not made public. Under these circumstances, market monitoring, caveat emptor, and market discipline just do not work towards safeguarding the interests of depositors, especially the small ones.

The failures of a series of financial institutions, especially the Savings and Loans in the United States in the 1980s are often linked to the introduction of the DPS by way of the "moral hazard" problem. This association is misleading, and subject to methodological flaws. Association is not causation. The DPS was set up in the United States in 1933. From 1933 to about 1980, the scheme worked well and bank failures were greatly reduced. Some studies have convincingly concluded that the United States banking crisis in the 1980s was largely due to factors arising from deregulation in the banking sector during that time, which resulted in misregulation, rather than to the operation of a DPS in that country. We must note that the DPS has successfully operated to keep bank runs and failures at a low level in many countries, developed and developing. DPS is not an innovation, but has proven experience of workability for a long time in many parts of the world.

Mr Deputy President, I have counteracted the major arguments which banks have put forth to oppose a DPS for Hong Kong, but, while the views of the banks should be considered, the voice of the depositors or consumers must heavily weight the Government's decision whether or not to establish a DPS. This is because, in the end, it is the depositors who will solely or largely bear the cost of a DPS, as the banks will shift the premium to the depositors.

The depositors should realize that their benefits, in fact, go beyond the protection of their deposits in the event of bank failures. An immediate benefit can be derived by depositors from increased competition in the banking industry under a DPS, especially in the case of Hong Kong where the banking industry is highly concentrated with two large banking groups taking up well over 50% of Hong Kong's

total deposits. At present, the very large banks in Hong Kong are enjoying a distinct competitive advantage not necessarily due to the soundness of their management or quality of service provided. Under the existing Exchange Fund Ordinance, the Exchange Fund can only be used for the stabilization of the Hong Kong dollar exchange rate. This means that only in the failure of a large bank will the Exchange Fund likely be used to rescue the troubled bank. In the past, the Government very often also rescued smaller banks. But after the BCCHK incident, the Government cannot be expected to rescue a bank unless it is very large. Discrimination in handling bank failures has resulted and will result to a greater extent than before in unfair competition in the banking industry. With no DPS, people will surely prefer large banks to small ones irrespective of their soundness, the quality of services provided and the amount and number of charges imposed on them. This restricted competition is unhealthy, unfair to the sound and well-managed smaller banks, and, above all, against consumers' interests. We must remember that small banks are granted licences to operate in Hong Kong and are supervised in the same way as the big ones. They have the right to enjoy fair competition which we all cherish and try to uphold in our economy.

To compound the problem, Hong Kong does not have a central bank to act as a lender of last resort and help well-run small banks by providing credit lines to relieve their temporary liquidity problems. The leading banks operate on a commercial basis and have no obligation to take on such role.

The establishment of a DPS will help to improve this situation by enhancing the confidence of depositors in smaller banks and subsequently increasing the competitive efficiency of the banking system, weakening the "artificial" market advantages of big banks over the smaller ones. Increased competition will bring about better quality service and lower charges to consumers. Banks will then have to compete on price and non-price variables. Big banks can no longer take for granted that consumers will go to them irrespective of how they treat them. This explains why big banks are opposing the establishment of a DPS in Hong Kong, just like the large banks in the United States did before the introduction of a DPS in 1933.

The depositors must, of course, weigh the benefits against the costs. In the Government's consultation paper, the calculation arrives at a figure of \$91 to \$380 a year for a 100% protection of a \$100,000-deposit, depending on whether the costs will be borne by all depositors or only those depositors who will benefit from the scheme. I think the banks should impose at least a part of the premium on the

depositors who do not directly benefit from the protection, but who would indirectly benefit from greater financial stability, better services and lower charges. It is up to the depositors to judge whether the benefits, that is, protection plus better services and lower charges, is worth the levy.

With regard to a workable DPS for Hong Kong, I would just make some very brief remarks.

First, it must be statutory and mandatory. A voluntary DPS would be impractical. If all large banks chose not to join the scheme, the contributions from the remaining small banks would not be able to support an adequate protection fund. Moreover, in a voluntary DPS, the effect of "adverse selection" will arise -- banks which join the DPS will be viewed by the public as weaker banks.

Second, the Government must take an active role in running the DPS, and act as the guarantor. This will ensure lower administrative costs and greater public confidence. The Government's participation can be justified by the significant social benefits of a DPS for the economy and society at large. Should the DPS funds be inadequate for reimbursing the eligible depositors in a single bank failure, a credit line could be offered by the Exchange Fund to cover the shortfall. The Exchange Fund would be recompensed by the DPS levy in due course.

Third, the DPS should cover local currencies with at least 90% protection up to a ceiling of say \$250,000 in all licensed banks of Hong Kong. Deposits of foreign currencies in local banks should also be included, though they could be subject to a lower level of protection. If the Government decides to go for a DPS, it should work out a package which will give rise to a reasonable premium for adequate protection.

Mr Deputy President, with these words, I move the motion.

Question on the motion proposed.

DEPUTY PRESIDENT: Twenty Members have notified their intention to speak. In view of the agreement for voluntary restraint, this means that each Member has an average time of five minutes for his or her speech.



MR HUI YIN-FAT (in Cantonese): Mr Deputy President, I am neither a financial expert nor someone with profound knowledge of the operation of the banking sector. For this reason, I find myself in a better position to echo the sentiment of the general public on the establishment of a deposit protection scheme (DPS) in the capacity of a small depositor.

First of all, I would like to express my regret at hearing the standpoints and grounds against establishing a DPS as expressed by the Hong Kong Association of Banks the other day. The Association's objection is merely made on the basis of a survey conducted in the banking sector without consulting the depositors. In view of such a dubious act, the public has reasons to suspect whether the banking sector is willing to assist the Government in establishing a widely practised system adopted by many advanced countries all over the world such as, among others, the United States and the United Kingdom. "Nothing is perfectly sound and we should play safe anyway," as the Chinese saying goes. Even for sound banking systems it is necessary to insure themselves against occasional risks, let alone Hong Kong which is going through a sensitive stage.

Objection held by the Hong Kong Association of Banks is mainly based on three points. I would like to address them one by one.

On the first point, it states that "the establishment of a DPS cannot avoid bank runs or failures." Unlike Prof CHEN, I am not a director of any bank nor a committee member of the Consumer Council. However, I think that, logically speaking, a DPS is to safeguard the interests of the depositors, not to guarantee that banks will have no problems. Bank runs or failures are due to inefficient business policy and management of the banks themselves. They have nothing to do with the decisions of the depositors or the presence, or absence, of a DPS. On the contrary, under the DPS, the so-called "domino effect" causing bank runs as a result of an isolated bank failure will be minimized. The BCCHK incident last year led to a series of bank runs. This demonstrated that depositors were vulnerable to rumours when their interests were not safeguarded. And not even those well-run banks could be left unscathed. In fact, according to experiences of foreign countries, such kind of insurance scheme can best shore up depositors' confidence during financial crises.

Secondly, it is claimed that "the scheme cannot provide complete protection to the depositors whereas taxpayers and depositors have to pay additional charges." I

think that what "complete protection" means is whether depositors are willing to pay a higher premium in exchange for a greater degree of deposit protection. According to initial calculation, an annual premium of \$300 or so could enjoy a 100% protection of a \$100,000 deposit. I am sure that the average depositor can afford this amount of premium, bearing in mind that apart from an insurance scheme and the Government's supervision of the banking sector, there is no safer way to protect their hard-earned savings.

Thirdly, the Association is of the view that "choosing a bank is the responsibility of the depositors themselves." I think that this is merely an excuse to shirk responsibility and is very unfair to the depositors. The problem is that information on banking operations is at the moment largely classified as confidential. How many people can acquire sufficient information on each bank before making a wise choice? Furthermore, the way the Administration dealt with the BCCHK incident and its ability to cope with contingency has completely shaken the public confidence in this respect. Without any protection, the public has no alternative but to call for the establishment of a DPS. In response, the banking sector not only shows no support, but tries to evade responsibility. It is really disappointing.

I am of the opinion that the establishment of a DPS will enhance the competitiveness among small-sized banks, thus providing a wider choice for the depositors. Fair competition will lead to improvement in the end and be advantageous to the banking system as a whole.

Mr Deputy President, under the influence of the 1997 jitters, it is a prevailing tendency for the public to strive for the best protection and to have their lives and properties together with their families' well insured. Besides, the lesson the depositors and the whole banking system drew from the BCCHK incident has convinced me that the establishment of a DPS is the trend of the times and it gears to the need for actual development under special circumstances. The DPS actually has three advantages, namely, stabilizing the financial market, encouraging the banking sector to enhance their competitiveness and upholding justice. This scheme is also a basic element which ensures that Hong Kong will remain an international financial hub beyond 1997 and into the next century. Even if it does not care for the interests of the depositors, the banking industry should make long-term commitment for the sake of our reputation and image as an international financial hub rather than becoming the greatest obstacle to the establishment of a DPS.

Mr Deputy President, with these remarks, I support the motion.

MR DAVID LI: Mr Deputy President, in the face of depositor unease following the closure and liquidation of the Bank of Credit and Commerce Hong Kong, the concept of a deposit protection scheme has been resurrected as a palliative to provide depositors peace of mind and thus to enhance confidence in the banking system.

But while their intentions are good, advocates of such a scheme have largely ignored or dismissed off-hand the many complex issues involved. This is both wrong and dangerous. These issues are important and go to the root of whether such a scheme is needed or appropriate for Hong Kong. These issues include:

First, the significant cost of such a scheme to the Government, banks and depositors;

Second, the negative effect such a scheme would have on the behaviour of depositors and bank management;

Third, the negative effect it would have on Hong Kong's competitiveness as a financial centre; and

Fourth, the dangerous precedent such a move would set for government intervention in the marketplace.

Moreover, advocates of deposit protection have avoided addressing one key question which arises from the Administration's Consultation Paper: Is a deposit protection scheme feasible without government financial backing? This one vital parameter -- set by the Administration -- severely limits the ability of such a scheme to achieve its stated goals.

Would such a scheme guarantee full or prompt compensation of depositors? The answer is: No. According to Administration estimates, the industry would be able to support a deposit protection fund which would cover the failure of one small to medium-sized bank.

Would such a limited scheme enhance the stability of the banking system? Would it quell spill-over panic during a bank crisis? Again, the answer is: No. Even if the needs of small depositors in one troubled bank were fully and promptly met, the draining of deposit protection fund resources below the level needed to safeguard

depositors in other banks could, in and of itself, spark general panic.

Perhaps in an attempt to cast this bleak picture in a better light, advocates of deposit protection have tried to shift the focus of the debate away from this central issue to the alleged wider positive implications of such a scheme.

But to argue that the establishment of a deposit protection scheme would promote greater competition among banks and would thereby result in better customer service and lower charges is a total fallacy.

This line of reasoning suggests that because Hong Kong does not have a deposit protection scheme, some banks are currently at a competitive disadvantage. This alleged disadvantage stems from depositors' concerns that certain banks are less stable than others, or are less committed to the depositors' interests or to Hong Kong.

But convincing potential depositors of an individual institution's commitment to their interests -- to protecting their funds -- is perhaps the most fundamental challenge of banking. First and foremost -- before the quality, terms and rates of customer service -- stability and commitment comprise the very basis of competition among banks.

To ask the Government to establish a deposit protection scheme on these grounds is tantamount to requesting that the "playing field" be tilted in favour of banks which are unwilling to take the time and effort to prove to depositors that their institution is prudently managed, financially strong and firmly committed to Hong Kong.

Hong Kong must recognize that if public confidence in individual banks or in the industry as a whole has been shaken, there are no quick fixes. Stability and confidence cannot be imposed from above. Other markets have tried this and have failed miserably.

Stability and confidence must be built from the bottom up -- from individual banks' stability and commitment to their depositors, which in aggregate become industry-wide stability and commitment.

True protection of depositors' money can only come from prudent bank management and vigilant regulation. Similarly, true stability in the territory's banking

industry can only come from depositors' faith in bank management and regulation.

By creating the illusion of security, a deposit protection scheme would work against efforts to build this faith. It would weaken -- rather than strengthen -- the stability of the banking system, and would thereby put the future of our economy at risk.

With these remarks, Mr Deputy President, I respectfully oppose the motion.

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, it is difficult to forget the collapse of the Bank of Credit and Commerce Hong Kong last year together with its subsequent liquidation which has been a traumatic experience to the general public of Hong Kong. The sight of those BCCHK depositors who had sustained heavy loss squealing and yelling aroused sadness and sympathy. Small depositors are undeniably the most seriously hurt in collapses of banks, because they deposit in banks all their money that they saved bit by bit for provision against contingency and old age. So when a bank collapses, they will sustain enormous loss both in financial and psychological terms. Although Hong Kong has a relatively sound banking system, it is deplorable that tragedies like the BCCHK incident still cannot be avoided. It is therefore necessary for Hong Kong to set up a mechanism for the protection of the interests of bank depositors.

The establishment of a deposit protection scheme for protecting the interests of small depositors is a good idea. However, quite a number of problems will arise when implementing such a scheme. The implementation of a deposit protection scheme for the protection of all small depositors in Hong Kong will necessitate compulsory contributions from all the banks which will pass on such a burden to the depositors. But the problem is that the great majority of Hong Kong's retail deposits are with the two large banking corporations which operate on a more conservative basis. Regarding the collapse of their banks as an impossible event, the depositors of these banks will not be willing to indirectly shoulder most of the contributions to support the depositors of the medium to smaller banks. In effect, to the depositors of most of the large banking corporations, the implementation of a compulsory deposit protection scheme may not bring any substantial benefits; it may even be detrimental to their interests. Moreover, if problems really arise in the large banking corporations, then even the deposit protection scheme cannot safeguard the interests of so many small depositors nor can it stabilize Hong Kong's financial system. I am

therefore doubtful of the effectiveness of a deposit protection scheme.

Nevertheless, if unfortunate events like the liquidation of the BCCHK are to be avoided, the Administration must review and make every effort to improve the current monitoring system of banks. I hope that the Administration will not shift the responsibility of protecting depositors' interests to banks and depositors by implementing a deposit protection scheme.

I think the Administration should do something to allay fears and protect the interests of small depositors. In the paper issued in February this year on deposit protection scheme, the Administration revealed that "it is considering a scheme that will give prior protection to small depositors in the event of the collapses of banks." I hope that the Administration can announce the details of this scheme as soon as possible. I suggest that the Administration should amend the relevant laws to the effect that small depositors will have priority in obtaining compensation in the event of liquidation of banks.

Mr Deputy President, these are my remarks.

MR RONALD ARCULLI: Mr Deputy President, the motion before the Council today calling on the Administration to seriously consider the introduction of a deposit protection scheme appears to be pretty innocuous although it may not be so if one simply listened to the speech of Prof the Honourable Edward CHEN. Indeed several of my CRC colleagues are most concerned that the public will be misled into the belief that a workable scheme will be introduced and for this reason they feel they are unable to support the motion. The very label "deposit protection scheme" that has been used immediately leads us into the belief that we either obtain or will be given protection under such a scheme, which is not necessarily the case. It is, however, timely that the subject is debated today as the consultation paper issued by the Monetary Affairs Branch calls for views to be expressed before 31 May this year.

We at the Co-operative Resources Centre believe that contributions to today's debate can also be made by highlighting some of the limitations referred to in the consultation paper so that members of the public clearly understand that there are limitations in any scheme. These limitations include:

(1) it is neither possible nor practicable for any scheme to give depositors full

protection and by this I mean that in case a bank fails all depositors can get all money deposited plus the interest back;

(2) however limited any protection may be, a depositor will have to pay for such protection and indeed will also have to pay for the protection given to depositors of a failed bank;

(3) any scheme cannot prevent bank failures; indeed it has been argued that any scheme may encourage banks to be less vigilant in assessing the risks they take on; and

(4) a scheme will not prevent bank runs because it will take time to process claims under any such scheme.

Mr Deputy President, I could go on to some fine technical arguments but in view of the time available I had best be as brief as possible. I will leave it to my more knowledgeable CRC colleagues to deal with some of the more important issues in greater detail and with much more persuasiveness.

The second point that we would comment on is that the discussion on the subject of a deposit protection scheme is rather emotive. It is not easy to say that it is an absolute necessity or that it is wholly useless. What we need to do is to approach the matter as dispassionately as possible. We must weigh up the pros and cons of the various possibilities, assess whether there are alternatives, examine closely the success or otherwise of schemes in other countries and ultimately consider what would happen if the scheme we choose to introduce in Hong Kong did not give depositors the protection it offered.

Mr Deputy President, it is this last point that has caused us a lot of anxiety. The magnitude of the problem can be summarized by referring to total deposits in Hong Kong. I believe total deposits in banks belonging to the Hong Kong Association of Banks to be in the order of HK\$300 billion whilst total Hong Kong dollar deposits is in the order of HK\$490 billion. It is obvious that protection cannot be offered in full in respect of such deposits. At this point one immediately has to settle for limited protection. The question is where do you draw the line. Let us say we set the limit at HK\$50,000, that is, the scheme will guarantee all deposits up to that amount with refinements that any one person's protection is limited to that amount irrespective of how many bank accounts he may have in one or more banks. Given that

the fund to which depositors can have recourse cannot be created overnight, what happens if a bank fails during the accumulation of the fund? More importantly what happens when the fund accumulated is insufficient? Do we then have recourse to the public purse or do we create a contingency funding programme so that it becomes unlimited liability to banks up to the amount required? Will this have a disastrous effect on our banking system? Mr Deputy President, there are no easy solutions, and for those of us who may gloss over these very real difficulties under the altruistic belief that we are giving members of the public protection or even upholding our economic success or creating competition amongst banks, we at the CRC believe that the public deserves to be given the plain hard facts one of which is that the heaviest burden of any protection scheme will rest on their shoulders. We have just had an extremely unpleasant occurrence in the form of the failure of BCCHK. Let us examine this matter as objectively as possible and let none of the emotive feelings we may have about BCCHK cloud the real issues. We at the CRC believe that the Administration should do so with an open mind and for this reason and subject to my comments we are prepared to support this approach and therefore the motion.

MRS PEGGY LAM (in Cantonese): Mr Deputy President, Hong Kong is an international financial centre which is world-famous for its large number of banks offering convenient and efficient services. However, the BCCHK incident last year and the bank runs triggered off by it demonstrated that there were loopholes in our banking system and imperfections in our bank management. There is serious inadequacy in the protection of small depositors' interests which leaves much to be desired.

Hong Kong people are well-known for being diligent and saving is a common virtue. Small depositors, nine out of ten, are members of the general public. They save on clothing and food and deposit their hard-earned monthly income with banks primarily because they have faith in the Government's licensing and monitoring system on banks. The average people may lack independent analytical ability to assess the security and financial status of banks. Once a bank fails, the small depositors will suffer the most.

In fact, the small depositors' interests must be adequately safeguarded in the special social environment of Hong Kong. As we all know, social welfare is totally inadequate and social security non-existent. If small depositors cannot recover their savings due to bank failure, their situation will be very miserable. Therefore, sufficient protection accorded to the small depositors will enhance the stability,



harmony and prosperity of society as a whole.

Deposit interest rates have been on the low side for a long time and are far behind the rate of inflation. If small depositors' interests continue to be neglected, it will deal a further blow on people's confidence and dampen their interest in placing deposits with banks. It can be predicted that most of the savings will flow out of banks into the "speculation market" in pursuit of a higher return. Some will even keep their savings at home or carry them on their person. In this way, the lending ability of banks will be undermined to a large extent, hindering the long-term development of our economy. Furthermore, law and order in Hong Kong may further deteriorate -- the targets of robbery may shift from goldsmith shops and mahjong schools to individuals and residential flats!

In short, in view of our special political, economical and social climate, small depositors' interests should be given sufficient and full protection. Otherwise, placing deposits with banks will become a high risk-taking activity. It will thus be meaningless to talk of confidence, stability or prosperity.

A DPS is actually not the most effective or the only option to safeguard the interests of small depositors. According to the major options presented in the Governments' consultation paper, only the first \$100,000 will enjoy 75% or 100% protection. Other Hong Kong dollar deposits and deposits in foreign currencies which account for over half of the local deposits will not be covered.

Mr Deputy President, I think that a healthy banking structure and an efficient banking supervision system are the best protection for depositors. Therefore, the most urgent task of the Administration is to strengthen the existing supervision system and try to plug the loopholes. The BCCHK incident reflects that Hong Kong's bank licensing system is not stringent enough. If we take a look at our neighbour Singapore, we can see that the interests of Singapore citizens are protected because the Government refused to grant a licence to the Bank of Credit and Commerce. The authority concerned should review the requirements for the licensing of banks, paying particular attention to the security and reliability of the head office of the applying bank.

Furthermore, the recent suggestion by the Government to revise the format of liquidity returns by banks, to revamp the elaborate procedure of processing data and to strengthen auditor's supervision over the internal control system of banks can

be regarded as effective measures.

The final protection provided to depositors is that they will not lose all their savings once a bank fails. Therefore, the Government should seriously consider amending the existing law on liquidation so that small depositors with deposit balances of under \$100,000 can have priority in getting back their deposits in full if a bank fails. Furthermore, the procedures specified in the existing legislation should be simplified. Under existing legislation, it takes too long for the depositors to get back their money. They have to wait for the court to grant an order for the sale of the assets of the banks.

On the other hand, in order to protect the depositors, the Hong Kong Association of Banks should follow the example of the Consumer Council in educating the depositors and providing necessary information by setting up an information centre. The centre will be set up to provide information on banks to the public, answer enquiries from depositors and receive complaints. The banking industry should also organize more talks and courses and set up a hotline to answer depositors' enquiries.

Finally, I think that if Hong Kong is to maintain its prosperity and stability, depositors' interests must be protected. The Government has the responsibility to give serious thought to providing and implementing a sound scheme of deposit protection.

Mr Deputy President, with these remarks, I support the motion.

MR JIMMY MCGREGOR: Mr Deputy President, I must firstly declare an interest as the vice chairman of the Hong Kong Chinese Bank.

This is the kind of bank in Hong Kong which many Councillors today will no doubt say should have the support of a deposit protection scheme. I have not asked the board of the Hong Kong Chinese Bank to express an opinion. The bank has been in business for 37 years, is highly conservative in nature, caters for several thousand local clients, maintains a strong deposit base, and does its best to conform to the very strict regulatory regime of the Banking Commissioner. The bank also, as it happens, follows sound and prudent banking principles and procedures.

Some of my colleagues may be surprised to hear me say that I do not believe this

small to medium bank should welcome a deposit protection scheme. The reasons are the same as those set out by experts in my constituency, the Hong Kong General Chamber of Commerce, in their submission to the Government. I am indebted to them for their advice to me and for confirming my own views.

Deposit protection or insurance schemes exist fairly widely around the world, both on a compulsory and a voluntary basis. Mostly, they have not been tested. In the one country where they have been severely tested, the United States, the scheme failed dismally with huge losses. A deposit protection scheme in Hong Kong could lead depositors to discount the risks associated with bank deposits and put their money into banks which otherwise they might not have favoured. The banks themselves could become more risk orientated knowing that they had an insurance lifeline behind them.

It should be noted that there is nothing to stop any bank in Hong Kong, or a group of like-minded banks, from introducing a deposit protection insurance scheme. The cost, however, is likely to be prohibitive and that is why, in fact, they do not do it.

Any government-regulated or supervised deposit protection scheme would also be expensive. Eventually, depositors, clients and in some circumstances even the Government would have to pay for the cost of the scheme.

The only real protection for bank deposits lies in sound banking practice, the maintenance of high prudential standards, and the application of effective regulation supervision by the Banking Commissioner.

During the last 20 years the quality and depth of banking supervision in Hong Kong by the regulatory authorities has continued to improve. During this time we have had banking crises and some banks have been in deep trouble. Over the whole course, however, the system, the standards and the regulations have all become more sophisticated and more efficient. The BCC affair in fact suggested to me that Hong Kong's regulatory supervision is at least as efficient as that being applied in other countries and probably more sensitive and responsive than most.

The Hong Kong Banking Industry at the present time meets all international standards. Indeed, our banking industry is home to very many foreign banks from international financial centres around the world. The industry as a whole in Hong

Kong enjoys international confidence and support.

I must therefore speak against the motion. I do not believe that the Government should waste its time considering the establishment of a compulsory deposit protection scheme which will not protect all depositors, which could be prohibitively expensive, and which may paradoxically suggest to depositors and investors that the Hong Kong regulatory system for banking cannot function effectively.

I understand that the Hong Kong Association of Banks may have some other ideas about limited protection for small depositors in the event of a failure of a bank. I hope any such ideas can be set out for detailed consideration by the industry and the Government, but it does not sound very feasible to me.

Mr Deputy President, I do not support the motion.

MR PETER WONG: Mr Deputy President, first I would like to declare my interest as auditor of various banks, holder of publicly listed bank shares and also have a few deposits with banks.

Members of the accountancy functional constituency generally disapprove of deposit protection schemes (DPS) as now proposed because they are considered to be inequitable and impracticable.

The charging of a premium in return for protection which only benefits a small group of depositors is the fundamental flaw of those schemes. They violate the principle of "user pays", since ultimately the taxpayers have to bear the cost of propping up those banks which are vulnerable. The idea of depositors of some banks getting higher interest rates and the same protection is just not acceptable.

Last year, of the 165 local banks, 27 (or 16%) had deposit bases of over \$10 billion each. Since the size of the proposed DPS fund is estimated to be set at \$10.8 billion, so it will be inadequate to fully meet potential claims. The larger banks resent subsidizing the smaller banks to compete with them; after all, Hong Kong's banking sector has all along been operating under a free market economy. Although a risk-rated premium is obviously most equitable, it has been considered impracticable since the rating would not only involve technical difficulties but would also show up clearly the standing of the lesser banks. More importantly, why should bank

deposits as one form of investment get more protection than others such as stocks and real estate? Therefore, the strong sense of inequitable treatment entertained by the depositors and the larger banks will be a major obstacle to overcome in any attempt to formulate a DPS with a sound philosophical basis.

The argument that a DPS can reduce the risks of unnecessary bank runs and introduce an element of stability into our banking system is also unsound. In any event, a DPS could not fully recompense depositors for a really large bank failure. While the scheme can neither prevent bank collapses nor address systemic problems, there is also a limit as to the responsibilities the regulatory body can assume. The depositor must accept that there is an element of risk, however remote, in that his entire life savings is being put on the line when he places his money in a bank. On the contrary, I am personally convinced that a DPS carries with it the so-called "moral hazard" since the scheme may cause bankers and depositors alike to become less careful with their investment decisions which will not be made any more prudent by the level of scrutiny imposed by the Government. At the end of the day, it is the taxpayer who will have to bear the rescue of any of our banks. Further, the concept of insurance has yet to be popularly understood and accepted before compulsory DPS can start in a free market economy.

My basic objection lies with the questionable need for a DPS in any well run and carefully monitored banking system. Since 1985, fundamental changes in ownership and management control of our banks have been initiated as a result of a new system of supervision. I must say that apart from a few isolated cases -- and regrettably the latest BCCI case is one of them -- depositors in Hong Kong have not suffered any loss of money kept in our banks. Thus, to add an ancillary safety valve to the existing prudential supervision is like baking a cake that nobody will eat. From the accountancy profession's point of view, the setting up of a DPS in Hong Kong at this point in time is superfluous and unjustifiable.

Cost-conscious accountants also believe that the high administrative costs of a DPS do not justify its formation. The costs will have to be borne by the depositors and the banks whose competitive potentials will thus be affected. More importantly, in the case that no bankruptcy occurs, the scheme will accumulate a huge sum of money which will immediately create management and investment headaches. It may necessitate the moving of capital investments offshore which, in order to get the returns needed, will have significant effects on our monetary system.

Mr Deputy President, the DPS proposal stems from an overreaction towards the

recent BCCI incident. There is in fact no real or reasoned public demand for a scheme whose value to our strong banking system is unproven. In the mind of the pragmatic Hong Kong depositors, who readily take investment risks into their stride, a DPS cannot meet their basic expectations. On top of these considerations is the fundamental question of "who will pay for the scheme". As the Legislative Council representative of the accountancy functional constituency, I say a very clear "No" to DPS for Hong Kong.

MR VINCENT CHENG: Mr Deputy President, I find myself in a rather embarrassing situation because I do not know whether I have any interest to declare in the Council. Unlike Mr MCGREGOR and Professor CHEN, I am not a director of a bank, but I am an executive of a big bank and hence one of the 75 000 people trying to make a living by working for a financial institution.

My comments on the DPS will, I promise, be relatively brief, but before I come to them, I would ask Members to bear in mind two general propositions. First, deposit insurance is an emotive issue and we should be wary of emotional responses in the wake of the BCCHK collapse. That may seem a harsh and unsympathetic view but I genuinely believe that this issue is important enough to place it above gesture politics and quick fixes. Secondly, we should all understand that this debate is not about moral high ground set against vested interests. The objectives of both pro and anti DPS advocates are the same -- they all wish to see an environment in which individual depositors have confidence in and access to a healthy, secure and competitive market for retail banking services. This debate is about means -- and not ends. Not banks against depositors, not small banks versus big banks, as Professor CHEN has suggested. Indeed, many small banks do not see DPS as a viable solution, with only two exceptions, including First Pacific Bank. Therefore there is a common agenda.

The idea of protecting small depositors is commendable. We all support it; after all we are all depositors and bank customers. But deposit insurance is not an effective way of protecting depositors, particularly in the case of Hong Kong.

Perhaps we should first draw on the experience of the United States which is the first country to set up deposit insurance. Under the current United States Federal

Deposit Insurance System all banks and savings and loans institutions pay the same insurance premium on deposits, regardless of the riskiness of the business in which they are engaged. Uniform premiums for all banks encourage risky lending practices, leading to high loan losses. Any insurance programme without risk-based premiums is bound to become insolvent, and the United States Deposit Insurance System is no exception. The costs to the healthy banks, savings and loans institutions and taxpayers have been enormous; for example, the combined cost of bailing out depositors in failed banks and savings and loans institutions is currently estimated to be around \$250 billion to \$500 billion, and this figure, which has been revised upward many times, does not include the interest expense on the debt the United States Government has issued to fund the bail-out.

Ironically, President Franklin ROOSEVELT who signed the bill creating deposit insurance said on 7 March 1933 in the New York Times:

"I am opposed to the federal guarantee of bank deposits. What right have we to tax the American people to insure bank deals more than to tax them to insure transactions of any other businesses."

A day later, in his first presidential news conference he observed:

"The general underlying thought behind the use of the word "guarantee" with respect to bad bank deposits is that:

(1) You will guarantee bad banks as well as good banks.

(2) The minute the Government starts to do that the Government runs into a probable loss. We do not wish to make the United States Government liable for the mistakes and errors of individual banks.

(3) You put a premium on unsound banking in the future."

Unfortunately, history has validated ROOSEVELT's misgivings. Even more unfortunately, some of us in this Council want Hong Kong to go down the same slippery slope.

The so-called DPS as outlined in the Government's consultative paper does not offer any real protection to depositors. First, foreign currency deposits will not be covered. With more than half of Hong Kong's deposits based in foreign currency,

what is the use of a scheme which provides such limited coverage? Second, DPS will not prevent bank runs. Indeed, banks do not fail because of bank runs -- BCCHK is a good example; banks fail because of poor management and fraud, not rumours and bank runs. Third, the scheme does not offer protection to all depositors on an equal basis because the scheme would not be sufficient to cover large banks. Depositors of larger banks would be offered less protection compared with depositors of small banks, even though they would be paying the same premium. If depositors of the larger banks, which are community banks serving the majority of Hong Kong's low income earners, are not fully protected, what is the use of such a scheme? Why should they be forced to participate?

The proponents of this scheme perhaps think such a scheme would benefit the man in the street and therefore would score political "brownie-points" by supporting it. They are wrong. On the contrary, this scheme only aims at protecting a handful of small "niche" banks whose customers are the relatively small, sophisticated middle class segment of the population. Indeed, those who are more financially astute need less protection by the Government.

In Hong Kong there are more than 160 banks. Of these, only 29 are locally incorporated. More than 10 are owned by the People's Republic of China. And some of the remaining banks are too large to be covered by the scheme in the Government's consultative paper. If these banks are excluded the scheme would only be applicable to a handful of small banks. Now is it really worth the hassle of creating another layer of bureaucracy in the banking system, with all the adverse ramifications in terms of administrative costs, market distortions, and at the expense of the depositors themselves? The answer is very clear: there are many fallacies in the arguments for deposit insurance. There have been suggestions that DPS would increase competition because small banks would be able to attract more deposits. This is simply not true. Depositors, when they deposit their money in a bank, are not just looking for security of their deposits; they will look for a range of services, convenience, courtesy of staff and the associated services, and so on. Furthermore, it is wrong to assume that banks can expand their balance sheet indefinitely. Banks are constrained by capital adequacy requirements. A DPS will not increase their attraction or their ability to attract deposits. Rather than trying to hide behind an ill-conceived scheme, these banks should compete on quality of service, and gain consumer trust and confidence through good management.

It is said that DPS would prevent a flight to quality by depositors who may shift



their deposits to safer banks when they feel their deposits threatened. This again is not true. A DPS would not stop bank runs and hence would not stop any flight to quality.

The scheme contained in the consultative paper is not well conceived and, I would say, is misleading. The scheme cannot and should not be labelled as a "deposit protection scheme". At best, it could be called a "very limited protection scheme for a very limited number of banks." The scheme aims to generate a fund of HK\$5 billion in five years' time, assuming of course that no one claims in the interim. That fund is designed to create public confidence in the market for HKAB regulated Hong Kong dollar deposits, put at HK\$300 billion in August 1991. Now do we honestly believe that this fund will persuade the vast majority of Hong Kong people that their deposits are more secure? Is this almost a laughable provision? I repeat -- \$5 billion in five years' time against \$300 billion now. Would this reduce bank runs?

The idea that the Government would stand back and not be responsible if the insurance scheme could not meet all its obligations in a bank insolvency is almost naive. Political pressure would be such that the Government would have no choice but to step in. Indeed, it would be easier for the Government to refuse bailing out a bank and using taxpayers' money because it is a private institution. It would be much harder, and even impossible, to refuse bailing out an insurance corporation created by the Government.

The market distortions that may arise out of a DPS or VUDPS (very unrealistic deposit protection scheme) would far outweigh any hypothetical benefit of such a scheme. It would lead to a deposit shift merry-go-round as customers try and second-guess whether or not their banks are small enough to be protected. It penalizes well managed and successful banks and it benefits their high-risk competitors. It would lead to imprudent banking practices -- as we have seen in the United States -- and undermine the stability of the banking sector. It also raises the operating costs for the banking system and hence costs to depositors. These distortions would damage our banking system. How can we have a sound banking system if we penalize success and encourage imprudent banking practices?

Depositors, small or large, should be protected. The only way to protect them is to ensure that we have, first and foremost, well capitalized banks, sound professional management of banks, a good regulatory framework and sound banking supervision, and perhaps greater disclosure of the financial position of banks. If

we feel that additional measures are necessary, we could simply amend the relevant company legislation giving depositors priority creditor status up to a certain sum regardless of the amount of deposits they own. This is a much simpler and easier way than setting up an insurance corporation, hiring a group of people, and raising the costs to depositors. The concern of course is whether there is sufficient money left for depositors in a bank insolvency. Given the improvements in the regulatory framework over these years, including the lessons learnt from BCCHK, this option is feasible. It is not a perfect solution -- neither is a DPS -- but at least it is not costly and less messy.

Mr Deputy President, I have no objection to asking the Government to consider seriously the feasibility of a DPS. However, I myself have considered this issue very carefully and have come to the conclusion that DPS is neither practical nor desirable, although it sounds good academically. I therefore will oppose the motion.

5.04 pm

DEPUTY PRESIDENT: We will take a short break.

5.27 pm

DEPUTY PRESIDENT: Council will resume.

MR MOSES CHENG: Mr Deputy President, there is no question that we have an explicit duty to protect, advocate, and further consumer rights, but within the loftiness of our principles and commitment, we also have the duty to soberly assess pragmatic effects of policy. As the United States is now awakening to the dramatic effects of the high ideals invested in its Federal Deposit Insurance schemes, I believe that we must take heed of the shortcoming of such models, when considering the most effective means of discharging our obligations to the consumers. I would contend that our efforts should not be limited to the simple approval or disapproval of a deposit protection scheme as a hypothetical safety net, but instead to the maximum effective role the Government can have in insuring and enhancing the greater stability of the banking system. We are not only responsible for proposing cures to rare and exceptional problems, we have a duty to administer constant preventive care that,

optimally, pre-empts such problems. These are not mutually exclusive goals, but there is much to suggest that the deposit protection scheme under consideration may be counter-productive to the latter goal, in its attempts to achieve the former.

The best protection for consumers will not be found by taxing their deposits, eroding their profits, and offering limited guarantee of capital. The best protection will come from a greater emphasis on the role of the Government in advancing bank stability, free and fair competition, and prudent management practices. These consensus values may actually be undermined from the by-product of a sincere, but misdirected protection scheme.

BCCI was the extreme exception and not the rule in Hong Kong; so while our goal is to be prepared for the worst and push for the best, we must direct our legislation to cover the practical norm and refrain from centering our efforts on the extreme fringe. The "worst case scenario" should be dealt with not by changing the operative norms to accommodate its remote possibility, but by designing greater tools to preclude its onset. Much can be done in this vein, and by concentrating on these conscientious efforts, we can avoid placing too much faith in a limited, quasi-insurance scheme that challenges the fundamentals of free and fair market forces.

First, we must educate all citizens better to understand the relationship between risk and reward, and eliminate thinking that you can earn something for nothing. They should understand that there is a direct correlation between the return offered on their investment and a particular bank's lending practices. Secondly, I would reiterate and re-emphasize my colleagues' timely calls for increased, continuous monitoring by government regulators and banking officials. Full disclosure must become standard and accountability of the banks to its investors -- private or public -- must be guaranteed, not at the point of failure, but long before as a measure of management. Banks must be properly capitalized and pursue a balanced and prudent portfolio if they are risking consumer's savings and deposits. Finally, we should take under consideration amendments to the laws of liquidation insofar as they should concern banks. Hong Kong depositors and ordinary citizens should have legally protected recourse mechanism at their disposal to recover their money in time of crisis. By raising their status to become "secured" or "preferred" creditors we can empower the consumer, and create a more balanced relationship with the bank of their own choosing. These approaches do not hinder choice or confidence, but encourage the banking community to compete by searching for more solid and prudent investments. Conversely a blanket protection of medium and small bank depositors may instigate

the kind of wild lending atmosphere that characterized the demise of many of the greatest lending institutions in the United States. Today's American youth not only faces the prospect of coping with the intractable black hole of debt owed by their insolvent deposit insurance schemes -- their children or perhaps grandchildren will also be paying for mistakes which they had no hand in. This empirical lessons of disaster is a much more threatening cloud on Hong Kong's horizon than the replication of BCCI's reckless and fraudulent practices in other parts of the world -- especially if we consider pre-emptive measures as a priority concern for consumer protection. Is the deposit protection scheme under consideration synonymous with consumer protection, if it limits or skews the industry's relationship to them and the perception of their obligations? The implicit attitude that money is safe above all alters the realities of risk and reward and offers an artificial environment of investment for weaker and riskier banks to manoeuvre in. Therefore, in offering my support of greater consumer protection and acknowledging the need to concentrate on enhancing the consumer's role, I urge the Council to pursue policies of prevention. There is an undeniable role for the Government to play in enhancing the delicate balances of the banking industry. A role of responsibility, of being a watchdog, an advocate, a referee, and a better official but not a player in the industry. Let the players play without insuring their failures, but instead insuring their success by taking an active role in accountability, fairness and sound management of their practices.

Mr Deputy President, whilst I support the spirit of the motion in protecting consumer's rights, I urge the Government to evaluate the effectiveness of the deposit protection scheme under consideration, the limited extent of protection, if any, to the consumers, its ability of achieving the objectives which the scheme has been set out to achieve and the implications it has on the well being of the economy of Hong Kong.

MR MARVIN CHEUNG: Mr Deputy President, the basic arguments for a deposit protection scheme (DPS) are that it would help to instil calm in the face of unfounded rumours, pre-empt unwarranted runs on otherwise healthy banks, and alleviate hardship to depositors in the event of bank failure. On the other hand, a DPS cannot prevent bank failures nor shore up a defective banking system, nor guarantee full repayment of the amounts covered.

Experience in the United States shows that notwithstanding any disclaimer by the

Government, it is ultimately the Government which has to underwrite the solvency of a DPS, particularly if it is a scheme imposed by the Government through legislation.

If a DPS was applied to balances up to a maximum amount for each customer, there would be considerable practical difficulty in ensuring that balances on all accounts for the same customer are aggregated for this purpose. Also, the scheme could be circumvented by depositors transferring their deposits offshore to earn a higher rate of interest, as was the case when interest tax was levied on interest earned on local deposits.

Then there is the question of equity -- is it fair that depositors in larger healthier and better managed banks should subsidize those in smaller or more risky banks? Accordingly, whatever the merits of a DPS, the possibility of exposing our reserves to massive claims, together with the immense and apparently insurmountable problems in its operation, have led me to the inevitable conclusion that a DPS is not appropriate. Instead, I urge the Government to concentrate its efforts on improving the operation of the present system of banking supervision.

Further, I would suggest that the Government gives serious consideration to a preferential repayment scheme (PRS) for small depositors. Whilst the PRS could take many forms, I recommend the following proposal as a basis for discussion. A PRS would apply to a special class of savings accounts. These accounts would be regarded as preferential creditors if the bank failed. They would earn a lower rate of interest than ordinary savings accounts. PRS would be applicable only to persons holding Hong Kong ID Cards. Each person would be allowed to operate only one such account with each bank. There would be a maximum amount of, say, \$100,000 to be held in such accounts by each depositor. Banks could be required to keep the funds deposited in these special accounts in certain specified forms. Certain additional liquidity rules would also apply. The aggregate balance of these special accounts, together with other relevant details, would be disclosed in the audited accounts of banks.

To implement a PRS it would be necessary to amend insolvency legislation to include these special savings accounts as preferential creditors and to enable liquidators to make early interim distributions on these accounts with immunity. A PRS has several advantages over a DPS. First, it is voluntary and offers the choice to the depositor between security and yield. Second, it offers the best chance of a depositor, under the scheme, to be repaid in full. Third, the scheme is equally fair to all banks and customers. And finally, it caters for the most vulnerable and

needy depositors.

In conclusion, I urge the Government to proceed with the utmost caution. No matter what the outcome of this debate might be, the single most important point is that the requirements for the licensing of new banks must not be relaxed if we are to maintain, let alone increase, public confidence in our banking system.

I understand that a number of Members who share the same misgivings about the practicalities of a DPS have indicated that they will support the motion as the wording does not ask the Government to actually introduce a DPS but simply to seriously consider it. If we believe that a DPS is not a viable solution, we should not ask the Government to waste time and resources to go down a blind alley. If we do not in fact support the introduction of a DPS, we shall run the risk of sending the wrong message to the public by passing this resolution.

I therefore urge Members to vote against the motion if they believe that a DPS is not workable.

Mr Deputy President, for the reasons given, I do not support the motion. Instead, I commend the preferential repayment scheme to the Government for serious consideration.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, a very world-famous banker once said that banking was the most easily run business. Once the firecrackers were let off to mark the opening of a bank, peoples' savings came pouring in. But this is no longer the case now. Firecrackers are banned in Hong Kong and the number of banks (including branch offices) is more than that of grocery stores or supermarkets.

The local banking crises in recent times can be traced back to the early 1960s. At that time, when people queued up to withdraw their deposits, each person could only withdraw \$100. For your information, 1 was then fixed at the rate of \$16. In fact, if my memory does not fail me, over the past 30 years, there were only three banks, namely the Ming Tak Bank, the Canton Trust & Commercial Bank Limited and the recent Bank of Credit and Commerce Hong Kong Limited that went into liquidation. According to liquidation records, depositors of the Ming Tak Bank were able to get back 100% of their deposits; depositors of the Canton Trust & Commercial Bank Limited about 75%; and the depositors of the present BCCHK approximately 75%. Of course,

there were cases in which the Government came to the rescue of the banks by drawing upon the Exchange Fund, such as the Hang Lung Bank Limited, the Overseas Trust Bank Limited, the Ka Wah Bank Limited and the Union Bank of Hong Kong Limited. However, I have serious doubt about the ability of the then Commissioners of Banking. Their handling of the matter not only dealt a heavy blow on the banks with local Chinese interests at that time, but also tarnished our reputation in other local financial aspects. These are hard facts.

Mr Deputy President, our banking industry is at the forefront of the financial sector. It relies heavily on confidence, goodwill and service. But the level of service is of various standards among the banks and it is up to individual banks to win depositors' confidence and build up their goodwill. Should people have no confidence in banks, then even the Hongkong and Shanghai Banking Corporation would not be immune to bank run and even liquidation. Therefore, the most important point is how the Government helps build up confidence of depositors and the wider public. Banks are not charitable organizations. They have to make a profit from the difference of interest rates. I am sure that Hong Kong people have confidence in our local banking system. This is why we have not set up such a deposit protection scheme. With this in mind, I wonder if the system we adopted in the past was of no use. In other words, do people have doubts on the existing monitoring system of our banking industry? I personally think that "it is not." I, therefore, hope that apart from the existing system, the Government should pay special attention to two points:

(1) In the event that some banks encounter liquidity problems, the Government should express its intention to support them by means of the Exchange Fund so as to help them tide over temporary difficulties; and

(2) If any bank is found to have unrecorded liabilities or to be engaged in illegal practices, the Government should initiate criminal proceedings against it and the case should be referred to the Commercial Crime Bureau for investigation. It is hoped that this will stop the culprits from making use of the Banking Ordinance to achieve their aims. The Government should do something about it.

Mr Deputy President, I personally think that the existing monitoring system of the banking industry in Hong Kong is one of the best in the world. It will get us nowhere if the system that has served us so well is to be replaced by a deposit protection scheme.

For the above mentioned reasons, Mr Deputy President, I think that the motion is absolutely not workable under existing circumstances, though I appreciate and support the spirit of the motion. I would like to take this opportunity to remind the Monetary Affairs Branch to pay attention to several past incidents which deserve further review. From the review, the Branch should find out ways to bring about an improvement and make the banks more accountable to the public. Although it is only five years away from 1997, it is by no means the end of the world beyond that year. It will usher in another political system. Therefore, a good example should be set right now.

Mr Deputy President, with these remarks, I have reservations about the motion.

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, Prof the Honourable Edward CHEN moves the motion today to "urge the Administration to consider seriously the introduction of a deposit protection scheme" so as to minimize "the wider implication in the event of bank failures" in Hong Kong. Both the Hong Kong Association for Democracy and People's Livelihood and I support it. I would like to present the following three points to explain why the Association and I support the establishment of a DPS.

First, the Government should take an active role in committing itself to some of the social incidents which may cause negative effects on people's livelihood:

Following the Hang Lung Bank Limited incident in 1983 and the Overseas Trust Bank Limited incident in 1985, there was the recurrence of incidents involving the Ka Wah Bank Limited, the Hong Nin Bank Limited and the Union Bank of Hong Kong Limited in 1986. Five years later, again we saw the failure of BCCHK. The victims were invariably the depositors. In view of the above-mentioned situation, a DPS together with an effective monitoring system can consolidate Hong Kong's role as a financial centre, reduce the chances of possible knock-on effect brought about by bank runs and promote the development of other commercial activities indirectly. Since not only the depositors and the banks, but also the economy at large will benefit from a DPS, we simply cannot ignore its social advantages. For these reasons, the Administration should make use of public money to bear part of the relevant costs.

Moreover, depositors are often short-sighted and tend to be self-interested.



Therefore, it is unreasonable to ask the depositors to take up the responsibility of establishing a DPS which will stabilize the local economy at large. If the Administration is willing to share part of the premium, the premium paid by depositors can thus be lowered to a reasonable level. Furthermore, the DPS should be managed by an independent body set up particularly for this purpose. Such an arrangement can help the Government to strengthen the efficiency of the monitoring system of banking. If the scheme is a success, the actual expenses to be met by the Government will be insignificant on the whole. In view of the present favourable financial position evidenced by a high surplus, it is worthwhile to invest a little in exchange for social and economic stability.

Secondly, depositors have the right to enjoy full protection:

To enhance the effectiveness of the DPS and to assure the general public, the scheme should provide 100% protection to small depositors whose aggregated balances in various deposit accounts are below \$100,000. If it is, say, a 75% protection, once there are rumours that a certain bank is in trouble, a bank run will still come about because people do not wish to lose the uncovered 25% deposits. Furthermore, foreign currency deposits and deposits with banks with foreign interests should also be covered under the protection scheme. By doing so, bank runs as a result of the knock-on effect will not occur.

As for banks engaged in riskier business, it is inappropriate for the Government to levy a higher premium on their depositors. Otherwise, it may lead to a mass quitting of deposits. Instead, the Government should demand the banks concerned in private to pay a special premium or even restrict them from paying dividends until the situation is deemed to have improved. This will help small banks sustain their competitiveness and refrain from making high risk investment with no regard to their depositors' interest.

Lastly, consumers have the right to know -- banks should make public relevant information:

Basically speaking, depositors are not able to grasp a bank's financial position, earnings, assets and liabilities and the quality of management by merely making reference to its annual reports and public announcements. Regarding the internal reserve system of licensed banks in Hong Kong (apart from the Hongkong Bank and the Hang Seng Bank which have recently disclosed some information in question),

depositors basically do not have enough information to form an idea of the actual situation.

Although the Commissioner of Banking will talk to the management of the banks concerned and ask for improvement if he notices irregularities of certain banks, all the information and the progress are to be kept secret. He is not going to consult the depositors and give them any explanation. This simply denies a consumer's right to know.

Generally speaking, the information, as stipulated under the existing Banking Ordinance, to be made public by banks cannot help the public make a wise choice. In addition, large banks may not necessarily be the safest. Even some of the top-ten banks in the United States did fail. It is understandable that people, who have put their lifetime savings into banks, would become worried and feel short-changed once rumours spread, since the Government has yet to reveal more useful information on banks. Therefore, I would like to urge the Administration to give serious consideration to the feasibility of establishing a deposit protection scheme to forestall any repetition of the previous major and minor mistakes.

Mr Deputy President, with these remarks, I support the motion.

DR HUANG CHEN-YA (in Cantonese): Mr Deputy President, when this Council discussed the BCCHK incident and the monitoring system of the banking system on 6 May, the United Democrats of Hong Kong pointed out the problems of the banking system and that supervision should be strengthened to prevent the BCCHK incident from recurring. At that time, some were of the view that the Hong Kong Government would not go wrong. So they were against more prudent supervision. Today, a few of them finally admit that there are problems in the monitoring system. Their change of mind is probably the result of their reconsideration of the opinions of the United Democrats. However, they still oppose to the setting up of a deposit protection scheme (DPS). They do not wish to prevent bank failures and at the same time they show no apathy towards the depositors' predicament when banks fail. I am really upset upon hearing their opinions. I would like to know whether they have any sense of responsibility. On 6 May, I pointed out that given the internationalization of the banking industry and the complicated monetary instruments, we had to strengthen our monitoring system if the recurrence of the BCCHK incident was to be prevented. I would like to reiterate that the BCCHK incident will recur. For this reason, we should consider ways to deal

with the problem of bank failure. The United Democrats welcome and support Prof Edward CHEN's motion today to urge the Administration to consider seriously the introduction of a DPS.

The BCCHK incident last July started off a series of bank crises. Even large banks such as the Citibank and the Standard Chartered Bank saw queues of depositors lining up to make withdrawals. At that time, the United Democrats already urged the Government to set up as soon as possible a DPS in order to restore people's confidence. I would like to reiterate the support of the United Democrats to the DPS. We think that this scheme is feasible and will have positive effects on the local banking system. We support that the Government should establish a mandatory DPS which aims at protection of small depositors. The coverage should include only Hong Kong dollar accounts and the ceiling of protection be set at \$100,000 per person per bank.

I would like to present our supporting reasons for the scheme. Dr Conrad LAM and Mr James TO will further elaborate on our suggestions and refute views against the introduction of the scheme.

The United Democrats hold that the Government should consider setting up a DPS in view of the following reasons.

1. Protection of small depositors in general;
2. Stabilization of the financial system;
3. Encouraging positive competition among banks.

1. Protection of small depositors in general

One major purpose of establishing a DPS is to protect small depositors in general. Before the BCCHK incident, when banks such as the Overseas Trust Bank Limited, the Ka Wah Bank Limited, ran into financial difficulties, the Government would invariably draw on the Exchange Fund to save the banks. However, following the BCCHK incident, the Government has made it clear that it will consider drawing on the Exchange Fund only when the incident in question may threaten the stability of the Hong Kong dollar exchange rate. In other words, when incidents similar to that of the BCCHK take place, the deposits of the general public are not under protection.

Generally speaking, the lower income group is less better off than the middle and upper income groups in terms of capital resources. It is difficult for the former to make diversified investment to reduce the risks involved. For this reason, their assets are mostly in the form of deposits with banks. In case a bank fails, small depositors from the lower income group will suffer the most. A DPS can give protection to this sector of peoples' savings and minimize the pounding effects on society when a bank fails. Moreover, in theory, all banks operating in Hong Kong are required to obtain licences and are subject to the supervision of the Commissioner of Banking. And the Commissioner would see to it that they operate in a prudent manner and depositors' interests would thus be safeguarded.

2. The scheme can restore depositors' confidence in the banking system and stabilize our financial system

Banks play an important social role by providing a safe means for the public to retain the value of their assets and at the same time transferring such capital to production investment so that capital can be put to good use in the promotion of economic development. But whether banks can perform this function effectively or not depends very much on the public's confidence in the banking system. The BCCHK incident makes people realize that not every bank operating in Hong Kong is sound and the Government may not necessarily make commitments to their deposits. This has significantly shaken the public's confidence in local banking system. Besides, most of the depositors do not have the necessary professional knowledge to enable them to assess the financial position of the banks. I have mentioned in the last debate that the local banking system lacks transparency. A great amount of important information on internal banking operation has never come to light. Depositors have limited knowledge of banks. How can we expect the public to restore their confidence in the banking system under such circumstances? Besides, local banking system is closely related to international financial systems. And the overwhelming majority of our banks are foreign banks which must be subject to closer monitoring as I have pointed out earlier. This explains why banks in Hong Kong are susceptible to external influence to a large extent. The bank runs triggered by the failure of BCCHK are a case in point. In a system under which a slight change in one part may engender wide-ranging repercussions, well-run banks in Hong Kong may collapse as a result of bank runs. One "ridiculous" rumour is capable of wrecking havoc with the banking system. The establishment of a DPS can restore depositors' confidence in the banking system and reduce the incidents of bank runs caused by rumours. It would also consolidate our banking system.

### 3. Encouraging positive competition among banks

Another advantage of a DPS is to encourage positive competition among banks. The establishment of a DPS would protect small depositors in every bank. As a result, it enhances peoples' confidence in small banks. At this stage, the scheme shall be limited to deposits at restricted interest rates. It will prompt banks to compete in areas other than interest rates such as enhancing the quality of service. This will encourage positive competition among banks. Some colleagues have expressed their worry that banks might make unnecessary high risk investments under such circumstances. But it was already pointed out last time that there were many methods that we could adopt to deal with this problem. It is possible for the Administration to prevent unnecessary high risk investment through proper monitoring. If we can promote favourable competition, we can enhance fair competition in the banking sector. As a result, it will benefit the consumers. Mr Deputy President, the United Democrats think that the Government should review and strengthen the monitoring system of banking industry. And for the reasons mentioned above, the United Democrats support the DPS.

With these remarks, I support the motion.

DR CONRAD LAM (in Cantonese): Mr Deputy President, on behalf of the United Democrats of Hong Kong, I would like to put forth the following specific suggestions on the deposit protection scheme (DPS):

First, the United Democrats are of the view that the DPS should be introduced on a compulsory basis through legislation, and not on a voluntary basis. The distribution of deposits in Hong Kong is very uneven; most of them are placed with a few large banks. After the BCCHK incident, there has been substantial outflow of deposits from some small or medium-sized banks, giving rise to a greater difference between the amount of funds deposited with large banks and that with small banks. If a voluntary DPS is adopted, the amount of fund that can be accumulated for protection purpose will be limited if some large banks refuse to join the scheme. And more importantly, quite a number of depositors will thus be left unprotected. Hence the scheme cannot be implemented in a meaningful and effective way to achieve the purpose of stabilizing the banking system.

Second, foreign currency deposits should not be included in the scope of protection since they are mainly investments aimed at making profits. To exclude foreign currency deposits from the DPS will also give depositors the option of choosing a type of deposit which will offer a higher rate of return but which will be more risky. If the DPS only covers Hong Kong dollar deposits subject to the Hong Kong Association of Banks Interest Rate Agreement, banks can no longer attract more depositors by offering a higher interest rate and will therefore reduce their investment in high-risk items.

Third, the consultation paper issued by the Government put forward two options; one offers 100% protection coverage subject to a ceiling of HK\$100,000, while the other offers 75% protection coverage subject to a ceiling of HK\$200,000. It is estimated that deposit accounts below HK\$100,000 constitute 90% of all deposit accounts, and deposit accounts up to HK\$200,000 constitute 95%. Since the purpose of the DPS is to protect small depositors, the United Democrats are of the view that of the two options, the one which provides 100% protection subject to a ceiling of HK\$100,000 will fully embody the spirit of the scheme and give small depositors more confidence. On the other hand, the United Democrats suggest that the Government make it clear that the HK\$100,000 protection coverage will be calculated on the basis of the sum of all the deposits an account-holder maintains with one bank so as to ensure that the DPS can really provide protection for small depositors who have only HK\$100,000 or less.

Mr Deputy President, with these remarks, I support the motion.

MR ERIC LI: Mr Deputy President, in the next five minutes or so, all I can hope to achieve is to briefly explain why I shall abstain from voting.

In essence, I recognize the possible social value of implementing a DPS in Hong Kong. A considerable number of similar schemes have also been well tried elsewhere and therefore I do not doubt its technical viabilities. My reservations rest solely on economic grounds. I believe that the costs of a DPS far outweigh the possible social benefits in the light of the propensity of Hong Kong depositors to self-protection, the existing comprehensive supervisory regime and the already robust economic and banking environment in which Hong Kong operates.

Hong Kong is one of the world's most sophisticated financial centres. However,

it still behaves like a small village in many other ways. Communication in Hong Kong is swift and rumours spread like wild fires. Having been exposed to all the full forces of free market economy for a long time, the people of Hong Kong do not have a dependency culture. Our strong instinct is to play safe and protect oneself. Even if a DPS is in place, I believe that the depositors will still choose to run on a bank at the first sign of a rife rumour. I cannot imagine many of them will lie back and rely on a protection scheme with a shallow pocket which affords only limited protection. In reality, the whole concept of a limited DPS can only offer little more than a false sense of security in times of peace.

On the other hand, the financial costs of a DPS are real. An interest rate margin of a quarter percent is often good enough to persuade depositors to bank with small overseas banks in preference to the safe haven of a large local bank. It may even be an idea to put the same formula to test by giving depositors a voluntary choice to either bank under the protection of a DPS or to remain outside. If a depositor opts to join the DPS, a 0.35% premium will be deducted from his gross interest. By the way, the scheme must still be made mandatory on all the banks. In that case, at least a personal cost to the depositor will be made apparent and that nobody will be forced to subsidize another person. Despite the choice given to the depositors the modified DPS will still enhance the competitive efficiency of the banking system.

Critics of this imaginative scheme will be quick to point out that those who are not protected will still start a bank run and therefore jeopardize the whole scheme. But in actual practice, can anyone be confident that a depositor protected by a form of the suggested DPS will not start the run? When rumour begins, I am convinced that a depositor will consider all his personal options. He will think that if he goes in before anyone else to withdraw his money, he will get back all his life savings from the bank. If he waits, the Government has already stated that it will not rescue the bank if it is insolvent. The Government will not underwrite the DPS either, and until the officials have taken time to go through the complicated accounts books and to calculate the aggregate individual deposits and after setting off liabilities for all depositors, no one can say for certain for a while the exact amount of compensation required and hence whether or not the funds in the DPS are adequate. Assuming everything goes well after a period of anxiety, it will still take some time before compensation is made. Short of a timely unconditional guarantee, the personal choice is clear -- depositors will soon flock to join the queue. The DPS will only protect those who are not fast on their feet. It cannot possibly avert a bank run.

It is evident to me that the BCCHK case is an isolated incident. The case is best dealt with by advising the public to keep matters in perspective. To launch into a full scale DPS amounts to cracking a nut with a sledgehammer. Taking a case of a 100% protection on HKAB deposits with a ceiling of \$100,000, the costs to depositors under the scheme are said to be about HK\$5 billion at the end of the fifth year. The depositors are really paying through their noses for a scheme of doubtful benefits.

The DPS is now under public consultation. The nature of such kind of scheme is akin to taking out insurance; there is no absolute right or wrong answer. The value for money of a DPS scheme depends equally on costs as well as individual risk preferences. The motion tabled urges the Administration to consider seriously the introduction of a DPS. I cannot vote against "serious consideration" to be given at a time when public comments are being sought. In the event that the public chooses to adopt an ultra-conservative approach and demands a DPS, it is their right and I do not wish to stand in their way.

Mr Deputy President, I would therefore record my clear reservations by abstaining to vote on the motion.

MR FRED LI (in Cantonese): Mr Deputy President, nowadays, Hong Kong is the third largest financial centre in the world. In the past 10 years, many banks failed despite a healthy banking system. The Government took over the Hang Lung Bank and the Overseas Trust Bank in 1983 and 1985 respectively. There were the Ka Wa incident, the Hong Nin incident, and the Union Bank incident in 1986. It should now be evident to us that the BCCHK incident had some side effects, causing runs on the Citibank and the Standard Chartered Bank. This reflects that there are problems with our financial system.

The Kwun Tong District Board on which I sit did give the deposit protection scheme (DPS) a thorough study. Half of the board supported it and half were against it. The opinion expressed were very similar to those made by Members today. My own standpoint and that of Meeting Point is that we support the DPS in principle. The reasons are three:

First, protecting small depositors' interests. Placing deposits with banks is one form of investment. But small depositors' ability to bear the risk of investment



is weakened because they cannot gather sufficient market information. Therefore, it is necessary to provide them with some protection.

Second, stabilizing the financial system. When a bank experiences short-term financial difficulty or a bank run, it may not mean that the bank is facing an irremediable crisis. Sometimes, there may be rumours in the market which lead to a cash-strapped situation for an affected bank. The establishment of a DPS will, to a certain extent, reduce the incidence of banks runs which will achieve the aim of stabilizing the banking and financial systems indirectly.

Third, providing a chance for small banks to survive. There were 165 licensed banks in Hong Kong as at August 1991. The three largest banks take up one half of the total deposits. The ratio of market concentration is very high. Once an incident similar to that of BCCHK occurs, it will surely deal an even greater blow at small banks. To the depositors, a DPS provides a certain degree of protection. It also provides a chance for small banks to survive and minimizes the monopoly of the market.

As for concrete arrangements for the DPS, we have the following suggestions to make:

First, it must be mandatory;

Second, the Administration must make a commitment and play the role of lender of the last resort. The so-called "lender of the last resort" means that when the DPS fund is insufficient to meet the claims that may be made upon it when a certain bank fails, the Government should provide under the terms of the scheme funds to make up for the balance. Such balance is to be recovered by the Government from the regular premium collected in future. In other words, the Government may be required to pay part of the fund in advance and be reimbursed later. As for other technical details such as premium, scope of protection and so on, these can be explored and worked out later.

The banking structure of Hong Kong is unique. Take for an example, there are foreign banks and foreign currency deposits which take up over half of the total deposits in Hong Kong. For various reasons, we suggest that in the beginning, Hong Kong is to implement a DPS which covers only Hong Kong dollar deposits with banks under the Hong Kong Association of Banks. Extension to cover foreign currency deposits can be considered at a later stage.

As a conclusion, there are three ways to establish public confidence in the financial system:

First, to establish a DPS;

Second, the Government to strengthen and continuously improve its supervision power over banks;

Third, to enhance the transparency of banks so that the public may have a better understanding of the banks' operation and their state business. There is a saying that "maintaining an army for a thousand days". At a time of peace and plenty, the presence or absence of a DPS is not of significance. However, once a crisis occurs, a DPS will click into action and immediately fulfill the function it is designed for;

Lastly, I earnestly hope that the Government will take the present consultation exercise in a serious and workmanlike fashion rather than holding it up as a shield as a result of the BCCHK incident.

Mr Deputy President, with these remarks, I support Prof the Honourable Edward CHEN's motion.

MR HENRY TANG (in Cantonese): Mr Deputy President, on the question of whether a DPS is to be set up or not, people have been making comments since the publication of the consultation paper by the Government early this year. The response has been enthusiastic. As regards today's motion, my colleagues of the Co-operative Resources Centre (CRC) have agreed in majority to support it and that is that the Administration should consider seriously the feasibility of setting up the scheme. A scheme which looks complicated but will affect the local banking system as a whole should deserve thorough study and analysis before a momentous decision as to whether to adopt it is arrived at.

My colleagues of the CRC who spoke before me have just presented their views from a variety of perspectives. I shall concentrate on the experience learnt from the United States deposit insurance scheme and share some information with Members.

The United States was the first among countries to introduce a deposit insurance scheme. In the 1930s, the United States economy was in a depression, leading to 5

000 bank failures between 1930 and 1932. The loss calculated at the market value of 1990 was over \$6 billion. In the one year that followed, that is, 1933, another 4 000 banks went bust. Thereupon, the entire banking system collapsed completely.

In order to re-establish public confidence in the banking system, the United States formally introduced the deposit insurance scheme at the end of 1933. The present Federal Deposit Insurance Corporation was set up. Under the Federal Deposit Insurance Scheme, all banks and deposit-taking companies had to pay a premium and join the deposit insurance scheme with no exception. Meanwhile, the interest rates of banks were governed by the Federation Regulation Q from 1933 to 1980. In other words, banks had only limited interest returns against high operating costs and a dwindled scope of investment activities. Much of the available funds were being siphoned off to other financial activities or even drained out of the United States. In 1980, the Federal Government finally yielded to the pressure from the market and abolished the uniform interest rate. The original intention in making this move was to let the market develop in a flexible manner.

In fact, since the introduction of the deposit insurance scheme, instances of bank failure in the United States decreased significantly, from 4 000 in 1933 to a total of only 568 within the 45-year period from 1934 to 1980. The results achieved were very obvious.

However, it is a pity that when the uniform interest rate was abolished in 1980, the supervision system began to slacken and this further encouraged banks to attract depositors by means of high interest rates. The profits gained were then used as capital for high-risk investments such as making loans to countries in the Third World and investments in high-risk real estate. It followed that instances of bad debts increased sharply. As a result, the fund of the Federal Deposit Insurance Corporation proved insufficient. Take the period from 1988 to 1990 as an example; there were 600 bank failures in the United States which nearly depleted the accumulated fund. Last year, 130 banks went bust, causing the gross borrowings by the Federal Deposit Insurance Corporation to rise to US\$30 billion. It is predicted that there will be more than 200 banks going bust in the United States this year, resulting in a loss of US\$86 billion to \$100 billion in assets.

Of course, there are abuses and malpractices within the United States banking industry which are not entirely due to the deposit system. However, once our bank supervision system is relaxed, it will certainly have a serious impact on the local banking system. I hope that the Government will carefully take reference from the

loopholes found in the United States scheme before considering setting up a DPS in Hong Kong in order to avoid repeating the same mistakes in Hong Kong which would be detrimental to our already well-developed banking system.

Mr Deputy President, with these remarks, I support the motion.

MR JAMES TO (in Cantonese): Mr Deputy President, on behalf of the United Democrats, I would like to rebut the arguments put forward by some colleagues who spoke before me and also by some members of the public against a deposit protection scheme (DPS). One of the arguments against a DPS is that it cannot prevent bank failures nor bank runs. Indeed, this is pointed out as a fact clearly in the consultation paper. I would like to ask one question. Does it mean that if a car owner knows that taking out insurance cannot prevent his car from being stolen, he will not have his car insured for the sake of safety? Or is it that since the Commissioner of Banking may not be able to prevent bank crises he should therefore be dispensed with? It is also clearly pointed out in the consultation paper that there are limitations to a DPS but it is hoped that the scheme will enhance the stability of the banking system so as to protect small depositors' interests. In fact, it is mentioned in the consultation paper that the premium may be passed on to the depositors. Basically, it could be said that the depositors would be insuring their first \$100,000 in deposits or under against loss under the scheme. Therefore, the fairest approach would be to consult the depositors and assess the will of the public. Of course, it would obviously be unfair to banks which have been all along enjoying special treatment and privileges from the Government such that even the public believes that in case of trouble the Government would be obliged to commit itself to providing final protection for them. Thus the DPS would virtually weaken the relatively advantageous position of these banks. In other words, the DPS would mitigate the hitherto unfair competition conditions.

Objectors raise another point, the so-called "moral hazard". In simple term, depositors would choose banks offering high interest rates under a DPS in disregard of the potential risk of failure. Or on the contrary, banks would attract depositors by means of high interest and carry out high risk investment activities. Moral hazard could actually be two-sided: the depositors and the banks. Would depositors choose a high interest rate bank in view of a DPS? The United Democrats propose that the first HK\$100,000 or under in deposits subject to the Hong Kong Association of Banks Interest Rate Agreement should enjoy full protection.

First, since the scheme would not be extending to cover deposit-taking companies, and since under the current HKAB Interest Rate Agreement, banks are free to set their own interest rate for large amount of deposits only and for deposits below \$500,000, banks can only base on the Interest Rate Agreement to offer interest to attract deposits, therefore, the question of encouraging small depositors to make speculative deposits with high interest rate banks would not arise;

Second, with a DPS in place, banks would be able to avoid being involved in a crisis when depositors of small banks transfer their money to large banks out of a whim. But these large banks may not necessarily be more secure. A DPS can therefore minimize unnecessary loss that a healthy bank may suffer;

Third, since the DPS would cover only licensed banks, they would be subject to the Interest Rate Agreement, rendering them unable to set a higher interest rate to attract depositors. Therefore, their capital cost would not increase;

Fourth, banks are subject to liquidity ratio restrictions. It is provided under the relevant law of Hong Kong that the ratio be set at 25% or below. Therefore, banks may only operate within a limited risk margin;

Fifth, since large depositors would be covered to the extent of only \$100,000, they would tend to be more cautious. It is a general belief and observation that large depositors have access to more information and are capable of monitoring the activities of banks in the capacity of investors.

Whether or not a bank will take risk depends on its own operating methods, not on the presence, or absence, of a DPS. Some may think that under a DPS, large banks would have to subsidize small ones. As I have just mentioned, the scheme would only weaken the relatively advantageous position of larger banks. To the larger banks, this would be the so-called "subsidy". In reality, large banks are equally liable to failure. It is a question of how the odds are stacked. However, if large banks should take it as an excuse, would they be implying that they would certainly have the final commitment of support from the Government, thereby substantiating the statement that they are more stable than others? When large banks are affected by a series of incidents like the recent O & Y incident, when they have to face a volatile situation in the run-up to and after 1997, or when the rise of nationalistic sentiments cause instabilities, how can one be sure that large banks will not become unsound?

Apart from this, it is said that with a DPS in place, the healthy banks would be protecting some unhealthy ones. I find this ridiculous.

First, in principle, every licensed bank is under the supervision of the Government and is healthy.

Second, a bank which is sound at present in Hong Kong may suffer damage to its good repute due to problems which occur in its foreign parent company or overseas subsidiary company in the future or due to the activities of some large depositors. We have to bear in mind that under our ever-changing environment, a presently healthy bank may be taken to be unhealthy when affected by events or situations beyond its control which would make people cherish doubts as to its repute. Of course, whether or not a bank operates soundly depends on the adequacy of the Governments' supervision. Therefore, a DPS will not become an excuse for the Government to shirk responsibility and cop out.

Lastly, I would like to point out that the United States deposit insurance scheme has been implemented for nearly 60 years up to now. There are many banking problems recently. However, the reasons involved are very complicated and should not be totally attributed to the deposit insurance scheme. As I know it, the United States Government does not adopt a very strict policy on issuing licences to local banks whereas banks can set their own interest rates to attract depositors. In view of the increase in capital cost, there are abundant factors relating both to the depositors and the deposit-taking companies which may lead to crises. Their situation is completely different to that of Hong Kong. The experience of the United States in this respect can however serve as an example to us. Many Members may point out the so-called "amendment to the law on liquidation" or the "preferential repayment scheme" (as mentioned by Mr Marvin CHEUNG) and ask whether or not they are incompatible with a DPS? The United Democrats think that some of the suggestions put forward by Members, such as the improvement of the regulatory system, the establishment of a DPS, the amendment to the law on liquidation and the preferential repayment scheme can actually be implemented at the same time so as to enhance the stability of our financial system and to provide protection to depositors. The Government should therefore consider carefully the DPS on the one hand and consider further measures to stabilize the banking system and to protect the depositors on the other.

With these remarks, I support the motion.

DR PHILIP WONG (in Cantonese): Mr Deputy President, on the question of a deposit protection scheme, my constituency, the Chinese General Chamber of Commerce, has set up two ad hoc groups to consult the trade and industry sector and the banking sector respectively. Of all the respondents, only a few are in favour of the scheme; the majority opine unequivocally that such a scheme will be difficult to implement.

(1) Though sound in concept and in spirit as well as conducive to boosting small depositors' confidence in the banking system, a deposit protection scheme in its proposed form can offer only very limited protection for small depositors and the cost to depositors will be as much as one-tenth of the interest they earn -- twice the level of fire insurance premium, not to mention the additional huge administrative costs. Yet, in return for all these, depositors will receive minimal benefits which will cover only those with less than \$100,000 in their deposit accounts. If the scope of coverage is to be extended, there will be a corresponding increase in costs, but in the final analysis, this will still be not enough to prevent bank failures or bank runs or quitting of large depositors. Such a high-cost, low-return scheme is not worth implementing.

(2) Up to the present moment, there is no evidence to suggest that those countries with a deposit protection scheme have a sounder banking system than those without one. As a matter of fact, the soundness of any banking system depends mainly on sound regulation, a rigorous supervisory regime and effective supervisory measures, which of course would have to be constantly updated and improved. As far as Hong Kong is concerned, our banking system is basically sound. I do not believe any protection scheme will be able to shield from trouble the existing 160-plus banks here should they run into problems; in fact banks which might run into trouble and without any back-up support to count on are few and far between. Is it worthwhile to employ a huge protection fund to safeguard a few banks? The banking crises Hong Kong weathered in the past were not due to anything wrong in our banking system, but rather due to frauds or mismanagement of individual banks. The Bank of Credit and Commerce incident last year was only an isolated case, which was brought about by some unpredictable external factors and had nothing to do with Hong Kong's banking system. Experience shows that prudently managed banks have always been able to tide over difficult times and recover speedily after experiencing bank runs sparked off by groundless rumours without having to rely on the support of a deposit protection scheme. Besides, if such a scheme was in place, some depositors might develop the

wrong mentality that all risks had been insured against; or they might have to disperse their deposits in diverse accounts and incur an unnecessary burden, which might in turn lead to an unstable deposit market. Such a pointless and unproductive scheme is not worth implementing.

(3) During the latter part of the transition period, in order to safeguard Hong Kong's status as a financial centre and to maintain our social stability and prosperity, the Government should devote more effort and take more effective measures to strengthen the monitoring and licensing of banks, so that frauds and mismanagement problems can be brought to light and dealt with in a timely manner. This will ensure the soundness of our banking system and eliminate the root cause of bank crises, thus providing essential safeguard in the interest of the depositors.

Mr Deputy President, with these remarks, I oppose the motion.

MR HOWARD YOUNG (in Cantonese): Mr Deputy President, the protection scheme we are talking about today is nothing new indeed. As mentioned by many Members just now, similar schemes already exist in foreign countries such as the United States and countries in Europe. Actually some of the trades in Hong Kong once adopted or are adopting certain type of protection scheme. The scale and nature of these schemes are of course different. I must, however, clarify the two misunderstandings:

First of all, the protection scheme is not a panacea for the prevention of bank runs and bank failures.

Secondly, we should not regard the scheme as something which will help small institutions and banks compete with large banks, thus producing the effect of "robbing the rich to pay the poor." It will not be economical to do so.

One of the protection schemes I would like to mention exists in the tourism industry. Members of the industry, not the Government, contribute towards the scheme. In other words, the consumers themselves pay the cost of protection. The scheme is effective to a certain extent, but it is not because of the presence of such scheme that less travel agencies closed down. The crux of the question lies in the system of monitoring their operation. Travel agencies, just like banks, have to meet the requirements in registered capital, scale of operation and professional standard, and so on. I therefore think that one should recognize that the present banking



monitoring system in Hong Kong is sound. One should not be so exaggerating as to say that serious problems have occurred. The Administration may not be able to achieve the purpose of protecting the lower class if it thinks that in order to protect small consumers and small banks, the first move is to attack the large banks. According to my understanding, deposits of the lower class are mainly placed with large banks, not small banks.

Mr Deputy President, I think the introduction of a deposit protection scheme (DPS) is just making perfection still more perfect. The Administration must seriously consider the costs involved. If the DPS is feasible, protection to foreign currency deposits should not be covered, as mentioned by several Members just now. At the same time, consideration should also be given to whether there should be different interest rates for the choice of the consumers. Those who would like to have protection should accept a lower interest rate. Over-interference in the market from the Administration is undesirable.

Mr Deputy President, I think we should support the spirit of the motion because it merely requests the Administration to consider seriously the introduction of a DPS. I urge the Administration to "look before it leaps" and to take into consideration the costs and the effectiveness of this scheme.

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, I am most grateful to those Members who have spoken. This has, I believe, been a thoughtful, interesting and useful debate.

We are making careful note of what Members have said and will take their views into account when we come to consider how we should proceed when the consultation period closes at the end of this month.

I shall refrain from commenting on specific points which Members have made, as to do so might pre-empt our proper evaluation of all the submissions which we receive during the period of consultation. Nevertheless, I feel I should set the record straight on two important points.

First, I must again stress that the Government has not yet decided whether or not a deposit protection scheme should be introduced in Hong Kong. As the consultation paper we have issued identifies, and has been reflected in the views

expressed by Members, the subject is a complex one to which there are no easy answers. Deposit protection schemes have their disadvantages and limitations as well as their advantages. There is a need, therefore, to weigh these carefully, taking into account the particular characteristics of Hong Kong, before we can decide whether such a scheme would be appropriate for us.

This is what we will be doing once the consultation period is over, taking careful account of all the submissions we have received. If there are those who have yet to put in a submission but wish to do so, I would urge them to do so as soon as possible, as they only have until the end of the month. It has been suggested that, despite the wide publicity the consultation paper received, there are many who are still not aware that their comments have been sought. If this is so, this debate may well have heightened awareness of the subject. The Monetary Affairs Branch has available ample copies of the paper in both English and Chinese and will be happy to provide them to any who are interested.

Secondly, I wish to refute any suggestion that the Government embarked on the consultation exercise as a substitute for addressing any shortcomings in our supervisory system. We have a sound and effective regulatory framework fully measuring up to world standards. Our banks are in good health, profitable and well managed. The major reforms we introduced in the mid-1980s have fully proved their worth and have enabled our banking system to emerge unscathed from several subsequent shocks. Let me reiterate that the problems which affected BCCHK arose outside Hong Kong and should not be attributed to deficiencies in our regulatory system. Furthermore, the BCCI group came to Hong Kong before our regulatory system was reformed and before the Commissioner had his present powers in respect of those who can control and run banks.

This said, we cannot of course afford to stand still against a background of evolving markets and we shall continue to keep our supervisory requirements and methods under review. It is in this context that I introduced into this Chamber last month the Banking (Amendment) Bill 1992 which seeks to enhance the role of auditors in the supervisory process. There will, I am sure, be further refinements we will wish to make from time to time, for instance arising out of the deliberations of the Basle Group of international supervisors in the wake of the closure of the BCCI group, but these should not be seen as detracting from the overall robustness of our present supervisory system or the health of our banking system.

Finally, Mr Deputy President, let me touch on the question, to which several Members have alluded, of providing priority to small depositors in the event of the liquidation of a bank. We would expect such an event to be very rare but, nevertheless, we have considered such a proposal worthy of examination and, as identified in the consultation paper, have asked the Standing Committee on Company Law Reform to look at this proposal. Their consideration is proceeding in parallel with our consultation on the question of a deposit protection scheme and we hope to receive their initial views shortly.

Mr Deputy President, the motion before the Council urges the Administration to consider seriously the introduction of a deposit protection scheme. We are indeed considering the matter very seriously but, lest it be thought that the Administration has already made up its mind on the subject, and I have already made clear that this is not the case, Official Members intend to abstain when the motion is voted upon.

Thank you, Mr Deputy President.

PROF EDWARD CHEN: Mr Deputy President, I am very grateful to my colleagues and to the Administration for their views, and I am very pleased to hear that while some of my colleagues talk about moral hazard and the United States' experience, we have other colleagues who have pointed out that moral hazard is not the real problem. For example, my honourable friend, Mr Henry TANG, has very eloquently explained the history of the United States banking industry. We cannot put the blame on the Deposit Insurance Scheme by setting its past 10 years' experience against its successful experience from 1933 to 1980, not to mention that it has also been a successful scheme in most other countries in the world.

If one looks at the United States during the period 1933-1980, under the scheme, only 0.2% of the depositors did not get their reimbursement in the case of bank failures.

And secondly, I am happy to hear, as many of my colleagues have pointed out, that prudent government supervision is absolutely important for the healthy development of the banking sector and that we are happy with the fact that the Hong Kong Government is maintaining a high standard of banking supervision. I want to emphasize again that DPS is never considered as a substitute for prudent government supervision.

I am also pleased to hear that some of my colleagues understand that big banks can also fail. Of course a DPS system is not a hundred percent foolproof -- nothing is a hundred percent foolproof -- but being with a DPS system is better than being without one.

Let me just very quickly respond to some of the points raised by my honourable colleagues. In my view, there are some misconceived assumptions taken by my colleagues. The first is the misconceived assumption of competition. Some of my colleagues think that the present markets in Hong Kong, including the banking sector, are all under perfectly competitive market situations and any intervention will disrupt the free market functioning. This is completely wrong. I would like to ask my honourable friends to just imagine the banking sector at present: with a cartel system in determining a fixed rate of interest, there is no room for price competition in the market; with well above 50% of the deposit base taken up by the "big two" and with 80% of the mortgage loans taken up by the "big four" can we say this is a competitive market?

Under the existing Exchange Fund Ordinance, only big banks would get the benefit of being rescued by the Exchange Fund because it will infringe the stability of the Hong Kong exchange rate system. Furthermore, there is no central banking liquidity facility to ease the problems of short-term credit for smaller banks, unlike in other countries where there are such facilities. Under such circumstances, we cannot be talking about a perfectly competitive industry in banking. We are not trying to safeguard the interests of the small banks, but we hope that we can have better competitive conditions for the well managed and deserving smaller banks.

The second misconceived assumption of my colleagues is the assumption that when a bank fails its net worth will be zero. If this is the case, then I think all the government officials responsible for banking are either idiots or they have gone on holiday. In no case when a bank fails will the net asset be towards zero. For example, in the case of BCCHK the depositors were told it might be possible for them to get back as much as 70% of what they had put into the bank. So all I am arguing is: when looking at the feasibility of DPS, do not think it is not feasible because one bank may sweep all that have been accumulated in, say, five years -- this is not true. In practice, the actual use of the fund for any DPS is quite limited because the net worth usually is quite high when the bank goes into liquidation and because we trust the Hong Kong Government has a very good system of supervision the standard of which is of world class. Under such circumstances, it gives us an even stronger reason for

us to go for a DPS.

The third misconceived assumption is the principle of insurance. Having an insurance system does not imply that everybody will get the benefit; it is a paradox. You want to insure but you do not want to collect the compensation. In the case of DPS, certainly only a few people in the end will get the benefit, but it is the principle of sharing risk and being collectively responsible for the risk.

The fourth misconceived assumption of my colleagues is that the proposed priority creditor status to be changed in the existing Company Ordinance is an alternative to DPS. I would argue that this is not an alternative; they are not mutually exclusive, they are complementary. I see no reason why the priority creditor status amendment to the existing Ordinance is not able to go together with the proposed DPS. So I would emphasize that they are not substitutes for each other but they are compatible. In fact I am very grateful to my colleagues for making another proposal -- one which would further support the soundness of the DPS system.

Lastly what I would like to say is that protecting the smaller investors or the smaller depositors is different from protecting people investing in the stock market and in the real estate market. Everybody has to use some banking service; it is a daily essential. We have to think of the social benefits that could be generated from a DPS. It gives social stability; it gives financial stability; it gives an overall much more healthy sense of competition in the industry.

To conclude, Mr Deputy President, I am grateful for all the views but at the very last I would say that most of the arguments advanced by those who oppose strongly a DPS are not infallible. In the end we must defer to the consumers who are the depositors. They must have a stronger voice in deciding whether a DPS should be put in place in Hong Kong. Thank you.

At this point Mr Allen LEE declared interest as a director of Hang Seng Bank.

Question on the motion put.

Voice vote taken.

DEPUTY PRESIDENT: Council will proceed to a division. The division bell will ring for three minutes and the division will be held immediately afterwards.

DEPUTY PRESIDENT: Would Members now please proceed to vote?

DEPUTY PRESIDENT: Do Members have any queries before the results are displayed? If not, the results will now be displayed.

Mrs Selina CHOW, Mrs Rita FAN, Mr HUI Yin-fat, Mr PANG Chun-hoi, Mr SZETO Wah, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr Albert CHAN, Prof Edward CHEN, Mr Moses CHENG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr Steven POON, Mr TIK Chi-yuen, Mr James TO, Mr Howard YOUNG and Mr WONG Wai-yin voted for the motion.

Mr David LI, Mr Andrew WONG, Mr Martin BARROW, Mr Jimmy McGREGOR, Mr Peter WONG, Mr Vincent CHENG, Mr Marvin CHEUNG, Mr Timothy HA, Prof Felice LIEH MAK, Dr Samuel WONG and Dr Philip WONG voted against the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mr TAM Yiu-chung, Mrs Elsie TU and Mr Eric LI abstained.

THE DEPUTY PRESIDENT announced that there were 27 votes for the motion and 11 votes against it. He therefore declared that the motion was carried.

#### INDUSTRIAL SAFETY

DR CONRAD LAM moved the following motion:

"That in view of the seriousness of the problem of industrial casualties in the territory in recent years, in particular the frequent industrial accidents in the construction industry, this Council urges the Administration to speed up action to explore possible measures that may help improve "industrial safety" in Hong Kong and

to take vigorous and practical steps as follows -

- (1) to enhance monitoring and step up prosecutions;
- (2) to formulate, as soon as possible, codes of safety practices for various trades and to consider introducing legislation to require various trades, in particular, the construction industry, to set up their own "safety committees";
- (3) to take the lead in promoting industrial safety in the public sector by introducing stricter safety standards for the working environment within the public sector and for Government projects, and to set up "safety committees" in Government project sites; and
- (4) to strengthen educational activities, including promoting industrial safety education among managers and staff of the construction industry and other trades and to introduce the concept of industrial safety to secondary school students."

DR CONRAD LAM (in Cantonese): Mr Deputy President, I move the motion on industrial safety standing in my own name on the Order Paper.

Hong Kong now has a working population of more than 2.8 million, which accounts for more than 60% of its total population. These hard-working people make daily contributions to Hong Kong's prosperity and development. For their contributions, however, the working class is not receiving a reasonable return: Hong Kong's social welfare system is extremely unsatisfactory; the working class has no social security and no retirement protection; and workers' real wages have failed to keep pace with economic growth. The result is that the working class is not enjoying their fair share of the fruit of the community's prosperity. What disturbs us even more than the inadequate return is the ever worsening situation with regard to workplace accidents. An average of 100 000 job-related accidents resulting in injuries or deaths took place in Hong Kong in each of the the past few years. Hong Kong can be called the worst place in Asia as far as such accidents are concerned. In fact, Singapore, which is like Hong Kong in being one of the "four little dragons of Asia", has always had a far lower rate of workplace accidents than Hong Kong. Take the 1989 figures for instance. Singapore's workplace casualties were 4 838 (representing a job-related accident rate of 0.38%), while Hong Kong's were as high as 97 450 (representing a job-related accident rate of 3.54%).

Worsening of industrial accidents

Labour Department statistics show that nearly 100 000 job-related accidents resulting in injuries or deaths took place in Hong Kong in each of the past few years. Annual deaths resulting from workplace accidents exceeded 200. What is more, Hong Kong's industrial accident rate has been in a fast rising trend in recent years. It increased from 46 occurrences per 1 000 workers in 1980 to 59 occurrences per 1 000 workers in 1990. Among all trades, the construction industry has the highest accident rate, at more than 360 occurrences per 1 000 workers. (There were 353 injuries per 1 000 workers in 1990 and 364 injuries per 1 000 workers in 1991 -- a 3% increase on the 1990 figures.) In other words, in the construction industry, one out of every three workers was injured in an accident in the course of work each year.

In fact, if we use the figures for emergency cases treated by government hospitals, we will find that the number of workplace injuries was greater than that reported by the Labour Department. (The Labour Department's figures for workplace casualties are based on the number of workers who had to stop working for more than three days because of injuries sustained in the course of work.) The following are the figures for industrial accident cases treated by emergency wards of government hospitals during the past three years: 106 692 (in 1989), 100 482 (in 1990) and 103 649 (in 1991). Hands, legs and feet accounted for the highest percentage of the injuries. But there were also 11 710 cases of head injuries in 1991. This provides a glimpse of the seriousness of the accidents.

#### Motion's four-point demand

It is precisely for this reason that we cannot help hoping that the authorities and the general public will take a proper look at the problem of industrial safety and try in many ways to effect improvement. Generally speaking, the effective way to make workplaces safe is to adopt measures in a number of areas including legislation, supervision, education and prevention. Regrettably, the Government has over the years failed to do enough in any of these areas. The result is that the situation with regard to workplace casualties has deteriorated steadily. In May last year, this Council passed the Honourable LEONG Che-hung's motion on Occupational Health and Safety, urging the Government to make a comprehensive review of the matter. In July last year, the Government set up an inter-departmental joint co-ordinating committee to study the problems discussed in that motion debate of the Legislative Council. The joint co-ordinating committee has so far merely completed a preliminary report, in which, I regret to say, the Government fails to accept many of the



improvement proposals put forth by Legislative Council Members and labour groups.

More than 100 000 job-related accidents a year, more than 10 000 workers found with different degrees of permanent disability a year, more than 200 deaths due to workplace accidents a year -- these statistics have deeply moved us to feel that we must quickly urge the Government to take practical and effective steps to reduce workplace accidents. Now that work is beginning on one after another of the core projects of the new airport, we are particularly concerned about the state of industrial safety in the construction trade.

The present debate on industrial safety can be called a continuation of the debate on the various problems raised by last year's motion. One hopes that the present debate will more quickly and more effectively urge the Government to take practical steps to remedy the problems of industrial safety in as expeditious a manner as possible. The present motion debate will focus on a four-point request to the Government. I would like to give colleagues some explanations here.

#### Enhancing monitoring and stepping up prosecution

To effectively improve safety in the workplace, the Government should first of all enhance monitoring and step up prosecution. The present establishment of the Labour Department provides for only slightly more than 200 Labour Inspectors. This compares with a total of more than 92 000 factories and more than 4 000 construction sites in Hong Kong. Clearly, the shortage of Labour Inspectors is quite severe. Take 1991 for instance. The total number of inspection visits paid by Labour Inspectors under the Factories and Industrial Undertakings Ordinance that year was a mere 70 000. That averaged less than one visit per factory or construction site. The shortage of resources is thus quite clear. It is known that, because of the shortage of manpower resources, a factory in some cases received only one inspection visit every five or six years. Very regrettably, the Government is now carrying out a policy of retrenchment affecting all departments. Instead of reasonably expanding the establishment of Factory Inspectors, the Government is reportedly going to reduce it. The Government keeps saying that it is concerned about industrial safety. But what practical steps has it ever taken?

In addition to the increase of manpower, penalties for offending employers must be made heavier. This will produce a greater deterrent effect. We must understand that industrial accidents can be effectively reduced only if employers really pay

attention to industrial safety and really take active and practical steps to make workplaces safer.

Also, the Government must review the scope within which the Factories and Industrial Undertakings Ordinance is applicable. It must consider applying the Ordinance to more trades, thus protecting the safety of employees in more trades. At the same time, the provisions with regard to general responsibility or obligation should be made applicable to all trades, so that all employers and employees may be aware of their responsibilities. However, I must stress that, if the manpower for law enforcement is not increased, then expanding the applicability of the Ordinance will only make things worse for those industrial workers whose safety is now already being more seriously threatened.

Formulating codes of safety practices for all trades

The enactment or amendment of a statute is often a very complicated process. Moreover, statutes do not provide for a future eventuality, nor can they be adapted quickly enough to new industrial processes or new threats to safety. Therefore, in addition to the enactment of statutes to ensure safety generally, it is necessary to formulate codes of safety practices. This is a way of laying down safety standards that vary with the trade, the work process or the installation. I think that this endeavour must be carried out expeditiously.

Many of the 26 regulations under the Factories and Industrial Undertakings Ordinance are now out of date. New regulations have not yet been added as they should be. Also, the existing codes of safety practices of the industries do not have the force of law. As a result, workers in many trades are in an exposed state. Therefore, the Government should expeditiously review the Factories and Industrial Undertakings Ordinance and the regulations under it and formulate for all trades codes of safety practices that will have the force of law. Thus, workers in all trades will be effectively protected.

Introducing legislation to require the establishment of safety committees

At present, the Government is merely urging, not making law to require, all trades to set up safety committees composed of representatives of employers and employees. After many years of "urging" by the Government, only slightly more than 200 safety committees have been established in Hong Kong so far. It is thus clear that the time

has come when we must introduce legislation to compel employers to establish safety bodies with worker participation, for the protection of workers' safety.

In fact, Singapore provides an example. The situation there with regard to industrial safety is much more satisfactory than the situation in Hong Kong. Singapore's government has made a law that requires every factory with 50 or more workers to set up a joint management-labour safety committee with power to make inspections and conduct investigations concerning safety matters in the factory.

Therefore, the motion today urges the Government to consider introducing legislation to require the establishment of construction site safety committees and industrial building safety committees with worker participation. Such joint management-labour participation will be a practical way to protect safety in the workplace. I think that at least half of the members of the safety committees required by law should be representatives of employees. The committees should have at least the following functions:

(1) Oversee the implementation of safety policy;

(2) Study accident statistics and trends, identify for employers and managers those conditions and practices that are threats to workers' safety or health, and recommend corrective actions;

(3) Review reports on safety matters;

(4) Consider reports and statistics received from Factory Inspectors and establish and maintain contacts with the Labour Department's Factory Inspectorate;

(5) Assist in the development of operational safety rules and systems;

(6) Monitor the effectiveness of employees' safety training programmes;

(7) Monitor the exchange and dissemination of information concerning industrial safety and health, and find out if these activities at the work place are adequate; and

(8) Sponsor activities for promoting safe operations.

Government should take the lead

Apart from the Government's legislative and supervisory roles, we must not forget that, as Hong Kong's largest employer and as a developer and builder, the Government has an additional responsibility for promoting industrial safety.

All departments of the Government have expressed concern in recent years for industrial safety problems. Regrettably, they have not received ample resources for enforcing the law. The progress in reviewing legislation and stepping up prosecution has been slow. Also, the Government has failed to carry out its responsibility properly as an employer who attaches importance to industrial safety. It has failed to take the lead in implementing safety measures. This is really regrettable.

In fact, the Government has immense resources including more than 100 000 employees. Also, each year, the Government's spending on construction projects accounts for 35% of all construction spending in Hong Kong. If the Government seriously and practically improves the implementation of safety measures within the scope that is under its control, workplace accidents in Hong Kong can be expected to decline sharply.

It is precisely for this reason that in the present motion we urge the public sector to take the lead in a practical manner. Stricter safety standards should be introduced to the working environment within the public sector and for government projects. By way of setting examples, safety committees should be established at government project sites first.

#### Education and training

We suggest that the Government should do something about education and have secondary school students taught the idea of industrial safety.

People generally have the wrong impression that knowledge of industrial safety needs to be taught only to the workers concerned. I think that every student, who will grow up to become an employer, a manager or an employee in one trade or another, should have a general idea about industrial safety. In this way, all the citizens who make up this community will be able to work together under a common idea to build a harmonious and safe working environment. Therefore, I urge the Government to take practical steps to make the concept of industrial safety a part of civic education

in secondary schools and to promote it among secondary school students.

In addition, it is important to educate managers and employees in all trades. I very much agree with some Members who suggested that "pre-employment" and "on-job" training in industrial safety should be improved. Long-term solutions for the problems can be found only if the education and training effort is stepped up.

Mr Deputy President, with these remarks, I move the motion.

Question on the motion proposed.

DEPUTY PRESIDENT: Dr HUANG Chen-ya, I believe you have a commitment and wish to speak next.

DR HUANG CHEN-YA (in Cantonese): Mr Deputy President, every year, more than 90 000 industrial accidents occur in Hong Kong, resulting in casualties that include 200 to 260 deaths. The situation has never improved in the six years from 1986 to now. In 1987, the rate of non-fatal industrial accidents in Hong Kong was 209 per 10 000 persons of the workforce, compared with 38 in Japan, 69 in the United Kingdom, 83 in South Korea and 33 in Singapore. In other words, Hong Kong has a higher industrial accident rate than these countries. This rate is 2.5 times higher than that of South Korea and 6.3 times higher than that of Singapore. It shows how many workers are sacrificed for, and how much happiness lies dead and buried under, Hong Kong's prosperity and progress.

The Government really has no justification for not immediately improving industrial safety in Hong Kong. Dr Conrad LAM has already identified some basic strategies for improving industrial safety. I think that we must increase employers and employees' participation in this undertaking, enhance monitoring and step up prosecutions. I will now talk about these three aspects.

Firstly, to oversee the enforcement of industrial safety legislation requires a considerable amount of resources including human resources. So we must promote industrial safety with strategies that are cost-effective. Employers and employees should be able to share some of the responsibilities for protecting industrial safety. Industrial safety committees should be able to play a certain role in disseminating

information about industrial safety. Also, Hong Kong should consider learning from the United Kingdom's Poisonous Substances Control Act. The idea behind this act is consistent in spirit with the requirement that landlords certify that lifts in their buildings are regularly maintained and conform to safety standards. The act requires employers to provide periodic reports on the state of industrial health at their factories or construction sites. These reports are completed by experts on the basis of inspections. In this way, it is easy for the Government to tell which factories and construction sites have problems that require attention. Employers are then responsible for improving health conditions at the workplace until they conform to the industrial safety standards. Employees, for their part, will know how hazardous their work is and what precautions they should take.

Secondly, the industrial environment is not static but changes all the time. As a new technology is introduced, a new threat to industrial safety and a new accident potential will come in its wake. The industrial use of laser technology and large micro-wave ovens, introduced recently, has brought along new problems. Last year's petroleum spirit incident made people aware of the danger of poisonous chemicals. Among the industrial chemicals used world-wide, between 7 000 and 8 000 are harmful to the human body. New chemicals continue to make their debut. Therefore, methods and targets of supervision, as well as laws and regulations, must be constantly updated. Hence, in order to promote industrial safety, we must increase the human and other resources of the Occupational Health Division and attach importance to its work. At present, the Occupational Health Division consists of only seven doctors, six Occupational Hygienists and seven nurses. This is simply not enough. Moreover, because the Occupational Health Division is under the Labour Department, not only are its resources limited, but its work is not receiving attention. Let me cite one obvious example. Accidents resulting in serious injuries or deaths often occur at construction sites in Hong Kong. But the Labour Department never lets the Occupational Health Division investigate such accidents. As a result, nobody knows why these accidents occurred or how similar accidents can be prevented. No wonder the number of fatal accidents at construction sites cannot be brought down. Mr Deputy President, these accidents cannot be attributed to workers forgetting to wear safety belts, losing their foothold or being hit by falling objects. What unknown causes, then, were responsible for them? Health problems due to drinking, the taking of narcotics and mental stress make people unfit to work at high places. Such problems cause feelings of indifference, which in turn cause accidents. Also, did employers overlook the dangerous factors in the working environment? All these should be investigated. But the authorities never investigate them carefully. I think that,

if we want to reduce industrial accidents, we must attach importance to the professionalism and contribution of the Occupational Health Division. All serious industrial accidents should be investigated by it. All safety committees should be given its opinions and advice. The establishment of the Occupational Health Division should be strengthened; it should be given more resources. In particular, it should be provided with laboratory equipment that will enable it to make chemical and physical analyses. Then, it may find measures for dealing with industrial threats to safety.

Thirdly, legislation alone is not sufficient. The Government must show its determination to protect industrial safety and prosecute offenders. Unless this is done, there will be no protection for the health and safety of our workers, and all industrial safety legislation will be meaningless. For instance, silicosis in pneumoconiosis is caused by changes in the lung tissue due to prolonged inhalation of silica dust. It causes respiratory difficulty and heart failure. Each year, more than 100 people contract this disease for the first time. The main cause of this is inadequate ventilation where caisson work is done at construction sites. While excavating among the rocks, workers inhale an excessive concentration of dust. Many countries have already banned caisson work. The Government in Hong Kong not only continues to allow it but is negligent in monitoring the ventilation system of the caisson. Nobody is prosecuted for excessive concentration of dust in the caisson.

Though there is legislation for the protection of construction workers, the Government turns a blind eye to the offenders. The legislation is not enforced. The cases of pneumoconiosis and silicosis will only increase. The legislation is nothing but scrap paper.

Mr Deputy President, I hope that the Government will accept our "three enhancements" strategy, that is to increase the employers and the employees' participation, enhance monitoring and step up prosecutions, so as to improve industrial safety.

With these remarks, I support the motion.

MR SZETO WAH (in Cantonese): Mr Deputy President, the student today is the worker tomorrow. Students who do summer jobs or part-time jobs have in fact already joined the work force. So industrial safety education in secondary schools is a kind of

pre-employment education, the promotion of which has immediate practical significance.

In secondary schools, in order not to interfere with the curriculum or make it more burdensome, education on industrial safety should be conducted as an extra-curricular activity. If there is no effective leadership or supervision, and nothing is done to help or promote it, then, as an extra-curricular activity, it will tend to be left to itself. Thus, it will exist only in name and be of no real use at all, and it may even be suspended. The Education and Manpower Branch, the Education Department, the Labour Department and the Vocational Training Council should take up the responsibility for leading, supervising, assisting and promoting industrial safety education as an extra-curricular activity of the schools.

How should industrial safety education be promoted in secondary schools? I would like to make the following suggestions for consideration by all:

(1) To compile a "Guide to Industrial Safety Education in Secondary Schools" and distribute copies of it to schools and teachers. This Guide should not only lay down a syllabus for industrial safety education (like the syllabuses for the academic subjects) but also describe the modes, identify the resources and provide the information necessary to enable the education to be conducted as an extra-curricular activity. For instance, it should list the kinds of exhibitions that can be held, the video tapes and pictures that are available for borrowing and the topics that can be debated and discussed.

(2) The Careers Master should be the person in charge of industrial safety education in a school. The teacher must be educated first. The Education Department should sponsor a short course on industrial safety for the Careers Masters, who are to receive knowledge about industrial safety and participate in discussions of ways of promoting industrial safety education as an extra-curricular activity.

(3) All secondary schools should be required to submit returns every school year so as to provide a general idea of how industrial safety education has been conducted in the form of an extra-curricular activity. This is an effective way of exercising supervision.

(4) The Education and Manpower Branch, the Education Department, the Labour Department and the Vocational Training Council should work together in the selection



of visits for schools, in the production of video tapes, slides and pictures for use in industrial safety exhibitions, and in the nomination of persons who are to make speeches in schools. In short, the utmost should be done to provide the schools with resources, information and materials.

(5) The business sector may also play a certain role. They should let students visit suitable workplaces, factories, construction sites and departments. They may sponsor the production of industrial safety materials for supply to schools. They may finance some inter-school activities on industrial safety, such as contests in the designing of posters, essay competitions, and photo and picture exhibitions.

(6) Industrial safety education should become a part of civic education. The Education Department is now publishing a periodical to provide accounts of experiences in civic education. This periodical should simultaneously publicize experiences in industrial safety education in schools.

Mr Deputy President, with these remarks, I support the motion.

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, I recall that on 1 May, the International Labour Day, last year, this Council passed a motion urging the Government to conduct a comprehensive review on occupational health and safety problems and, in particular, to look into three aspects: (1) how to prevent occupational hazards; (2) the question of disability assessment and compensation; and (3) the rehabilitation issue. During the debate, Members made much criticisms and various suggestions on the occupational health and safety problems and expressed the hope that the Government would make some improvement in these aspects. The content of today's motion in fact forms a part of last year's debate.

After the last motion debate, the Government towards the end of last year, published "The Report of the Joint Steering Committee on Occupational Health and Safety." That report, in substance, merely responded one by one to the points raised by the Members during last year's debate. With regard to the Members' suggestions on what improvements should be made, the Report said that they would be referred to the Labour Department for further consideration or that changes were not necessary. In short, the Report was merely an exercise used by the Government for putting off this Council's requests, and, in my opinion, it was sloppy work. Very regrettably, however, for one reason or another, the Report was not discussed fully by the relevant

OMELCO standing panel or within this Council.

Returning to the present motion, I, of course, support any demand for an improvement of industrial safety. However, I am a little disappointed at the vague wording of the motion and at its low expectations. I believe that the Secretary for Education and Manpower will heave a sigh of relief when he learns about the motion's wording. This is because the motion basically applies no big pressure on the Government. For instance, the motion, by way of enunciating principles, calls for intensified supervision, prosecution and education. The Government of course cannot object to these principles. However, if the resources for doing the work are not increased, any promise will be an empty one. The Report already firmly rejected the demand for increasing the number of Factory Inspectors. It said, "In view of the present financial constraints and the fact that many other things have higher priorities, it is not realistic to expect a big increase in manpower." It is clear from this how limited the Government's promises are going to be.

With regard to the action against offending employers, I think that, in addition to the stepping up of prosecutions, consideration may be given to copying the practice of the Consumer Council, that is, to publish the names of companies that have repeatedly breached the law. This will deter intending offenders. In addition, penalties should be made heavier. At present, the fines imposed by the courts on offenders are really too light, sometimes too light to have a deterrent effect. According to government statistics, in 1990 and 1991, the courts passed sentences in more than 2 000 cases. For the majority of these cases, the average sentence was a fine of between \$3,000 and \$4,000, which was only 10% of the maximum fine. The Government, therefore, really has a responsibility to review the penalties imposed on offenders against industrial safety legislation.

In addition, the motion calls for the expeditious formulation of codes of safety practices for all trades. This deserves support. However, I must point out that codes of safety practices do not have any legal effect in Hong Kong. So their binding effect on employers is very limited. If industrial safety in Hong Kong is to be effectively promoted, not only must codes of safety practices be formulated for all trades, but the codes should be given legal effect as well. One way to do so is to emulate the United Kingdom's Approved Code of Practice system. This will then increase the binding effect of the codes of safety practices on employers.

As to the consideration of introducing legislation to require the establishment

of safety committees, "The Report of the Joint Steering Committee on Occupational Health and Safety" already promised that further consideration would be given to require safety committees to be established at the larger enterprises. With regard to this point, I think that the Government should stop dragging its feet and stop using "consideration" as a pretext (for doing nothing). It has already been a long time since the idea of establishing safety committees was first proposed. The Government has had ample time to consider the matter. What is most important and most pressing at this moment is to take action, to begin consultation and to introduce legislation. In fact, the Government knows how important safety committees are for the promotion of industrial safety. On one hand, the Government cannot enact a comprehensive statute for the regulation of occupational safety in all enterprises. On the other hand, nor does it have sufficient human resources for monitoring occupational safety in every enterprise. This is known to all. Hence, if occupational safety within an enterprise is to be effectively promoted and monitored, one must rely throughout on those working in this enterprise. A safety committee with employees' participation provides a channel in which those working in an enterprise can formulate a code of safety practices suited to their special circumstances and monitor its implementation as well the implementation of all other safety measures. At the beginning of this year, in collaboration with the Hong Kong Workers Health Centre, Dr LEONG Che-hung and I conducted a survey among Hong Kong's existing safety committees. Our finding was that all companies with safety committees held a positive attitude towards them. However, employees did not have much opportunities to participate in the existing safety committees. Thus, when introducing legislation to require the establishment of safety committees, the Government must provide for the employees' right to participate.

In fact, making law to require the establishment of safety committees with employees' participation is something that the other industrialized nations have generally been doing and doing with good result. Even Singapore, which has a growth rate similar to Hong Kong, requires that every factory with 50 or more workers must set up a joint labour-management safety committee with power to make inspections and conduct investigations. Hong Kong is really lagging behind in this respect. If the Government really has the resolve to improve the situation with regard to industrial safety, it should expeditiously set up safety committees and enhance employers and employees' participation in matters relating to occupational safety. If employers do pay serious regard to the safety of their employees, they should not object to such a proposal.

Mr Deputy President, though I think that the motion is not comprehensive enough, I still support it.

DEPUTY PRESIDENT: Mr James TO, I understand you have another commitment and wish to speak out of turn.

MR JAMES TO (in Cantonese): Mr Deputy President, my speech will discuss, mainly from the angle of law, some matters concerning violations and penalties. According to statistics in the 1990 Annual Report of the Labour Department, accidents in the construction industry accounted for the highest percentage of all industrial accidents. That percentage is still rising. Statistics show that, from January to December 1990, 25 workers fell to their deaths from high places, accounting for 23% of all fatal industrial accidents, and eight workers were killed by falling objects, accounting for 7.25% of all fatal accidents. These accidents occurred because people were working in high places with inadequate safety measures. Now let us look at how the Labour Department prosecuted offending employers and how the courts passed sentences. In 1991, there were 249 cases involving failure to put fences around, covers on or warning signs about dangerous spots. In the successfully prosecuted cases, the highest penalty imposed was a fine of \$30,000. For all of the 249 cases in 1991, the average fine imposed was only about \$12,000. In 1991, there were 83 cases involving failure to install guard rails around high platforms. While the maximum penalty for such an offence under law is a \$50,000 fine, the courts actually imposed an average \$8,600 fine per case. From the Labour Department's 1991 statistics, the average fine per case for the majority of the cases was between one-fifth and one-third of the maximum fine prescribed by law. I think that, if heavy fines are imposed on employers violating industry safety laws only after their offences have caused serious accidents to workers, then that is too late. Industrial safety is about preventing accidents before they happen. Concerning how penalties may be used to help in bringing down the number of industrial accidents, I have the following specific suggestions to make, and I hope that the authorities will consider them:

Firstly, to raise the maximum fine under law, particularly the fine for offences that are frequent causes of serious accidents, such as offences related to the safety of high platforms.

Secondly, consideration may be given to the prescription of a minimum fine. This will solve the problem of fines that are too minimal. The Government may prescribe minimum fines depending on the seriousness of the offences. If the courts continue to impose light fines after the maximum fine is increased, a deterrent effect cannot be produced by increasing the maximum fine alone. Prescribing a minimum fine will immediately rectify the present situation in which the fines imposed are too light. However, lest the courts tend to impose the minimum fine as the standard fine, consideration should be given to raising the maximum fine at the same time a minimum fine is prescribed. Only doing both of these things at the same time will be effective. If a worker is injured solely because of the employer's negligence, losing a limb or even his life, no matter how much compensation he may then receive, it cannot cover the losses he suffers. We must use laws and penalties to increase the deterrent effect and to reduce the potential hazards of work. Only this is the right approach.

With these remarks, I support the motion moved by Dr Conrad LAM.

MR EDWARD HO: Mr Deputy President, although I support Dr Conrad LAM's motion, I do feel that the recommendations that he put forward tended to be focused upon just the employers and the Government, and, as one who is directly involved in the building industry, I wish to offer my observations on how industrial safety on construction sites can be improved.

Safety on construction sites can only be improved with the co-operation of all parties that have to do with building construction. They would include the Government, the developers, the building professionals, the contractors and the workers.

Firstly, the Government has a major role to play in formulating policies on industrial safety legislation and to carry out enforcement when such legislation has been breached. Secondly, as the largest developers in Hong Kong in terms of public sector projects, the Government and, for that matter, the Housing Authority have also responsibilities as employers by ensuring that there are sufficient provisions in building and engineering contracts for safety requirements.

As major employers, the Government and the Housing Authority can play a leading role in promoting mechanized construction, dry wall construction and other construction methods that would render a construction site to become a better working

environment for workers and thus improving their safety. The Government and the Housing Authority should also disqualify tendering for their projects those who have poor safety records in the past.

Speaking as Chairman of the Building Committee of the Housing Authority, a large number of safety improvement measures have been initiated by the Housing Authority since 1989. These measures include some of the suggestions that I have already made in the previous paragraph, such as tendering opportunities being related to safety performance, incorporating specific safety requirements in contract conditions, mechanized construction methods, and also providing more reasonable contract periods, training of Housing Department staff in monitoring safety requirements, compiling of information on accidents on Housing Authority sites and launching the Housing Authority Safety Awards Campaigns in the last couple of years. All these have resulted in bringing down the accident rate for Housing Authority sites to lower than the average for Hong Kong. There should be no room for complacency, but I hope that this is an indication that, with determined efforts, something can be done and I hope that other government departments and public bodies will likewise step up their procedures on industrial safety.

Developers naturally have an interest in obtaining quality products. The best way to ensure that is to employ contractors with good, safe performance rather than just on the lowest tender rates. A clean and safe site will facilitate quality of workmanship and developers should ensure that professionals and contractors under their employment would incorporate safety requirements in building contracts and would monitor that these requirements are followed.

Architects, engineers and others who have the role to supervise construction should, in the course of their duty, ensure that building sites are generally clean and safe. In particular design professionals should incorporate in their designs innovation in construction methods that will provide safer sites. I have referred to some of these innovations when referring to what the Government as employer can do.

Contractors are primarily responsible for completing projects on time and in accordance with the specified quality standards. They are also responsible for site safety by law and by contract. An important aspect is the contractor's general promotion of awareness in site safety amongst its members, its management staff and employees. Again, I would stress that a well managed site and good housekeeping will

improve immeasurably the contractor's efficiency and ensure a much higher profitability of a successful project. Here I would welcome the suggestion to set up safety committees involving both management and the work force in co-operating fully on safety matters.

Last but not least, there must be a higher level of awareness by the workers themselves on following safety guidelines and wearing safety helmets, safety belts and taking similar safety measures on their own accord. They must realize that it is themselves and their families who will be most affected by the lack of personal care on safety on site. I think that of all the elements we have discussed so far, the part that the worker has to play to ensure this own safety has received the least attention and I call upon the workers' unions to play their part in promoting safety awareness amongst their members.

Although not directly connected with safety, the quality of workmanship of the local construction industry has steadily declined in recent years due perhaps to the vast amount of constructions going on, the lack of manpower and the speed that most contracts have to be performed; but the decline in quality is probably largely influenced by the lack of proper working environment for the work force. The latter not only restricts the production of quality but it also affects the workers' respect for their own work. I have always believed that a worker's pride in his work is the best assurance for quality and a clean and safe site will produce good work and good work will give pride to the worker. This pride in turn will give the worker further incentive to achieve quality and safety.

With these remarks, Mr Deputy President, I support Dr Conrad LAM's motion.

MR RONALD ARCULLI: Mr Deputy President, the motion debate on industrial safety presents a good opportunity to the Administration, our work force and those involved in our industries to express their opinions and concerns as well as to look for ways of promoting and improving safety at work. In as much as specific reference has been made to the construction industry, I shall restrict my comments to that sector and leave it to my colleagues who come from different industries to deal with their areas and such others as they may wish.

To set the tone, I hope my colleagues will forgive me if I make reference to some figures about the construction industry. Between 1987 and 1991 the total number of

industrial accidents in this industry was: 23 846 with 55 fatalities in 1987, 27 125 with 58 fatalities in 1988, 26 399 with 59 fatalities in 1989, 25 138 with 58 fatalities in 1990 and 23 115 with 54 fatalities in 1991. The picture is not as gloomy as it appears, for out of these accidents there were far fewer serious accidents -- 3 457 in 1987, 4 053 in 1988, 4 525 in 1989, 4 748 in 1990 and a welcomed reduction in 1991 to 1 798. However, in terms of prosecutions between the same period some 4 072 contractors were prosecuted whilst only 10 workers, with none in 1991, were prosecuted.

Mr Deputy President, industrial safety is not the sole responsibility of the employer: it is the joint responsibility of the Government, our work force and our employers. The obligations of the Government are to promote and enforce the relevant laws and it may be of interest to note that under the Factories and Industrial Undertakings Ordinance employees as well as employers have statutory duties as regards the safety of all at an industrial undertaking. Section 6B(1) provides that: It shall be the duty of every person employed at an industrial undertaking while at work to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions and to co-operate with his employer in regard to the employer's duty towards the health and safety of those employed.

Mr Deputy President, I made reference to the Government's responsibility for enforcing the laws and whilst it may be uncaring to prosecute workers who have injured themselves I believe that the prosecution of 10 workers over a period of years makes a mockery of the law. Of the total fatalities of 284 over the same period some 130 persons unfortunately fell to their death despite a legal obligation under section 38R to wear a safety belt on a construction site. It seems to me that it cannot be a simple case of just pointing the finger at the employer: the facts call for much more vigorous co-operation between all parties, much more education and safety promotional programmes and much more vigilant observance by employers and employees of their responsibilities to themselves and others and much more concentration by government safety enforcement agencies to persuade workers to look after themselves and to prosecute them in appropriate cases. Mr Deputy President, the Hong Kong Construction Association has always promoted safety at construction sites and will continue to do so. But they need help, for alone they can only do so much.

With these remarks, I support the motion.



MR FREDERICK FUNG (in Cantonese): Mr Deputy President, I support, in principle, today's motion debate on Hong Kong's "industrial safety" problems.

I think that the Government all along has failed to take an active interest in employees' health and safety problems. This is why the industrial accident rate is as high as 5.815% today. Things are even worse in the construction industry, where the average is four injuries or deaths for every 10 workers. So unsafe has industry become that the motion is in fact seeking a belated remedy. Though belated, it still has positive significance.

The Hong Kong Association for Democracy and People's Livelihood and I have a further suggestion to make regarding this issue. I feel that not only must the Government and the relevant departments be urged to enforce and promote industrial safety, but codes of safety practices that meet international standards must be expeditiously formulated for all trades, and that employers who are indifferent to workers' safety must be cautioned that, unless they provide their employees with adequate safety measures and a safe working environment, they will be prosecuted and punished severely.

Hong Kong's industry has never stopped growing. What is regrettable is that the number of industrial accidents, too, has never stopped growing. There were 48 691 industrial accidents in 1980. The number increased to 56 463 in the late 1980's. The industrial accident rate, which was 4.5% in 1980, increased by about 1.3 percentage points 10 years later.

During the past three years, a total of 36 070 people were hospitalized after sustaining job-related injuries. I believe that everybody knows that industrial accidents caused not only injuries and deaths but also family tragedies. The victim of an industrial accident is usually the bread-winner of his family. When he is killed or disabled, the livelihood of his family immediately becomes a problem. Usually, it takes a year or two to hear a case of compensation for an industrial accident. Meanwhile, even with public assistance, the days will be hard for the victim's family.

The industrial safety and health statutes enacted by the Government lack provisions for the protection of the physical safety of employees at work. Even a principle as basic as this is not being implemented. With regard to enforcement, the news is even worse. There are all kinds of loopholes in the prosecution of

offending employers. Often, it is only after a serious accident has occurred, such as the "Ma Ho Leather Factory" accident and the more recent accident of a barge that exploded, that the offender is belatedly prosecuted. How can such a "pot-mending" approach to law enforcement produce any deterrent effect?

I feel that a set of complete and flawless industrial safety policies should be laid down. In this connection, I have three suggestions to make:

1. To expand the safety net: not only make industry safe but also make work safe

The Factories and Industrial Undertakings Ordinance, as amended in 1989, is applicable only to the employees of factories and industrial undertakings. The fact is that, following the structural transformation of industry, more and more people are working in the service trade or, in other words, white-collar jobs. In order that their physical safety at work may be protected, I urge that the Government, when enacting statutes on safety for all trades, look after employees in all trades and not only employees in factories and industrial undertakings. This will enable everybody to work in a safe environment.

The idea of "safety at work" was in fact formed and promoted in the United Kingdom as early as the early 1970's. What the United Kingdom can invoke is the Health and Safety at Work Act of 1974. In the United Kingdom in 1974, public attention to safety already extended beyond the factories to all trades. I do not understand why, 15 years later, Hong Kong was still taking a conservative approach to legislation and was still interested only in regulating industrial safety. I feel that today we must promote safety at work.

2. The making of laws must be matched by enforcement

The Factories and Industrial Undertakings Ordinance, as amended in 1989, is applicable only within a narrow scope. Even so, the Government does not appear to be sincere in enforcing it. There are 90 000 factories and 7 000 construction sites in Hong Kong. But there are only 200 Factory Inspectors. Because of the limited establishment, Factory Inspectors have to double as education workers. No wonder that the industrial accident rate is being sustained at a high level. Where laws are made to protect safety at work, this effort must be matched by enforcement. Education, too, is very important for the promotion of safety at work. So I feel that inspection and education are two things that should both be done but should be

kept clearly separate.

### 3. To increase penalties for offending employers

The penalties now being passed on employers who disregard workers' safety bear no reasonable proportion to their offences. They are merely fined several hundred dollars to several thousand dollars. Mr James TO already cited a string of figures a moment ago. I do not intend to repeat. I believe that, even if we increase the manpower for enforcement and step up prosecutions, such light penalties would not be able to motivate employers to improve safety measures. Improving safety measures costs money. This is why all workers' groups have all along been urging the Government to punish offending employers more severely. The purpose in punishing an employer is not to punish him but to save others.

Mr Deputy President, as I was making my way in, some labour groups gave me this photograph. I hope that you will not think that this photograph is for use in protest. I can show it to you. It is a picture of a worker fresh from school whose four fingers were smashed by a press. I believe that colleagues can feel how tragic it is for a person to lose four of his fingers. What is tragic is not "physical pain." Nor is it "heart ache." It is the pain of a young person who will lament the loss of his fingers for months and years to come, for the rest of his life. I would like to tell you all what will happen to this particular worker's livelihood now that he has lost his fingers. Well, he will receive his compensation after the court hearings, which will take 18 months to two years. He will be disabled for the remaining greater part of his life. The Government is not providing him with any training to enable him to go on working. What will happen to the employer? In accordance with court precedents, the employer will be fined between \$30,000 to \$50,000 at the most. After he pays the fine, his conscience will be clear.

The original motion called for the severe punishment of offending employers. I was absolutely in favour of that. Regrettably, the motion has since been revised. "Enhancing monitoring and stepping up prosecutions" has replaced "considering heavier penalties for offending employers." I am disappointed at this change, the reason being that, as I said a moment ago, even flawless legislation plus an enforcement effort would not result in a full improvement without heavier penalties. At present, the penalties are very light; many employers can afford to pay the fines.

We have lost a force that we can use to motivate employers to take a proper look

at the need to improve the working environment. Not only am I very much disappointed, but I believe that employees in general and some trade groups in particular are very much disappointed. They have waited for a long time. They hoped that there would be a policy that would fully protect their safety. Unfortunately, that dream has again come to naught. If we are to apply a remedy belatedly, why then leave such a defect in it?

Mr Deputy President, the motion, as newly worded, includes two of the suggestions that I have made. Basically I support the motion. I regret that it does not include the most important suggestion, which is also what the workers thirst after the most. There being no choice, I have to agree with the present motion. Thank you, Mr Deputy President.

MR LAU CHIN-SHEK(in Cantonese): Mr Deputy President, it is with a heavy heart that I am taking part in today's debate.

I remember that, more than 20 years ago, I accompanied the surviving family members of people who had been killed in construction site accidents, carrying the coffins of the diseased, to construction companies to ask employers for money to pay funeral expenses. I saw the surviving family members of many accident victims. They were sad and helpless. It was then that I came to realize deeply what dignity meant and how valuable it was. Today, it is probably no longer necessary for the surviving family members of victims of fatal accidents to ask employers for money to pay funeral expenses, carrying the coffins of the deceased. Such a change has come about probably because survivors of fatal accident victims have moved the community to show care and concern. Still, up to this day, we continue to see countless workplace accidents resulting in casualties. Such accidents still happen very month and every year. As before, there are injuries, deaths and disabilities.

Some say that our situation with regard to law and order is very bad. More and more people are killed or injured. The public is aroused. Public opinion is vociferous concerning how the police force should be increased, why heavy sentences are necessary in times of disorder, how China should send public security officers to Hong Kong to help. . . True, our situation with regard to law and order is very bad. Indeed, many people are killed or injured. Indeed, we should do everything we can to improve the situation. But do we know that, during the past 20 years, over 800 000 workers were injured in industrial accidents and 1 875 died from the injuries? In the construction industry, where workplace accidents were the worst, over 300 000

workplace accidents took place during the past 20 years and 1 306 of the victims died from the injuries sustained. In other words, nearly 70% of all the workers killed in industrial accidents were in the construction trade.

When the problem is law and order, everybody has a lot of comments to make. This is because, some day, a family member of yours or mine may be killed or injured. Therefore, there is huge public pressure brought to bear on the Government to effect an improvement. In contrast, the nearly 100 000 job-related accidents a year apparently never received the attention that they should. This is probably because workplace accidents take place one at a time and are routine events. People do not see them as news or find them shocking. But the fact is that the nearly 2 000 victims of fatal workplace accidents during the past 20 years did not die in a sudden outbreak of accidents that could not be prevented. They died because safety protection equipment was defective or because safety protection measures were incomplete.

During the past 10 years alone, Hong Kong's real estate developers made profits (after deducting directly invested capital and employees' salaries) amounting, in 1991 money of the day terms, to more than \$350 billion. If the developers are willing to spend a little bit of their astronomical \$350 billion profit on improving the working environment and the safety protection measures at the construction sites, I think that the number of accidents in the construction industry will decline.

### Safety in construction industry

Among all industries in Hong Kong, the construction industry has the highest accident rate and also the highest accident fatality rate. Why is it then that the developers, the builders and the Government never took up their responsibility for improving the working environment at construction sites but allowed the industrial accident rate to rise from year to year (last year, the construction industry's accident rate rose by another 3%, reaching the serious level where there were 364 injuries per thousand workers)?

In fact, Hong Kong's major developers, who are making huge profits, should have all the more reason for taking active steps to improve safety at construction sites. Regrettably, however, over the years, the developers always shirked their responsibility by blaming the builders, who, in turn, blamed the contractors. The contractors then blamed the sub-contractors, who then blamed the sub-sub-contractors, who then blamed the sub-sub-sub-contractors. What ultimately happened was that the

workers were left with the responsibility for taking their own industrial safety protection measures. The developers became indifferent spectators. They saw no need for them to set up safety committees at construction sites or to take any measure for protecting the safety of workers. Therefore, I think that Hong Kong should do something that countries like Japan are doing. The developers and the major builders should assume responsibility for safety at construction sites. Where a workplace accident is judged to be the result of employer negligence, the developer or major builder is to be held criminally culpable. Also, when inviting tenders from builders, developers must ask them to include an industrial safety budget in their bids. Developers should, as an important criterion in choosing the winning bid, consider the bidder's commitment to the taking of adequate safety protection measures. This will prevent the lowest bidder, who will take no safety protection measure, from winning the contract and thus laying a time bomb for workers' safety.

The Government is very disappointing in its work on industrial safety. Dear colleagues, do you know how many Factory Inspectors of the Labour Department are responsible for inspecting construction sites? The answer is only 31. Ask yourselves. Can 31 inspectors effectively monitor the safety conditions of the several thousand construction sites in Hong Kong? I think that they perhaps can -- if they know the magic trick of being in several places at the same time or if they have clairvoyance.

#### Industrial safety at the new airport project sites

I feel that industrial safety at the new airport project sites is also a pressing matter for the Government.

I said last week that, although the Government said that it would attach great importance to construction safety at the new airport project sites and would make the safety track record one of the criteria for choosing the winning bidders, yet, in practical terms, neither the Works Branch nor the Provisional Airport Authority used "the safety track record" as a scoring point in the prescreening of builders. Now, I solemnly ask the authorities, in their future statements, to clarify how much resources are to be used on industrial safety at the new airport project sites, how many extra inspectors are to be given responsibility for inspecting construction safety at the new airport project sites (or whether the existing Factory Inspectors will be given this responsibility), whether the New Airport Projects Co-ordinating Office will have a department specially responsible for monitoring industrial safety,

and how many experienced safety officers will be given responsibility for monitoring construction safety at project sites such as is done in the case of the Tsing Ma Bridge.

In fact, the airport projects include several highly difficult construction projects, such as the Tsing Ma Bridge project. Hong Kong has no experience with such projects. Therefore, it is necessary to find out in advance where the threats to safety will be the greatest and what safety protection measures should be taken when construction work begins. Otherwise, the probability of accidents will surely be high. It is learnt that the Government will invite 14 British experts to work in Hong Kong to monitor the quality of construction of the Tsing Ma Bridge. I would like to ask: Has the Government engaged any chartered safety officer with experience in monitoring bridge construction, in the interest of industrial safety at the airport project sites?

Therefore, I think that the Government should set up a representative central co-ordinating committee for the new airport projects, to do the overall work in monitoring safety conditions at the airport project sites. Members of this committee should include officials of policy-making branches, persons in the highest echelons of the Provisional Airport Authority, members of the Hospital Authority, members of this Council and representatives of trade unions and employers. I hope that the authorities will give full consideration to my suggestion. As for me, I will join other colleagues in this Council, those who are concerned about the matter, to discuss things with the Government. If the Government does not make a commitment to taking substantive steps in connection with industrial safety at the airport project sites, I will later make a formal request to the Government by way of moving a motion in this Council.

Prosperity built on blood

Mr Deputy President, all workers hope that their workplaces are safe. Everybody hopes that the member of his family who has gone out to work will return home safely. Nobody wants to see Hong Kong's prosperity built on the blood of workers.

Mr Deputy President, with these remarks, I fully support the Honourable Conrad LAM's motion.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, during the period from 1978 to

1990, one million workers were injured in job-related accidents, and more than 100 000 were permanently disabled. These are really shocking figures. The prevention of industrial accidents is a pressing task that cannot brook one moment's delay. In my speech today, I will mainly urge that the establishment of safety committees be made compulsory and that the implementation of industrial safety measures be stepped up thus bringing accident figures down as much as possible.

The safety committee system has long been in practice in foreign countries. The Honourable Conrad LAM already described the safety committee's functions in his speech. I will not repeat it. Workers on factory floors or at construction sites know the best which places or work processes are hazardous and accident-prone. Letting workers participate in the formulation of safety measures at the workplace will serve the workers' needs better. In addition, letting workers participate in the monitoring of safety conditions and in the formulation of safety measures will increase their sense of responsibility. In this way, they will be more ready to promote and monitor industrial safety policies.

I believe that it will be more effective for a worker to persuade another worker to wear a safety helmet or a safety belt than for the management to post a notice exhorting workers to pay attention to safety. Also, most people now think that the Labour Department's Factory Inspectors should be the parties responsible for monitoring how employers are observing the industrial safety rules. But what is really happening is like playing a cat and mouse game. When an inspector is around, everything is ship-shape. After he leaves, the code of safety practices is cast aside. A safety committee, in which management and workers work together to monitor and control things in their own factory, will certainly be more effective than a Labour Inspector's "surface-skimming" inspection visit. I am deeply convinced that, if industrial safety measures are to be implemented effectively, prosecutions and inspections alone will not be enough. Worker initiative, too, is very important. After being established, a safety committee can tighten supervision on one hand and, on the other, gradually make workers recognize the importance of industrial safety. This will have a major effect on the reduction of industrial accidents. In view of this, the United Democrats of Hong Kong urge that the Government introduce legislation to compel all trades to establish industrial safety committees with the participation of management and worker representatives. I hope that our workers will not have to lose life or limb because of negligence or because of employers' violation of the law.



The Government should take the lead by introducing legislation requiring the establishment of safety committees at government construction sites. (1) This will set a good example. (2) Government construction sites now account for 36% of all fatal construction site accidents. With the establishment of safety committees, it is hoped that industrial accidents will decline in the construction industry. I am deeply convinced that the Government does not want to ignore the nearly 100 000 industrial accidents that occur every year and does not want to turn a blind eye to the workers who are disabled or killed in industrial accidents. The Government also hopes that each one of the workers, who have quietly been making contributions to Hong Kong's prosperity, will return home happily at the end of the working day. Introducing legislation to make the establishment of safety committees compulsory will precisely demonstrate the Government's care for the workers.

With these remarks, I support the Honourable Conrad LAM's motion.

8.00 pm

DEPUTY PRESIDENT: It is now eight o'clock and under Standing Order 8(2) the Council should adjourn.

CHIEF SECRETARY: Mr Deputy President, 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 concluded.

Question proposed, put and agreed to.

MR HENRY TANG (in Cantonese): Mr Deputy President, human resources can be called Hong Kong's only resources. Hong Kong workers have long enjoyed international fame for their spirit of "willingness to try and to work hard." In particular, consistently close co-operation between labour and management has been the key to Hong Kong's economic success. If Hong Kong is to remain prosperous, a safe working environment should be one of the most basic conditions.

A moment ago, many colleagues talked at length about Hong Kong's industrial accidents resulting in injuries or deaths. Everybody knows the facts well; there

is no need for me to repeat them. What I would like to do is merely to stress that Hong Kong's very high industrial accident rate is mainly due to inadequate supervision and inadequate publicity and education on industrial safety. To reduce the industrial accident rate to the lowest possible level, the basic approach is of course to begin with education that will make both labour and management aware of the importance of occupational safety. But it takes time to translate knowledge into practice. Therefore, the motion urging the Government to enhance supervision and step up prosecutions is indeed urgently necessary.

Nearly half of all industrial accidents are related to construction sites. In fact, existing statutes require the engagement of a safety officer at every construction site with 200 or more workers and the appointment of a safety supervisor at every construction site with 20 or more workers. The safety officer or supervisor is responsible for seeing to the observance of safety measures by both labour and management. Regrettably, the number of safety officers is limited. They cannot take care of every one of the nearly 2 000 big and small construction sites in Hong Kong.

I believe that, if supervision is to be enhanced, merely adding one or two safety officers to a construction site will not be enough. I agree that there should be a safety committee composed of safety officers and representatives of the developer, the builders, the contractors and the workers -- I believe that such a safety committee will have a greater supervisory effect.

In fact, 238 relatively large construction companies in Hong Kong have already voluntarily set up safety committees. However, because the sub-contractor system at construction sites is very complex, the Government must lay down the rules by way of legislation. Otherwise, even if a company's head office has a safety committee, some sub-contractors will not necessarily submit to supervision by it.

It is my understanding that the Government is prepared to announce formally in a month or two the requirement to establish a safety committee for the core projects in the construction of the new airport and to extend this requirement to other government projects later on. The situation will then be reviewed in a year's time. If the result is good, legislation will be formally introduced to require all private sector construction sites to make similar arrangements.

I agree in principle with such a proposed course of action. It happens to

coincide with the motion before this Council today. Government statistics show clearly that the industrial accident rate has declined by between 20% and 30% at the construction sites of those companies which have set up safety committees. This is a phenomenal result. Also, because of the huge size of the core projects in the construction of the new airport, many overseas labourers will be imported to work on them. I believe that they are even less knowledgeable than local workers about industrial safety matters. A further consideration is that most of the projects have to be completed quickly by 1997. Without suitable supervision, the number of industrial accidents is bound to rise sharply.

The Government will later provide this Council with a report on the review of industrial safety and health. I hope that the competent authorities will carefully consider and implement the four-point suggestion of today's motion and will, in particular, step up the teaching and propagation of knowledge about industrial safety, so that supervision and education may be mutually supplementary. The Government, labour and employers are all responsible for industrial safety. I hope that they will work together to get the job done.

Mr Deputy President, with these remarks, I support the Honourable Conrad LAM's motion.

MR TIK CHI-YUEN (in Cantonese): Mr Deputy President, a moment ago, several colleagues in this Council described industrial safety as a very serious problem in Hong Kong. In 1991, government hospitals treated about 100 000 cases of injuries due to industrial accidents. Also, according to a survey conducted by the Department of Surveying of the University of Hong Kong, construction site accidents are a more serious problem in Hong Kong than they are in the United States, Singapore or Japan. Dr LINSON, who was in charge of the survey, pointed out in his report that, in Hong Kong, an average of 374 workers per thousand take four or more than four days off work each year because of accidents. This rate is many times higher than the United States' rate of 150 workers per thousand, Japan's rate of 20 workers per thousand and Singapore's rate of 16 workers per thousand. In 1991, workplace injuries were the most frequent cause for using the accident and emergency services of hospitals, accounting for 40% of all injuries treated, and the amount of compensation paid for workplace injuries was more than \$200 million. From the above figures, we can see that the existing mechanism for protecting workers from industrial accidents is ineffective; that industrial accidents are the cause of many social tragedies; and that social resources are lost because of them.

Mr Deputy President, I shall attempt to show from the legislative angle, the law enforcement angle and the education angle that problems do exist. I shall then propose some solutions.

#### The legislative angle

In 1989, the Government enacted the Factories and Industrial Undertakings (Amendment) Ordinance, which was based on the United Kingdom's Health and Safety at Work Act of 1974. Between the two, however, there are clear substantive differences. A comparison reveals the following deficiencies in the Hong Kong statute:

(1) The Factories and Industrial Undertakings (Amendment) Ordinance is applicable only to owners of factories, as opposed to all employers. It is not applicable to the service trades. Consequently, only 44% of all employers are subject to the Ordinance.

(2) The spirit of the Factories and Industrial Undertakings (Amendment) Ordinance is nowhere embodied in other Ordinances relating to industrial safety.

(3) The Ordinance does not provide for worker participation or a role for the workers.

#### The law enforcement angle

The Factory Inspectorate is now responsible for laying down regulations, law enforcement, counselling and persuasion, and education. Its roles are ill-defined. It lacks a supervision role. There are now only a few dozen factory inspectors. They have to enforce the relevant laws and regulations in respect of all construction sites and factories in Hong Kong. Their workloads are heavy; their morale is low. We really cannot expect the existing manpower to make major contributions in the area of law enforcement.

#### The education angle

Because of the manpower shortage, the Government tends to conduct education in a manner that emphasizes only the outward look of it. For instance, it sponsors exhibitions, evening shows and a limited number of training classes. These

activities are insufficient for making the general public aware of the importance of industrial safety. The Labour Department has been conducting industrial safety education for more than 20 years. But the accident rate has been rising steadily instead of falling. So it seems that education is not an effective way to prevent industrial accidents.

Meeting Point have the following suggestions to make towards solving the above-mentioned problems:

(1) Expand the scope of the Factories and Industrial Undertakings Ordinance:

(a) To make it applicable to all trades;

(b) To provide for the responsibilities of all parties involved, including employers, manufacturers, owners of industrial buildings, operators of transportation companies and self-employed workers;

(c) To provide for the establishment of Safety and Health Committees at all industrial buildings and for worker participation in such committees; (The Singapore model is to set up a safety committee at every construction site where there are 50 or more workers; both employees and management take part in such a committee.)

(d) To lay down regulations that have the force of law, as mentioned by the Honourable TAM Yiu-chung a moment ago.

(2) Improve the Factories and Industrial Undertakings Ordinance in the above spirit. Conduct a comprehensive review of all subsidiary legislation relating to factories and industrial undertakings in the light of the above suggestions. Revise them wherever they are found to be incompatible.

(3) Education

Education is quite important. Industrial safety courses should be initiated at the vocational schools, the polytechnics and the Vocational Training Council. The ordinary secondary grammar schools, too, should consider including some general information on industrial safety in their civic education course.

(4) Establish an Occupational Safety Council

Apart from legislation, an Occupational Safety and Health Council with the power to lay down regulations and exercise supervision should be established. Its membership should include employers, employees and professionals. The functions of the council would be to determine and set objectives and principles, chart courses of action, and supervise the relevant departments in carrying out their work relating to industrial safety. If a separate Occupational Safety and Health Council is set up, there will be an organization to share the workload. The Occupational Safety and Health Council is to be responsible for laying down regulations and supervision. The Labour Department is to be responsible for implementation. At each industrial building, an industrial safety and health committee is to be set up to monitor the building's environment.

Mr Deputy President, I think that today's debate has failed to come up with an overall strategy for an industrial safety policy. Because the proposals are overly specific, we have a case where one sees the trees but not the forest. Still, on the whole, Meeting Point think that there are many areas in which the good work should be continued. We support the present motion. Thank you.

DR SAMUEL WONG: Mr Deputy President, construction safety has aroused serious public concern because of the large number of workers killed and injured every year. In 1991, 54 workers were killed and over 23 000 workers were injured in construction accidents. This is an enormous waste of our limited valuable manpower resources. It also brought life-long suffering to the injured workers and the surviving family members of the deceased.

A prosperous society like Hong Kong cannot possibly turn a blind eye to a problem of such magnitude. The question we have to ask ourselves is whether we have done enough to prevent accidents from taking place. The commencement on the work of the multi-billion-dollar new airport project adds an element of urgency in the search for an effective way to prevent construction accidents.

There is a common thread running through all kinds of work accidents, that is, an unsafe working environment, worn out machines badly in need of repair, and the lack of basic safety training for the workers. In some cases it is a problem of management neglect. In construction sites the problem of work safety is compounded by the transient nature of the job, the rough terrain of the site, the large number

of people working at height, the space constraint, as well as the serious time constraints. The long established system of subcontracting helps to improve the flexibility in the deployment of manpower resources and cuts down on the overhead costs, but it also creates a series of potential weak links in safety management. Construction safety requires team work; it involves not only people working on the site but it is also affected by people working off the site.

The prerequisites for a safe site are, firstly, a strong management team and resources backup. These fundamental elements are determined by the developer in the selection of contractors, and his willingness to make provisions for safety personnel and safety measures. The Government, as a developer in the new airport project and other public contracts, should set a good example by taking a lead in strengthening site safety management, for example, by incorporating past safety records and the quality of the safety management planned as an important criteria for the selection of contractors. The developer in fact also benefits from a greater emphasis on management capability and on investing in accident prevention. Fewer accidents mean fewer disruptions to work progress and fewer work stoppages. In Hong Kong where time is money, investment in safety measures is a much more effective way to ensure that the project can be completed on time according to the schedule.

Work safety is an important part of the management job, it forms an important part of the duties of subcontractors, site supervisors, principal contractors, and also resident engineers. Safety committees provide a simple, convenient and effective management tool for project managers to monitor safety performance on the site and to take timely remedial action. Site safety committees should involve not only the site managers, the safety officers, but also subcontractors as part of the management team, and also workers' representatives who are able to provide firsthand feedback on the problem areas and useful feedback on safety measures.

Construction safety is therefore not a simple problem of compliance with the law. It is, in essence, a management problem. It is a problem of good planning, co-ordination, of arousing better awareness through training and education, and of winning commitment and support through participation and more effective supervision.

With these words, Mr Deputy President, I support the motion.

MR STEVEN POON (in Cantonese): Mr Deputy President, the importance of industrial

safety is beyond doubt. As many as 56 000 industrial accidents occurred in Hong Kong in 1989. During that same year, the number of industrial accidents occurring in Singapore, one of the Four Little Dragons of Asia, was only a little over 4 800. By comparison, the number of Hong Kong's industrial accidents was appalling. We often say that, whereas employers invest money, workers "invest" their lives. In 1991, 71 people were killed in industrial accidents. There was nearly one death every five days. This figure ought to be cause for concern to us. I am now putting forth suggestions in four areas:

The first area is the safety problem in the construction industry. Injuries and deaths from industrial accidents are the most serious in the construction trade. In 1991, there were 23 000 such accidents, in which 44 people died from the injuries. The causes of the accidents were complex. One major cause was the sub-contracting system. The builder often farms out a project to sub-contractors, who in turn farm their work out to sub-sub-contractors. After several processes of sub-contracting, the picture becomes murky as to who the builder is.

In such a sub-contracting system, the sub-contractors do not have safety track records and there is no way to tell whether employees have had safety training. What is even worse, after an accident has occurred, it is often impossible to find out which company hired the accident victim. As a result, there will be delays before the injured worker receives his compensation. In such cases, it has even happened that nobody would acknowledge liability. Such a system affords the workers no protection and is also unfair. It is a great obstacle to the promotion of industrial safety. I suggest that the Government introduce legislation to hold the builder responsible for safety at the construction site. No matter how many sub-contractors there may be, the principal builder is to be held responsible for everything. I further suggest that the Government review the safety track records of builders qualified to be awarded construction contracts. If they are found not qualified, they are to be disqualified as builders. As construction work begins on the new airport and related projects, the screening of builders is a pressing matter that cannot brook one moment's delay. It is hoped that workers will not have to pay with their blood and lives for the economic successes that will come with the new airport.

Secondly, I would like to talk about safety problems within factories. Safety within a factory depends on the safety of the factory's machinery and on the safety training the factory's workers have received. Some heartless employers and irresponsible managers single-mindedly pursue low costs or fast production. They



allow old machinery or machinery not meeting the safety standards to be used, or they remove the machinery's guards. As a result, workers are made to work under hazardous conditions. Also, employers invest very little money in safety training for workers. I suggest that the Government do more for workers' safety and urge the Vocational Training Council to offer more effective industrial safety training courses. In addition, I ask the authorities to consider requiring employers to send their employees to attend industrial safety training courses every year.

Thirdly, I would like to talk about the Government's mechanism for monitoring industrial safety. The Labour Department has fewer than 200 inspectors. The establishment has been below strength for many years. It is too much of a burden for these inspectors to carry out the inspections of more than 80 000 factories and construction sites. Therefore, there is a real need to increase the number of inspectors so that they will really discharge their safety monitoring duty.

The final problem is the problem of looking after injured workers and their families. The injured are no longer able to work in their original trades. They are in dire straits. They have worked for, and contributed their best years to, our economy. They may have lost one foot, both hands, both eyes or part of their limbs and trunk. It is not that they want to receive public assistance and refuse to work. They all want to learn some suitable skills that will make them useful again to the community. What has the Government done for these injured people who have heretofore participated in economic construction? Has the Government done enough? I urge the Government to review the relevant policies as now being implemented and to give assistance and guidance to disabled workers so that they may be on their own again. I further urge the Government to take special care of the surviving family members of those killed in industrial accidents, by helping them in the areas of housing, health care and children's education, so that these survivors may tide over the difficult days and put their sorrows aside as they go on with their lives.

Mr Deputy President, when a worker kisses his children good-bye upon leaving home for work, he would not be imagining that he is going to die that day in the middle of work. Similarly, when an employer bids his wife good-bye in the morning, he would not be saying to her, "Look, one worker is going to die today." Neither employers nor managers want to see industrial accidents happen. Yet all industrial accidents have man-made causes. The Government really cannot shirk its responsibility for industrial safety.

With these remarks, I support the motion.

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, as several Members have recalled, this Council passed a motion on 1 May 1991 urging the Administration to undertake a comprehensive review on occupational health and safety with particular emphasis on three aspects, namely, hazard prevention; disability assessment and compensation; and rehabilitation. Shortly thereafter, a Joint Steering Committee comprising representatives of the Health and Welfare Branch, the Education and Manpower Branch and the relevant government departments was established to conduct the review. This was completed at the end of 1991 and the Joint Steering Committee's report and recommendations were presented to OMELCO on 6 January this year. Although these recommendations might not have gone as far as some Members would like, they were nevertheless positive and practical steps in the right direction. The Administration has since been pursuing the recommendations with vigour and has undertaken to keep the OMELCO Panels on Health Services and Manpower informed of progress from time to time.

I hope this brief preamble will assure Members that occupational health and safety is as close to our heart as it is to theirs. The Government is deeply concerned that some 100 000 occupational accidents occurred in 1991, including 48 000 accidents in industrial undertakings. These figures are unacceptably high. We will spare no effort in seeking to bring them right down. But we will need the co-operation of all concerned, particularly employers and employees, if we are to make any real progress.

Occupational accidents are a problem for everybody. They cause much suffering and hardship to the affected employees and their families. To employers they mean lost productivity, reduced output and compensation bills or higher insurance premia. As for the Government, every new industrial accident brings more criticism and pressure for action. So all of us have a vested interest in preventing industrial accidents from happening.

Industrial safety: monitoring and prosecution

Let me turn to the motion before us today. It has four operative parts. The first part urges the Administration to enhance monitoring and step up prosecutions. This is an area to which the Joint Steering Committee devoted one whole chapter of its report.

The Labour Department is generally well placed for the monitoring function. Enforcement of safety and health regulations under the Factories and Industrial Undertakings Ordinance and Regulations in the 92 000 factories and 4 000 construction sites in Hong Kong is the responsibility of the Factory Inspectorate Division of the Labour Department which has an establishment of 217 staff. They work closely with the staff of the Occupational Health Division whose expertise is always called upon in investigating serious accidents involving hazardous chemicals or unknown fumes and caisson work. Nearly 72 000 inspections were made in 1991 resulting in 2 101 prosecutions and fines totalling over \$12 million, compared with 69 000 inspections, 1 931 prosecutions and fines of over \$11 million in 1990.

But while prosecution can and will be stepped up where warranted, it is not the real answer to the problem. Our concern must be to keep the risks of industrial accidents to a minimum. This depends greatly on the attitudes and behaviour of employers and employees. This is why the Labour Department's strategy for the enforcement of workplace safety has placed increasing emphasis on educating employers and employees about the importance of self-regulation at the workplace. We believe that putting the emphasis on education and publicity, and supporting it with vigorous inspection and prosecution, is the right strategy.

### Codes of safety practices

The second part of the motion urges the Administration to formulate, as soon as possible, codes of safety practices for various trades and to consider introducing legislation to require various trades, in particular the construction industry, to set up "safety committees".

This work is actually on-going. To date, the Labour Department has published 10 codes of practice covering industrial processes in plastics, shipbuilding and ship-repair, cotton spinning, lead smelting, power press operation, diving, tunnelling, quarrying and asbestos work, as well as protection of hearing in noisy processes. Another 10 codes are being drawn up for the major types of boilers and pressure equipment. The Labour Department will be drawing up guidelines on Occupational Exposure Limits (OELs) for the 231 chemicals already listed in the Factories and Industrial Undertakings (Dangerous Substances) Regulations. As recommended by the Joint Steering Committee, the guidelines will be written in simple

laymen's language and different guidelines will be distributed to different trades and industries to cater for their specific needs. The eight industry-based tripartite committees of the Occupational Safety and Health Council are also actively producing or updating guidelines on safety practices for their respective industries.

Looking to the future, the Joint Steering Committee has recommended that the existing statutory provisions on safety would become more effective if they could be regularly updated to take account of latest international developments and practices. A practical way to achieve this goal is to lift the detailed standards and advice out of the Factories and Industrial Undertakings Regulations and publish them as free-standing Codes of Practice or Guides for Industry. It will be easier and faster to update such codes or guides than to amend statutory regulations. This is the new direction in which the Labour Department will be working.

On the question of setting up "safety committees", the Government's policy has been to encourage, rather than to compel. So far, 238 companies, most of which employing more than 100 staff, have established safety committees. In the construction sector, safety committees have been established in 50 leading construction companies which together employ over 80% of construction workers in Hong Kong. Following the Joint Steering Committee's recommendation, we are exploring the feasibility of requiring the setting up of safety committees in larger establishments. To this end, the Labour Department will be consulting the industries concerned, particularly the construction sector, before putting forward proposals for endorsement by the Labour Advisory Board.

The Administration recognizes the merit of safety committees as a means of forging closer co-operation between employers and employees in the prevention of occupational accidents. However, some 86% of businesses in Hong Kong are small undertakings employing fewer than 20 workers. They may have varying degrees of practical difficulty in forming safety committees. We will need to consider how to tackle this problem.

#### Industrial safety in the public sector

The third part of the motion concerns industrial safety in the public sector. I shall defer to my colleague the Secretary for Works to comment on this aspect.

#### Industrial safety education

The fourth part of the motion urges the Administration to strengthen educational and promotional activities in industrial safety. We fully accept the need for doing this.

The Industrial Safety Training Centre of the Labour Department runs regular courses for managers, technicians, foremen and other supervisory staff to equip them with the necessary knowledge to tackle safety problems. Of the 30 courses on offer now, 21 are related to construction safety.

The concept of industrial safety has already been introduced into secondary schools under the general concept of safety education. Booklets and posters on safety in laboratories and workshops, and general school circulars on safety measures in the teaching of certain subjects and the conduct of extra-curricular activities, have been issued by the Education Department. In addition, the Education Department, in collaboration with the Labour Department, has established a committee for the promotion of industrial safety in schools. These activities are supplemented by safety talks to students and seminars for career teachers to enable them to help spread the safety message. In addition, there is an annual "Book Mark Design Competition on Industrial Safety" for secondary students, as well as activities organized for the Community Youth Club. These activities will be further strengthened.

Let me reiterate in conclusion that the Government fully recognizes the importance of occupational health and safety and will spare no effort in promoting and achieving it. But there is a limit to what the Government alone can achieve. The responsibility for a safe and healthy work environment rests primarily with employers and employees themselves. They, more than anyone else, have a vested interest in ensuring safety. I urge them to play their full part, as we in the Government will play ours.

Thank you, Mr Deputy President.

SECRETARY FOR WORKS: Mr Deputy President, a basic change in attitude to construction safety is now apparent. The traditional approach of leaving the problem to the Labour Department, as the law enforcer, and to the contractor, through a few general provisions in the contract, is now seen as just not good enough. The developer must take a positive interest and be actively involved in making the construction site

a safe place to work. The Government being a major developer, it follows that we should take a leading role in raising the general awareness of site safety.

As we have been reminded today by speakers, accident rates are at an unacceptably high level. Workers continue to be killed or seriously injured, and the construction industry with the Government also in the lead must intensify its efforts to find solutions.

Construction sites inevitably are potentially dangerous, and "thinking safe" must be one of managements' top priorities and be instilled into the actions of each and every individual who enters any construction site. This must be part of their daily routine. And this awareness of safety must be reflected throughout the whole spectrum of construction activities.

The Government's involvement in the "think safe" message is indirect, because it is not part of the culture of organizing works on site. We are however able to look for commitments at the highest levels, which are needed to impose "think safe" on everyone involved.

The Governor, in his speech to the Hong Kong Institution of Engineers in March this year, in front of the more than 1 000 senior people from the industry, stated "We must improve the safety record in construction. There are far too many industrial accidents in construction. Far too many people even lose their lives in accidents on construction sites." Speaking at the Annual Construction Safety Conference last November and referring to the accident statistics of the last five years I said, "Frankly, these statistics are shameful to each and every one of us involved in the construction industry."

These statements echo the Government's firm commitment to improving safety in the construction industry. The Works Branch and departments responsible for public works are continuing to review what can be done to achieve better site safety on public works projects. In this regard we share the views expressed this evening that safe working practices demand strong involvement not only from the Government but also from the employees, private employers, designers and private developers alike.

We have been actively preparing a Site Safety Manual for the Airport Core Programme projects. The draft has already been circulated by NAPCO. The approach

adopted for the ACP projects is:

(a) to secure the absolute commitment of all parties involved, including works departments, consultants, contractors, sub-contractors and workers unions;

(b) to enforce provisions requiring contractors to prepare and implement a site safety plan which looks ahead at safety risks for preventive actions to be monitored by the site supervisory staff;

(c) to arrange accident prevention and safety training;

(d) to establish contract site safety committees;

(e) to establish an ACP Site Safety Steering Committee, involving myself, works departments, Labour Department, NAPCO, Hong Kong Construction Association and others such as the PAA and representatives of MTRC. For Tsing Ma Bridge both the Government and the contractor consortium will engage engineers experienced in the safe working practices needed for bridge construction of this type; and

(f) to publish the Site Safety Manual to assist works departments in the administration of site safety matters on ACP contracts.

But the ACP contracts provide a sharp wedge which will be driven home to benefit other non-ACP, public works projects. Measures which already apply to public works contracts include:

(a) Quarterly reporting on contractors, which includes safety performance and the regular review of contractors' safety records. Any major site safety problems involve urgent high level management discussions to rectify the situation. Poor site safety performance will also adversely affect the eligibility of a contractor to tender for further government contracts.

(b) In larger government contracts, a weekly report is prepared by the safety officer in accordance with the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations so that monitoring can be carried out on site by the site staff and the engineer. Setting up of "safety committees" on site by the contractor is also actively promoted.

(c) Guidelines ensure that all site staff receive suitable training and continuing safety education.

(d) Works Branch receives returns on accidents on construction sites on a quarterly basis, and works departments are required to closely monitor contracts if there is a high occurrence of accidents.

(e) The education of the young trainees by the Construction Industry Training Authority and the Vocational Training Council includes instruction on safe working and the use of safety equipment.

We are also considering:

(a) Inspection teams, comprising the Government, the contractor and subcontractors, to judge whether the required safety measures are being achieved. Independent audits of site safety may also be carried out on larger sites.

(b) Means to ensure that contractors clearly understand what is required of them so that they can price their tenders in the knowledge that all contractors will be treated in the same way are also in hand.

(c) Introduction of incentives as well as penalties for contractors and subcontractors.

(d) Contractors must also have an approved safety policy, not only to gain entry but also to maintain their status as an approved contractor on our lists. Performance on safety will be given much greater prominence in deciding whether regulating actions, such as suspension from tendering, should be taken.

In outlining these measures to you, I must avoid any impression that until recently nothing has been done to improve construction safety. This is certainly not the case. From my own direct experience, I can assure Members that the industry is very much aware of the need and has made considerable efforts to promote the cause of site safety. What we are now pressing for is a continuation and a further strengthening of these efforts.

But I must underline the views of speakers who warn that the nature of the safety problem should not be underestimated. Concerted efforts from all parties involved,



the Government, developers, contractors, sub-contractors and workers, will be needed to bring the problem under control. The Government in its role as a major developer can and will continue to promote the "think safe" message, and will use every available means to influence other developers, who must also play their part.

Thank you, Mr Deputy President.

DR CONRAD LAM (in Cantonese): Mr Deputy President, first of all, I should like to thank colleagues in this Council for their valuable views and support. I would also like to thank the officials attending for answering some of the questions. I hope that I will have an opportunity to follow up on the unanswered questions. One of the reasons for moving this motion today is that I saw many people with "broken arms," "broken legs," "punctured heads" and "exposed bowels" when I worked in hospitals. They were admitted to hospital because of industrial accidents. The image of blood and mutilated flesh and of people screaming in pain is still vivid in my mind.

The purpose and spirit of today's motion debate is to identify the causes of industrial accidents and then to find improvements quickly, so that we may forestall and reduce all those tragedies that follow in the wake of industrial accidents. To achieve this, the Government, employers and employees should work together and should not blame one another or pass the responsibility from one to another. Industrial accidents have far-reaching repercussions. Workers and employers are not the only affected parties. As we have seen, over 100 000 workers each year have to seek treatment at the accident and emergency department of hospitals because of injuries from industrial accidents. These 100 000 cases are a heavy burden to the accident and emergency department. Thus, those ordinary people who rely on public medical care are also directly or indirectly affected.

This is all the more true now that the resources for medical services are very limited.

Mr Deputy President, here, I would appeal to the Government to stop putting off any longer the work that it should do, to stop indulging in empty talk, and to take action as soon as possible to minimize and prevent tragedies. Lastly, I would like to apologize to you, Mr Deputy President. Because of the length of the wording of today's motion, reading it out has taken a lot of your time and energy, Mr Deputy President. Thank you.

Question on the motion put and agreed to.

Adjournment

ATTORNEY GENERAL: Mr Deputy President, I move that this Council do now adjourn.

DEPUTY PRESIDENT: Dr HUANG Chen-ya has given notice to raise a matter for reply by the Government. Could I remind Members that in an adjournment debate there are 45 minutes for Members to speak. At that point or after all the Members wishing to speak have spoken, whichever is the earlier, I will call upon the Secretary for Constitutional Affairs to reply.

Accountability and declaration of interests by members of advisory boards and statutory bodies

8.50 pm

DR HUANG CHEN-YA (in Cantonese): I believe Members all agree that democracy has become the political trend for Hong Kong. Since the first district board elections 10 years ago, the public has had numerous chances to elect members to the various councils and district boards, and the political structure is gradually becoming open to the public. Now, a certain proportion of councillors of Hong Kong's three-tier structure, that is, this council, the two municipal councils and the 19 district boards, are returned by popular election. On the surface it seems that Hong Kong has achieved certain results in the democratization of its political system, but on careful examination, it can be discovered that democratization of Hong Kong's policy-making process is not only proceeding slowly but is also piecemeal. Today I am proposing an adjournment debate on accountability and declaration of interest by members of advisory boards and statutory bodies because the existing situation in this respect runs counter to the present trend of democratization of the policy-making process.

Before the introduction of an open policy-making process in Hong Kong, the Government had to rely on a consultation system to channel and tap public opinion. Apart from the Executive and Legislative Councils, close to 250 statutory bodies and advisory committees have been established by the Government. Some of these advisory

committees and statutory bodies are inactive, while some others are active. The work of many of the active ones is closely related to the lives of the general public. For example, advisory committees like the Transport Advisory Committee and the Labour Advisory Board deal with transport matters and labour policies, all of which have an extensive impact on the lives of the public. Hence the recommendations of these committees carry significant implications. As for statutory bodies, they have even more profound effects on people's livelihood since many of them are vested with executive powers to implement set policies. The work of statutory bodies such as the Housing Authority, the Hospital Authority, the Broadcasting Authority, the Consumer Council, the Kowloon-Canton Railway Corporation and the Hong Kong Trade Development Council are all closely linked with the lives of members of the public. In view of this, the importance of advisory committees and statutory bodies within Hong Kong's political structure should not be overlooked.

Nevertheless, while Hong Kong's political system is heading in the direction of democratization, the position with advisory committees and statutory bodies has remained unchanged. The composition and operation of these bodies have stayed the way they were when Hong Kong's political structure was a closed-door affair. It is still the Governor who decides the setting up of these bodies and appoints all their members. The public has no say in the composition of such bodies. Neither is it easy for the public to inspect the "Returns on Members' Interests" completed by members so as to ascertain whether there is conflict of interests.

As regards their operation, since advisory committees and statutory bodies (except district boards) are not composed of members returned by popular election, they naturally need not be answerable to the public. Statutory bodies publish annual reports to partially make public their state of affairs. Advisory committees, however, need not do the same, thereby leaving the public utterly in the dark about their work and how they operate. Although this Council has the responsibility of monitoring government departments' work, constitutionally the above bodies are not subject to our monitoring since they are not government departments. When they are invited to the meetings of the OMELCO standing panels, some statutory bodies nominate the government officials on their boards to attend the meetings. It is impossible to have the statutory bodies send their representatives to attend the Question Time session of Legislative Council sittings. There are also some other statutory bodies who often decline to accept our invitation. As a result, not even this Council can effectively monitor on behalf of the public the work of advisory committees and statutory bodies.

Mr Deputy President, since Hong Kong's political system is moving towards democratization, and there is demand for openness, accountability and responsibility, how can advisory committees and statutory bodies who play an important role be exempted? I therefore suggest that the Government adopt the following measures in order to increase their transparency and accountability to the public:

(1) In appointing members to the above bodies, the Governor should consider appointing more directly-elected members in order to strengthen the representativeness of these bodies and to make recommendations and decisions which are in line with public opinion and interests. On the other hand, the Government should also give an account of how many members of these bodies who have really no conflict of interests and therefore can represent public interests.

(2) "Returns on Members' Interests" completed by members should be made public through an effective channel so as to strengthen public monitoring as regards conflict of interests.

(3) At present a large number of statutory bodies are government subvented, but many of them are not subject to monitoring by the Audit Department. The reason is that according to the existing rule, the Audit Department only conducts a value for money study on specified statutory bodies or statutory bodies deriving half or more of their funding from the public purse. Presently, only five statutory bodies are actually subject to the value for money study by the Audit Department, two other bodies are obliged to make available their books and records for scrutiny by the Audit Department, and three other bodies, namely, the Housing Authority and the two municipal councils, have the Audit Department as their own auditors. Besides, some other subvented organizations as specified in the Budget Estimates are also covered by the value for money study of the Audit Department. Therefore, it can be seen that many statutory bodies are not subject to any monitoring as far as the use of funds is concerned. Since statutory bodies are spending public money, in principle they should not be exempted from public monitoring no matter how small the amount of public money involved is. The Government should abolish the above unreasonable practice so that each year the Audit Department may carry out a value for money study on each and every statutory body receiving government subvention.

(4) Monitoring of advisory committees and statutory bodies by this Council should be stepped up. This may be done through the establishment of a standing committee

specifically responsible for monitoring these bodies. On the other hand, advisory committees should be required to publish annual reports to let the public know what they have done.

Mr Deputy President, due to the time constraint, the above speech delivered by me may only cover part of the problems. I believe it is worthwhile to continue exploring ways and means of stepping up monitoring over advisory committees and statutory bodies so that they will become open, accountable and responsible. Later, Mr LEE Wing-tat and Dr Conrad LAM, two other members of the United Democrats, will make a detailed analysis using respectively the Housing Authority and the Hospital Authority as their examples.

I so make my submission.

MRS SELINA CHOW: Mr Deputy President, in recent years there has been a growing trend towards substituting technical expertise for political representation on advisory boards and statutory bodies. Consequently, attempts to divorce experts from politicians when making up these committees are becoming increasingly prevalent. As I have mentioned during the Policy Debate, the basis of such current thinking needs to be better explained to the public.

Today's debate offers this Council the opportunity to explore two specific aspects of statutory boards and advisory committees. I intend to concentrate on the aspect regarding interests and their declaration, while Prof LIEH MAK will expand on the question of public accountability for these statutory bodies. Co-operative Resources Centre members share the views we express today.

For an open and free society like ours it is necessary and desirable that all members of advisory and statutory bodies are held accountable for the advice they may tender and the decisions they help to take. Requiring the declaration of interest is an effective way to ensure transparency and accountability which are necessary to guarantee that the integrity of members' input is subject to monitoring.

We must not forget, however, that the overall goal of these bodies is to make the best decisions for Hong Kong; this they would not be able to do if they are deprived of the participation of people who have the understanding and expertise required. In other words, it is extremely difficult and often impossible to find people who

have the expertise and the willingness to contribute time and effort to serve on these boards but who have absolutely no interests in a relevant field. And if we do not include people who have interests and therefore knowledge of the field required by the respective bodies, another scenario might ensue: we would be forced to the other extreme where committees would be manned by people who have no in-depth understanding and knowledge of the issues put before them, let alone give worthwhile advice or make wise decisions.

When one talks about advisory committees and statutory boards one must not be over-simplistic and has to distinguish the various functions and purposes that they may serve. Some are executive and would require sound management skill and technique. Others are consultative and need commonsense input of the grassroots. Some others call for professional and expert points of view in highly specialized areas. Each type of body must have a very different type of membership in order to be the most effective.

As for the dissatisfaction expressed by Dr HUANG, I do not have the statistics to judge whether it is justified. I do, however, detect some truth in the Government's reluctance to appoint elected Members in large numbers on to the committees, but to be fair, the unwillingness is often prompted by a refusal on some such Members' part to compromise. In fact quite predictably, most of these members refuse to associate themselves with decisions taken collectively. It does require some soul-searching on all sides. So I do hope, when we call for the declaration of interest, we are not aiming to exclude the professionalism and expertise that come automatically with those interests by denying membership to these people. Candidates with interests should not be disqualified as long as they show a breadth of vision that overrides their interest, and the integrity of character easily detectable from the views they put forward.

The success of Hong Kong is in no small part due to the underlying pragmatism of our people and the sense of fair play upheld by the community. The principle behind the make up of our public boards and committees should not deviate from the well tried rule to ensure we have the best man and woman for the job. So long as the system provides for transparency the public interest will best be served by people best armed to strengthen the work and results of public boards, notwithstanding their interests in any given field.

DR CONRAD LAM (in Cantonese): Mr Deputy President, it is the responsibility of every advisory committee or statutory board to duly discharge its own functions. To perform its functions well, such board or committee must have an understanding of its own work. The membership of an advisory committee or a statutory board comprises three categories of people:

First, people who have a thorough understanding of the work.

Second, people who are responsible for organizing and executing the work or mission the board or committee is charged with; they are usually government officials.

Third, people affected by such work or mission, or their representatives.

If we take the Hospital Authority as an example, the first category refers to those who know the job of hospital services, such as doctors, nurses and paramedical professionals.

The second category refers to principal officers on the executive staff of the Hospital Authority and government officials of related departments.

The third category includes representatives from the public because the work of the Hospital Authority directly affects every individual.

Having established the make-up of each category, we have to analyse the desired ratio of one category to another so that the advisory committee or statutory board may fully discharge its functions. Take the Hospital Authority as an example again, according to section 3(3) of the Hospital Authority Ordinance, the Authority should have no more than 31 members which include (1) a Chairman; (2) not more than three public officers; (3) not more than four principal officers; and (4) not more than 23 other members. Let us look at the present situation of the Hospital Authority. There are only 28 members now and as compared to the maximum of 31, there are three vacancies. Should these three vacancies be filled? Can the existing members of the Hospital Authority effectively discharge their duties? Of the existing 20 "other" members, doctors take up 12; nursing staff two and the rest are executives, lawyers, accountants and so on. The major drawback of this combination is that there is glaring inadequacy as far as representation of the grassroots public is concerned who are directly affected by the Hospital Authority. The development direction of the Hospital Authority is governed by the "user pays" policy of the Government.

Therefore, the charges of medical services will have more frequent and larger amount of increases than before. If there is inadequate representation of the grassroots in the Hospital Authority, the Authority may not get a full picture of the state of mind and actual situation of the general public and may thus make some impractical decisions. A further drawback of the Hospital Authority is that the number of doctors far exceeds that of nurses and other paramedical professional representatives such as pharmacists, physiotherapists, radiologists and so on. This will result in the paramedical sector's sentiments, situation and invaluable views as regards work not being represented effectively in the Authority. Of course, there is the lack of other representatives in the Hospital Authority such as representatives of social workers.

When appointing members to an advisory committee or a statutory board (especially in the case of non-government members), there is no set of reasonable guidelines to follow. Most appointments are based on the recommendation of officials. Of course, the powers that be want members of boards and committees to co-operate with the official side unconditionally so as to relieve the pressure encountered in the course of carrying out the work. Therefore, those recommended are often the so-called "obedient persons" or persons "whose point of view is the same as that of the government officials". This way of achieving efficiency in the implementation of policies without regard to the consequences accentuates and highlights the pseudo-democratic role played by advisory committees and statutory boards. I have witnessed cases where district board members who had opposed the views of the District Officer were not re-appointed. I have also seen many already very busy "obedient persons" being appointed to many committees. If the Government has the bona fide intention of establishing better advisory committees and statutory boards and sincerely respects public opinion and promotes democracy, I suggest that the following two points should be taken into consideration when appointing representatives to advisory committees or statutory boards:

First, the representativeness of the members. The role of the district board is on the decline. But many elected district board members are competent enough to serve on these statutory boards and advisory committees. Similarly, elected Urban Councillors should also have priority in joining these advisory committees and statutory boards.

Second, unless there is a real shortage of talented people, the Government should not appoint the same person to serve on more than one committee or statutory board.



Apart from these, we have observed that there is usually a core executive committee established in some statutory boards. As a result, we have "a committee within a committee" whereby power is concentrated on a few members. It defeats the original intention of appointing able people and is unfair to the other members who have been expelled from the core.

These are my remarks.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, the sky-rocketing prices of private property in recent years have made it difficult for the sandwich class to buy a dwelling place. They may have asked why the Government did not lend a helping hand by suppressing speculation in the property market and cooling down the prices. The public may aspire to such desirable arrangements, but whether the Government can relieve their plight of having to bear the costs of expensive property depends on the one hand the Government's philosophy and determination in the implementation of its policies, and on the other hand, the policy of the three statutory bodies, namely the Housing Authority, Town Planning Board and Land Development Corporation, which have decisive influence on land and housing policies.

Policies are formulated by man. It would be ideal if everyone who takes part, that is every member of these bodies, really works independently, without being influenced by the interests of his job or the trade he belongs to. But is this the way things are? When members of the public talk about the conflict of interests of statutory body members, most of the people are concerned about whether a certain member has direct conflict of interests or not. In the past it was common for individual member to have such interests but now the problem of conflict of interests is no longer the problem of an individual. I think a delicate, consortium-led network of interests has been built up. With this consortium-led network of interests, property developers and contractors become the heart while the banks play the role of the blood transfusion centre. And property management and property consultancy firms, as well as lawyers, architects, engineers, surveyors and accountants engaging in the businesses of real estate, construction and property transaction all occupy key positions in this network. It can be said that the common interest of the consortium is for the continual growth of the property market so that every member of the consortium may share the enormous profits brought about by the sharp increase in property prices. At present about half of the members of the three statutory bodies mentioned above fall into this category. I think they act as a group, not

individually, in these statutory bodies to fight for and safeguard the interests of the consortium. Let me cite some examples. As the Land Development Corporation has agreed to develop the old urban areas, with property developers jointly, it has refused to let small owners participate in such development or deprived them of the right to do so. The Housing Authority has accepted the Government's Longer Term Housing Strategy which shows favouritism to the private sector and lets it play the dominant role. It has also pegged the prices of Home Ownership Scheme (HOS) flats to those of private property. Land zoned by the Town Planning Board for industrial purpose can easily be converted into commercial and residential uses by developers, while the nuisances created to residents have been totally ignored. The Government, of course, cannot stay aloof from this profit-making business. The huge profits from land sales and revenue in stamp duty generated by active transactions in property have made the Government become a part of this consortium unconsciously. And since the Government attaches great importance to economic development in its implementation of policies, its objectives will coincide with those of the consortium at a time when public justice and interests of the middle and lower classes are ignored.

In the long term, a fully democratic system can help to reduce the likelihood of conflict of interests within these statutory bodies. In the short term, I think the Government should appoint more directly-elected members from different tiers, to these statutory bodies and advisory committees and reduce the appointment of people who have conflict of interests as mentioned above. The expert advice from these people and the professionals may be absorbed to groups and consultative committees formed under these bodies.

Thank you, Mr Deputy President.

PROF FELICE LIEH MAK: Mr Deputy President, at present we have a political system which is a strange hybrid and, in addition, a multitude of advisory and statutory bodies, some of which have adjudicative powers of the court, some enforce laws, and some have input into policy matters. On a day-to-day basis some of these bodies work outside the control of any branch of the Government. To complicate matters, changing economic circumstances have fueled the call for an equitable distribution of resources, while the changing political climate has increased the call for a more efficient, co-ordinated and less burdensome government. There are also demands for a more accountable and transparent administration.

The number of bodies has undoubtedly mushroomed over time, on occasion, in an ad hoc manner. At the present count we have 158 statutory bodies and 91 non-statutory bodies. Some of the statutory bodies are advisory in nature and some perform public services on behalf of the Government. Some of the non-statutory bodies are advisory and also perform public services on behalf of the Government. Civil servants are estimated to be spending about 20% of their time sitting in these bodies.

Besides the proliferation in the number of these bodies and the time invested in them by both official and unofficial members, there are other problems.

(1) Many of the recommendations made by the various bodies are sitting on the shelves gathering dust. This has led many members to feel a sense of futility and frustration.

(2) Despite the fact that members are appointed in their individual capacities, some wear so many hats that it is often difficult to tease out as to when the member is speaking in his own personal capacity.

(3) The inclusion of politicians has compounded the difficulties for various bodies to reach a firm decision based on long range and common interests.

(4) The rule of confidentiality and collective responsibility has become illusory, with selective leaks being made for vested interests.

(5) Public interest is a texture of multitude strands; it is not a monolith. The advisory and statutory bodies' ability to balance their many interests is being called into question.

(6) The appointment of Legislative Council Members to advisory bodies on policy has blurred the separation of power.

(7) The division of responsibility between the statutory bodies, which retain primary control over their own affairs, and the Civil Service, whose power is essentially negative and which is dependent on co-operation to achieve its objective, places the civil servant in an inherently weak position. The civil servant is nonetheless expected to be held responsible if the body suffers serious reversals or economic dislocation. For these reasons he may pursue conservative policies.

The existence of these problems is crying out for a solution but our solution is not that which is proposed by the United Democrats. Our solution consists of:

(1) The need to rationalize the number of statutory and advisory bodies;

(2) Advisory bodies should be accountable to the Policy Secretary they are advising. After all, the Policy Secretaries are the ones who will decide on which policy to pursue;

(3) The choice of members should take into account expertise balanced with the range of interests;

(4) To avoid politicizing issues and for policy consistency, politicians should not be appointed to advisory committees;

(5) Guidelines should be promulgated for declaration of interests;

(6) Statutory bodies performing a public service for the Government should be directly responsible and accountable to the public whom they serve;

(7) The proceedings of the meetings of the advisory bodies should be made available for public scrutiny.

Dr HUANG, in his speech, made a number of recommendations which to my knowledge are based on the Federal Advisory Committee Act. I do not think that we should import the North American experience to our present system. Instead we should maintain what is most workable in our present system and not over-regulate for the sake of accountability, while sacrificing goodwill and the spirit of public service.

I would like to challenge Dr Conrad LAM's allegation about the integrity of many members who have contributed their time and expertise to serving the community in their personal capacity in the advisory committees and statutory bodies. I think the question he should address should be: does the system work; and does it work well? And my answer to that is: it does work well, but it needs some changes; but I do not think it needs radical restructuring.

MR TIK CHI-YUEN (in Cantonese): Regarding the declaration of interests by members of various advisory committee and statutory bodies, we agree that since the views expressed and matters handled by these bodies more or less concern public interests, their members should all make a declaration on their remunerated employments and directorship and the names of companies or institutions in which they own 1% or more interest. These members should also avoid taking part in any discussion or decision making concerning matters in which they have direct interests. However, as regards the protection of public interests, we think it is more important to increase the transparency of these bodies and to set up sound, workable avenues for monitoring.

I am going to focus my discussion on the accountability of statutory bodies performing public services which have a direct bearing on people's lives and of advisory committees advising on public policies. Statutory bodies providing public services include the boards of directors of the Kowloon-Canton Railway Corporation (KCRC) and the Mass Transit Railway Corporation (MTRC), the Housing Authority, the Hospital Authority and others.

Let me talk about the KCRC and MTRC first. We do not dispute that they need a certain degree of freedom and flexibility in their day-to-day management work, but this does not mean that they can disregard public interests. These two existing railway corporations, which were established by legislation and are wholly owned by the Government, are not subject to any profit control scheme. There is no channel for public monitoring of their operation, thus the interests of passengers, that is to say, the consumers are not protected. Such arrangement badly needs improvement. Meeting Point think it is necessary to review the role played by the Government in the two railway corporations.

The incident in which the KCRC awarded enormous sums of compensation to certain high-ranking officers on termination of their employment a couple of years ago not only aroused public concern, but also revealed that the Secretary for Transport, the ex officio member of the KCRC's Board of Directors, had not performed his functions effectively. As a result of the incident, the ex officio membership of a government official in the said Board of Directors was cancelled, and an alternative method of accountability was adopted. Whether the revised method of accountability works better has yet to be reviewed. Meeting Point feel that in order to safeguard the interests of consumers, a formal public monitoring channel should be created. In this regard, we suggest that a organization representing the interests of consumers be established to express views on the services of the railways from the standpoint

of consumer interests.

Furthermore, objective guidelines should be drawn up to assess the use of funds and quality of management of statutory bodies whose operation involves substantial amounts of public money. In this area, we are particularly worried about the accountability of non-government statutory bodies. Take the Housing Authority and Hospital Authority as examples. Government departments nowadays all have a set of guidelines for reference in preparing budgets and in drawing up objective criteria wherewith to assess their own performance in terms of "value for money". The guidelines and criteria are set out in detail in the Budget. However, the Housing Authority and the Hospital Authority, after hiving off from the Government to become independent statutory bodies, have been allocated public funds in the form of a lump sum. It is therefore difficult for this Council to learn from the information contained in the Budget whether they have used the public funds effectively or not.

We think the Housing Authority and the Hospital Authority should draw up a set of objective criteria wherewith to assess their own performance. In so doing, they may refer to the guidelines and criteria used by government departments. Besides, the formulation of major public service policies which are within the respective bailiwicks of the present Housing Authority and the Hospital Authority used to be undertaken by government departments before the hiving-off and therefore used to be the Government's responsibility. It was then more clear-cut as to who should be held accountable. Now that these two bodies are independent, the Government no longer undertakes the important responsibility of policy formulation in these areas, its present involvement being, in respect of the Housing Authority in particular, no more than maintaining the Housing Department as the executive arm of the Housing Authority -- the Housing Branch being no longer existent. The responsibility is entrusted to the members of these bodies who are appointed from among the general public. Hence it is unclear as to who should be held accountable. At present one of the ways for this Council to exercise its function of monitoring the Government is to put questions to the Administration about government policies and its implementation. Nevertheless, there is no proper channel for this Council to monitor these bodies who have become independent from the Government. It is impossible to put questions directly to these bodies about their work during our sittings, either.

In appointing members to advisory committees who are concerned with public policies or statutory bodies who possess executive power, the Government should, in our opinion, include people of all social strata as far as practicable so that the

views of each social stratum can be reflected.

It is equally important to open the policy formulation process to the public and to increase the transparency of the process. The Housing Authority's recent practice of opening its meetings to members of the public is indeed a key step in the direction of open government.

Thank you.

MR HOWARD YOUNG (in Cantonese): Mr Deputy President, today's debate is on the membership of advisory committees and statutory boards and the monitoring of same. The Secretary for Constitutional Affairs mentioned about seven hours ago in his reply to Members' questions that members appointed by the Government to boards and committees were drawn from particular sectors with the relevant expertise. He also said that the Government advocated having the best men and women to serve on the advisory committees. I personally feel that we must have technical expertise on the one hand and appropriate representation of public opinion on the other, be it an advisory committee or a statutory board. Of course, personally I think that representatives of public opinion can have no justifiable claim to "a monopoly of public opinion" simply because they are returned through a certain form of election. People of every walk of life can present public opinion. When the Government appoints members to the committees, I think that public opinion should be given much weight because the policies to be formulated will affect our livelihood. Besides, some committees are more of a technical nature and call for a certain measure of scientific knowledge or professional knowledge. Therefore, when making appointments, expertise and associated knowledge should be given due weight.

Today, some Members have made reference to several statutory boards such as the Hospital Authority and the Housing Authority. Apart from the committees already established, there will be new ones set up in the future. Should the Government consider adopting a newer approach? I remember that when the Secretary for Economic Services explained to Members the financing for the new airport, Mr Steven POON asked about the monitoring function of this Council when it approved a capital infusion into the Airport Authority, and how the spending of public money would be monitored to ensure it would not be wasted. He also pointed out at that time that there should be appropriate public representation in the future Airport Authority. I support this proposal very much. We all know that many franchised companies in Hong Kong, such as the power companies, the bus companies and the telephone company are subject to

a measure of control, such as profit control. Although these companies are not spending public money, they are enjoying a franchise. The future Airport Authority not only draws on public money but also enjoys a franchise. Who will be responsible for monitoring its profit and checking whether or not the charges are too high in the future? I recollect that when this Council discussed the new airport, Mr LEE Wing-tat mentioned that if the future Airport Authority levied charges arbitrarily, it would affect Hong Kong's competitiveness. Therefore, I think that when the Government sets up this new body in the future, it should consider breaking new ground, in other words, a balance should be struck in the appointment of members to the new Airport Authority so as to include the participation of technical and expert persons and monitoring by the public as well.

The composition of advisory committees should be along the same line. One thing which is very closely related to the tourism industry is the setting up of the Airport Consultative Committee arising from the Memorandum of Understanding signed by Britain and China. Although the new airport is closely related to the tourism industry, it is also directly related to hotels, airline companies and travel agencies. However, the composition of the Committee does not include representatives from the tourism industry and includes very few aviation experts. Representatives of the hotel industry are mostly from the real estate sector and none of them really knows hotel management. Therefore, I consider it to be a grave shortcoming of the Committee. I have mentioned this point during the policy debate. Mr Deputy President, I hope the Government will strike a balance as regards the advisory committees or the statutory boards so that we can listen to public opinion and at the same time have adequate monitoring.

These are my remarks.

9.32 pm

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, I thank all Members who have spoken for the views they have expressed. It would not be possible in the time available to deal with all of these points, though I would like to assure Members that I have taken careful note of them.

There is a wide variety of statutory bodies and advisory committees. Some of them are established for the purpose of providing expert advice to the Government on their



particular areas of concern. Others are established to provide a service to the public on behalf of the Government, where it is considered that the management flexibility offered by a body outside the Civil Service is conducive to more efficient and effective provision of service. Still others are established to promote greater community participation. Together they form a key feature of our system of government as practised over the years, which allows us to draw on the best talent and expertise that is available in the community. That system evolves over time; it does not stand still. New bodies and committees are created from time to time to meet the complex needs of administering a modern society of 5.8 million people. Old ones are modified or replaced. There are currently over 400 statutory bodies and advisory committees.

Given the large number and wide variety of statutory bodies and advisory committees, it would be inappropriate to impose uniform and inflexible rules on accountability and declaration of interest. To take accountability first. In essence, all statutory bodies and advisory committees are established by the Government; so strictly speaking it can be argued that they are all accountable to the Government for the discharge of their functions. But that is a highly simplified way of looking at the issue. Ultimately, in an open society like Hong Kong, all bodies which perform a public function are accountable to the community. Some of them may not do so directly, for example through a system of elections. But they are subject, as is the Government, to public comment and criticism expressed directly to them by members of the public or indirectly through the media, or the Legislative Council and other representative bodies. Indeed, there are arrangements whereby reports of the statutory bodies are laid before this Council and it is open for this Council to debate or comment on them.

Mr Deputy President, I do not believe that there is a major cause for concern on the Government's relationship with these statutory or advisory bodies. There are well known principles governing that relationship:

- It is the Government that ultimately determines policy.
- It is the Legislative Council that enacts the laws and approves the funds for these bodies where such laws and funds are necessary.
- Where questions are raised by this Council on the activities of these bodies and committees, the Government has to answer for them.

I note that Dr HUANG and Mr TIK would like this to be done by the chief executive of statutory bodies. But the present arrangement for Policy Secretaries to deal with such questions reflects the relationship between the Government and the relevant statutory bodies, as well as the fact that the Central Government is answerable to the legislature for all aspects of government policies and activities, including those undertaken on its behalf by statutory bodies. The relevant Secretary will of course consult the statutory bodies concerned before providing any answer or information to the Legislative Council on matters affecting these bodies. Within these broad parameters, the detailed arrangements governing relationships with particular bodies or committees are of course adapted and refined, having regard to the nature of their activities and the needs of the time. Changes and improvements are made as circumstances warrant, not only in their precise relationship with the Government but also in the structure and composition. One area which we are currently looking at is the feasibility of defining the precise relationship between the Government and some statutory bodies more clearly. I believe we should deal with these relationships pragmatically rather than making changes for doctrinal reasons. We should not attempt to look over everything they do and how they do it, for we risk destroying the very flexibility that we wish to achieve in setting up statutory bodies. We must handle this with care and sensitivity.

Turning to declaration of interests, the Government is of course fully alive to the need to ensure that decisions are made impartially and that as far as possible the interests of members of boards and committees are taken into account in considering their views and advice. Hong Kong is a relatively small and complex place and it is not hard for the interests of individuals to be known, whether or not they are officially declared. Sometimes, indeed, we appoint individuals to represent specific interests to boards and committees in order that those interests might be taken into account, for example, in the advisory board where a nominee of the Consumer Council looks after the interests of the consumer. In other cases, we need to draw on the expertise of the practitioners in the particular field of activity, which would make it necessary to appoint individuals with a particular background and interest. Thus all members of the Textiles Advisory Board are manufacturers or exporters of textiles and garments, with in-depth knowledge of that industry. This is extremely important for they act as industrial advisers to Hong Kong's trade negotiators. These are well documented in the Civil and Miscellaneous Lists and it is quite easy to find out.

That is not to say, however, that there is not a place for the establishment of some system of declaration of interests where it is needed. There are indeed elaborate arrangements for declaration of interests in respect of members of the Executive Council, the Legislative Council, the municipal councils and the district boards. This reflects also the important position that such bodies occupy in the community. Most statutory authorities and corporations already have some provision, either in law or in administrative rules, on the need to declare conflicts of interest, and the ICAC has just formulated some guidance notes on conflicts of interests for advisory committees which will be further pursued. But I do not believe that we need to impose a uniform and elaborate system on all boards and committees. Quite apart from being administratively cumbersome and possibly costly, we must take care that we do not dampen the enthusiasm of members of the community to participate in public affairs. We should look at each case on its merit and decide what arrangements best suit the circumstances of the case. In this respect we will, as part of our ongoing process, continue to see where improvements might be made.

A number of Members refer to the need to strike a balance in the Government's appointments to boards and committees. There were suggestions that more elected Legislative Council Members should be appointed to such bodies. There are also contrary views that politicians should be barred from such bodies. But as I said, in answer to a question in this Council earlier this afternoon, whilst we do not have a universal policy to appoint Legislative Council Members to boards and committees, their claims will be fully considered within the Government's overriding policy of appointing the best man or woman to serve on such committees. Indeed, given the short time between September 1991 and today, we have appointed or re-appointed some 14 elected Legislative Council Members to such bodies. Elected Legislative Council Members now chair 9 boards/ committees.

Mr Deputy President, I will again, on behalf of the Administration, thank all Members for expressing their interests and their views on the subject of this adjournment debate. I assure Members that careful consideration will be given to the views expressed. Thank you.

Question on the adjournment proposed, put and agreed to.

Next sitting

DEPUTY PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 27 May 1992.

Adjourned accordingly at eighteen minutes to Ten o'clock.

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