

1 HONG KONG LEGISLATIVE COUNCIL -- 3 June 1992

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OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 3 June 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 JAMES KERR FINDLAY, O.B.E., J.P.

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

THE HONOURABLE STEPHEN CHEONG KAM-CHUEN, 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 MARTIN LEE CHU-MING, Q.C., 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.

DR THE HONOURABLE LEONG CHE-HUNG

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

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

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.

THE HONOURABLE MICHAEL HO MUN-KA

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 MISS EMILY LAU WAI-HING

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

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG

THE HONOURABLE ZACHARY WONG WAI-YIN

ABSENT

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

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

THE HONOURABLE NG MING-YUM

IN ATTENDANCE

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

MR MICHAEL LEUNG MAN-KIN, C.B.E., J.P.
SECRETARY FOR TRANSPORT

MR JOHN CHAN CHO-CHAK, L.V.O., O.B.E., J.P.

SECRETARY FOR EDUCATION AND MANPOWER

MR MICHAEL SUEN MING-YEUNG, J.P.

SECRETARY FOR HOME AFFAIRS

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

MR IAN ROBERT STRACHAN, J.P.

SECRETARY FOR SECURITY

MR KWONG KI-CHI

SECRETARY FOR THE TREASURY

MRS ELIZABETH MARGARET BOSHER, J.P.

SECRETARY FOR ECONOMIC SERVICES

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.

Statutes of the University of Hong Kong
(Amendment) (No. 3) Statutes 1992.....
167/92

Bankruptcy (Amendment) Ordinance 1992
(39 of 1992) (Commencement) Notice 1992..... 168/92

Corrigendum.....
..... 169/92

Sessional Papers 1991-92

No. 79 -- Securities and Futures Commission
Annual Report 1991-92

No. 80 -- Regional Council
Revised Estimates of Expenditure 1991-92

Address by Member

Securities and Futures Commission Annual Report 1991-92

FINANCIAL SECRETARY: Mr Deputy President, in accordance with sections 12 and 16(2) of the Securities and Futures Commission Ordinance, I table for Members' information the Annual Report, the auditors' report and the statement of accounts of the Securities and Futures Commission for the year ending 31 March 1992.

As in previous years, much of the work of the Commission focused on refinements to the regulatory framework of our securities markets.

The most important issues included the constitutional reforms to the governing structure of the Stock Exchange of Hong Kong, the development of the new securities clearing and settlement system, and completion of the transfer of full responsibility to the Stock Exchange for all day-to-day operational and regulatory matters in relation to listings.

Other important matters dealt with during the year included the issue of a revised Unit Trust Code and a Takeovers and Share Repurchases Code, the issue of a consultative document on financial resource requirements for securities and futures dealers, and the approval of new listing rules to permit secondary listings for companies which have a primary listing on a recognized overseas exchange, but where the majority of trading remains in Hong Kong.

Turning to more recent developments, I am pleased to say that the Hong Kong Securities Clearing Company, having received the necessary recognition from the Commission, opened its depository yesterday. Later this month, the Company will commence operating on a trade for trade basis. It is important for the Company to proceed as soon as possible to a continuous net settlement basis in which it acts as the counter party and settlement guarantor of transactions. Such a move will enable Hong Kong investors to benefit from the settlement of transactions on a fully netted and guaranteed basis. An essential precondition for this is the enactment

of the Securities (Clearing Houses) Bill which is currently being examined by Members, and I hope it will be possible for the Bill to be enacted before the end of the Session.

Mr Deputy President, the Commission has achieved much since it was established in May 1989. It is largely thanks to its efforts that we now have in place an effective and efficient regulatory framework which is fully up to the standards expected of an international financial centre. I would like to take this opportunity to pay tribute to the Commission and its staff for their professionalism and hard work.

Finally I should place on record our appreciation of Members' continuing interest and support for the Commission's work.

Oral answers to questions

Remuneration of university clinical teaching staff

1. DR HUANG CHEN-YA asked (in Cantonese): As the University Medical Doctors' Association has recently pointed out that the remuneration and fringe benefits of the clinical teaching staff of the two medical schools of the University of Hong Kong and the Chinese University of Hong Kong are not comparable to those of their counterparts in the Hospital Authority, thus giving rise to problems of low morale and brain drain, will the Government inform this Council whether such problems exists; if so, what remedial action will be taken?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the basic salaries payable to clinical staff of the two medical schools are similar to those of their counterparts employed by the Hospital Authority. The fringe benefit packages enjoyed by the two groups of staff are, however, differently structured. I am advised that the Hospital Authority package is generally considered to be more flexible but that, depending on individual circumstances, some staff are likely to find the universities' package more attractive.

In response to representations from the University Medical Doctors' Association and the two universities, the Government has undertaken to consider the case for offering university clinical teachers the option to choose between remaining on their existing terms or changing over to terms similar to those of the Hospital Authority. At this stage, we are consulting the universities on the severity of the morale and

wastage problems that the absence of such an option is said to have caused, and also on the financial implications involved in offering such an option. These are important considerations because resources are necessarily limited and there are many other competing claims.

DR HUANG CHEN-YA (in Cantonese): Mr Deputy President, I am surprised to learn that the Administration is still looking into this as the University Medical Doctors' Association has already provided the Administration with a lot of information. I would just point out that the salary of a lecturer with 10 years' experience receives almost \$18,000 less than his Hospital Authority counterpart who has the same length of service; and a professor is paid at least \$28,000 to \$30,000 less than a medical consultant. Under these circumstances, one fourth of the clinical teaching posts of the two universities fall vacant and a number of incumbents are going to quit. Will the Administration inform this Council when it would do something positive to solve the problem? Or does the Administration think that the problem is not that serious?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the Government is acting now. We are acting to find out more of the facts. The fact of the matter is that although in terms of take-home money -- I would not even say take-home pay -- the Hospital Authority staff would be getting more, the salaries are, as I said in my main reply, the same. What makes the difference is fringe benefits and it is very difficult in many cases to measure the actual difference between benefits in cash and benefits in kind. For instance, Education Allowance would be worth a great deal to someone who has three or four children but would probably be worth nothing to a single person.

MR MICHAEL HO (in Cantonese): Mr Deputy President, I would like to follow up the Secretary's reply. Irrespective of whatever differences there are in salary or fringe benefit packages between the clinical staff of the Hospital Authority and that of the two universities, the change following the establishment of the Hospital Authority has brought about wastage problems in the universities and other subvented organizations. Would the Administration give a positive answer as to the sort of programme there is to solve the problem?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, again, as I said in my main reply, the Government has undertaken to consider the case for offering university clinical teachers the option to remain on their present terms or to change over to terms similar to those of the Hospital Authority. But before deciding on whether such an option should be offered we need to establish more of the facts.

DR LEONG CHE-HUNG: Mr Deputy President, in the Secretary's main reply, financial implications were mentioned. Could the Secretary quantify and give this Council a rough figure, and tell us how such a figure would compare with the ill effects of morale and wastage problems amongst university clinical teachers?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, assuming that the option mentioned in my main reply were offered to the universities' medical clinical staff and assuming that all of them opted for changing over to Hospital Authority terms, then we would be talking about expenditure to the extent of something like \$106 million a year, but of course I would not want this figure to be taken as firm because, as I also indicated, there is a likelihood that some, and probably quite a few, members of the staff involved may prefer to remain on the universities' current terms. As regards how this cost compares with the effects of low morale and wastage, this is precisely what we are trying to establish.

MR HOWARD YOUNG: Mr Deputy President, the comparison as given in the reply between university and Hospital Authority remunerations is an internal comparison and may only go part of the way in solving Dr HUANG's question on the brain drain. Having spoken to some people connected with the medical profession in the United Kingdom last week, I got the impression that remuneration enjoyed by the medical profession in Hong Kong is the envy of many people in the United Kingdom. Has the Secretary looked at the comparison vis-a-vis the possibility of attracting more people from overseas to solve the brain drain in Hong Kong and does he think that we are competitive enough in this respect?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, as a general proposition, the Government has been taking steps to try and encourage people who have special

skills which are in short supply in Hong Kong to come and work in Hong Kong. For that purpose we have, for instance, adopted much more flexible immigration policies -- but this is really outside my immediate sphere. As far as attracting more doctors to Hong Kong is concerned, this, I am afraid, is something which I do not deal with in my policy area, although as far as doctors teaching in universities are concerned, my understanding is that the universities can recruit doctors who may not be able to practise in Hong Kong but who will nevertheless be able to teach and work in the universities.

MR MAN SAI-CHEONG (in Cantonese): Mr Deputy President, would the Secretary not agree that the remunerations offered by the universities have made it difficult for them to recruit local doctors? And how many of the clinical teaching staff of the universities do not know Chinese, who come here only on one or two years' contracts?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, I cannot really answer the first question because this is actually the subject of our present consultations with the universities. On the second question, I am afraid I do not have the details; I will have to check with the universities before giving a written reply. (Annex I)

MR STEVEN POON (in Cantonese): Mr Deputy President, do the clinical medical staff of the two universities have teaching duties as well? If they do, are there differences in remuneration packages between them and other teaching staff of the universities? If yes, has the Administration looked at the differences and come to the view that they are fair?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, yes, the clinical medical staff of the medical schools do have teaching duties. As far as their salary and remuneration packages are concerned, the packages are determined in relation to the remuneration packages for government doctors and for doctors working in the Hospital Authority. They are not necessarily the same as those for teaching staff of other faculties or other disciplines in the universities.

Tin Shui Wai Estate

2. MRS ELSIE TU asked: Will the Government inform this Council:

(a) how many flats in the Tin Shui Wai Estate have been completed;

(b) how many of these are for renting to wait-listed applicants and how many are for the Home Ownership Scheme;

(c) how many of the rental flats are already occupied and what criteria have been applied for processing their allocation; and

(d) how many more flats in the Estate will come on-stream this year; of these how many will be for renting, and what will be the criteria for their allocation?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, up to mid-May 1992, a total of 1 630 public housing flats in Tin Shui Wai have been completed.

All of them are for renting, with 630 to meet clearance and other operational requirements and the remaining 1 000 for eligible waiting list applicants.

As at mid-May, a total of 1 225 flats had been let to applicants who meet the normal rehousing eligibility criteria. 755 of them were from the General Waiting List and 470 from clearance and other categories.

Under a special allocation policy to encourage residents to move to the Tin Shui Wai rental estates, two additional categories of households are eligible to apply. The first includes households below the Home Ownership Scheme income limit of \$18,000 per month. The second includes households with incomes up to twice the limit for waiting list applicants, subject to a ceiling of \$22,000 per month for a household of five persons or more, together with people affected by clearances, temporary housing area residents and waiting list applicants who have lived in Hong Kong for at least three years but less than seven years.

A total of 8 961 public rental housing flats and 1 824 HOS flats are programmed for completion at Tin Shui Wai by the end of the current financial year. The allocation criteria will be the same as those I have already described.

MRS ELSIE TU: Mr Deputy President, from the Secretary's reply, it appears that the waiting list has been split into three separate categories with low priority for those with the relaxed income and residence criteria. May I ask what hope these two queues have of ever being allocated flats, at least in the foreseeable future, and whether they are just being offered an empty promise?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I will try and answer that question with some more figures. By June 1993, a total of 14 000 rental flats will be completed in Tin Shui Wai; 10 000 of these flats will be for waiting list and 4 000 for other categories, for example, those affected by clearances. Out of the 10 000 for waiting list it is estimated that 7 000 will be taken up by Priority One applicants, that is, those eligible for public housing under the normal criteria. The 3 000 remainder will be for other priorities. There is an element of being confounded by success here in that around 30 000 applications for units at Tin Shui Wai have been received, and while it is expected that approximately 60% of these will be sustained -- in other words there will be dropouts -- it is inevitable that the normal waiting list priorities will have to be met in view of the large number of applicants.

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, how many of the 13 000 applicants are on the waiting list? According to Mr EASON, 3 000 flats will be reserved for those in other priorities; if that is the case, are the 7 000 flats enough to meet the demand of those who are eligible under the normal criteria? This group of applicants should have first priority in the allocation of public housing units; will their priority be affected if 3 000 flats are set aside for people in other priorities?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I think this would require some considerably detailed analysis based on the nature of the applicants and their eligibility. At this moment, I am not able to respond to the detail that that question requires but I will undertake to try and produce the information in writing. (Annex II)

MR WONG WAI-YIN (in Cantonese): Mr Deputy President, as regards the newly completed public rental flats in Tin Shui Wai, I understand the Housing Department would ask the residents moving in whether they would be interested in buying or just in renting their flats. Does the Housing Department intend to sell the public housing flats in Tin Shui Wai? Can we have further details?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I understand that the sort of question which is put to applicants is intended to establish the extent of interest in home ownership on the part of those people who are moving into public housing and to ensure that if there is an interest on their part in home ownership, then it is brought out at the outset of the application procedure. Within the Public Housing Programme, the Housing Authority maintains a degree of flexibility as to the use of housing production in order to maintain a reasonable balance in meeting the preferences of its clients. In other words, should there be a general shift of preference towards home ownership, then the Housing Authority will take this into account in the future planning of its construction programmes and the allocation of its stock of housing.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, as far as Tin Shui Wai public housing estate is concerned, I understand that apart from having a new waiting list system, there are tenants who pay a rental lower than that of the prevailing rent. We learnt from the Tin Shui Wai development that it is quite impossible to expect all the public housing tenants to live in remote areas of New Territories. Will the Administration consider allocating more land in the West Kowloon Reclamation Area and other urban areas for the construction of public housing estates, so that there is a balanced community development?

DEPUTY PRESIDENT: It is at a tangent to the main question but do you have the answer, Secretary for Planning, Environment and Lands?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: I will attempt an answer, Mr Deputy President. I think we are well experienced in the development of new towns. We have, after all, seven or eight "under our belts" as it were, and we do know the difficulties in the initial stages of attracting people to live in them. This of course has not

stopped the successful development of new towns in some of our relatively remote areas. As far as Tin Shui Wai is concerned, I think the indications are given, from the 30 000 applications that have been received, that Tin Shui Wai is now recognized on the map by most people in Hong Kong, whereas perhaps a year or two ago they did not know where it was and that this will encourage the faster movement of population into Tin Shui Wai.

On the tangential question, I think the Housing Authority and the Government are in an almost permanent dialogue as regards the availability of suitable sites for housing, whether these be in the urban areas or the New Territories.

MRS ELSIE TU: Mr Deputy President, it appears from the Secretary's reply that this estate has become so popular that long-term residents on the waiting list are willing to move to this isolated estate. Is it because allocations to all other estates have virtually been suspended and waiting list applicants are being told that there are only casual vacancies in all other estates that applicants are therefore forced to go to Tin Shui Wai?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I think, as I have said, the indications are that Tin Shui Wai is now a recognized location in which housing, which is suitable and is going to be provided with all the normal facilities of a new town, is being developed. As regards the extent to which the popularity of Tin Shui Wai is due to that factor or due to other factors, such as the inevitable shortage of vacancies in housing estates in other places, I should be speculating if I attempted an answer.

Illegal immigrants

3. MR GILBERT LEUNG asked (in Cantonese): Will the Government inform this Council of the number of illegal immigrants arrested at or in the vicinity of their working places last year; what percentage it represents in relation to the total number of illegal immigrants arrested during the period; how it compares with the figures of the preceding year; what steps will be taken by the Administration to reinforce the interception of illegal immigrants along the border and to impose greater deterrence upon employers and illegal immigrants?

SECRETARY FOR SECURITY: Mr Deputy President, some 25 400 illegal immigrants were arrested throughout Hong Kong in 1991; 27 800 in 1990. Of those arrested in 1991, some 1 400 (just 6%) were arrested at places of work. The figure for 1990 was about 3 300 (about 12%). Our statistics distinguish only between those who are caught at places of work and those who are not. Those caught in the vicinity of a place of work are not now prosecuted unless they are engaged in criminal activities and so are not counted separately.

As regards prevention measures, the police have taken over law enforcement to intercept the entry of illegal immigrants over land. Moreover, the Director of Immigration has proposed, subject to the availability of resources, to establish a task force of about 100 officers to enhance the present operations against illegal immigration and employment. We also maintain close links with the Chinese authorities on border control. The Governor of Guangdong recently reaffirmed that the Guangdong provincial authorities would continue their vigilance against illegal immigrants trying to enter Hong Kong.

Tough new legislation aimed at those employing illegal immigrants was introduced in November 1990. The maximum penalty under section 17I of the Immigration Ordinance was increased from a \$50,000 fine and one year's imprisonment to a \$250,000 fine and three years' imprisonment. Additionally, a new section 38A, aimed specifically at the construction sector, imposes a maximum fine of \$250,000 on main contractors where illegal immigrants are caught on sites under their control. That these measures are proving effective is evidenced by the drop in the percentage figures of those caught working.

MR GILBERT LEUNG (in Cantonese): Mr Deputy President, could the Administration inform this Council how many employers have been prosecuted since the new legislation was brought into effect in November 1990? And what is the average fine meted out?

SECRETARY FOR SECURITY: Mr Deputy President, since November 1990 when the new legislation was brought into effect 1 315 employers have been prosecuted of whom 1 116, that is, 92%, have been successfully prosecuted. There are 27 cases pending trial at present. Sentences have ranged from one month to nine months suspended

sentence. Fines have ranged between \$500 and \$17,500.

MRS MIRIAM LAU: Mr Deputy President, can the Secretary inform this Council whether the drop in the number of illegal immigrants arrested at work means that fewer illegal immigrants work in Hong Kong nowadays, or that illegal immigrants have become more clever in avoiding being caught at work? And if the latter is the case, does the Administration intend to do anything about that situation?

SECRETARY FOR SECURITY: Mr Deputy President, it is true that the number of illegal immigrants arrested at work is continuing to decline as a percentage of the total number of illegal immigrants being arrested. What is most interesting, in recent months in particular, is the substantial increase in the number of illegal immigrants being arrested in the act of going north, that is, across the border from Hong Kong back into China. Those being arrested are claiming that they cannot find work in Hong Kong. We believe, therefore, that this is showing some success. The actual numbers involved are: for the first four months of this year 643 were arrested in this way, compared to 216 in the same period in 1991.

To answer the second part of the question, we are continuing to carry out raids on construction sites. In fact, the number of people arrested on construction sites in the first four months of 1992 slightly exceeds the first four months of 1991 despite the overall fall, and we are continuing to make arrests in all the other places, restaurants, factories, and so on.

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, could the Administration inform this Council whether the cases brought against employers for employing illegal immigrants last year had increased or decreased when compared with that of the year before last, and whether the level of fine had increased or decreased? Was there any case in which an employer was sentenced to imprisonment for employing illegal immigrants?

SECRETARY FOR SECURITY: Mr Deputy President, I do not have the comparison figures that Mr LAU has referred to and would, with your indulgence, wish to give a written reply to that. (Annex III) With respect to the second part of the question, no

employer has been sent to prison.

MR RONALD ARCULLI: Mr Deputy President, would the Secretary for Security tell us what advice has been given and what measures have been taken by the Administration, and indeed the police, to assist and perhaps co-operate with the construction industry in their efforts to control these problems?

SECRETARY FOR SECURITY: Mr Deputy President, advice from Crime Prevention Offices of the Police Force and from the Immigration Department's Hot-Line is available to all principal contractors and those who operate construction sites. We have conducted a number of extensive discussions with the construction industry in order to help them in dealing with section 38A of the Ordinance. I am pleased to note that the construction industry has produced guidelines and a code of practice for their members, and individual firms have in fact developed these in much more detail. We have, from time to time, suggested new ways to help the industry to improve these codes of practice.

MRS SELINA CHOW: Mr Deputy President, obviously, extensive recruitment of illegal immigrants is taking place in China for the purpose of importing them into Hong Kong for illegal purposes. Will the Secretary inform this Council whether efforts have been made to secure the co-operation of the Chinese authorities to tackle the problem at source?

SECRETARY FOR SECURITY: Mr Deputy President, the need to get this message across to villages and townships in China is an important objective. We do this through border liaison channels and through regular meetings with Chinese officials. We have from time to time suggested to the Public Security Bureau that notices be put up on prominent official buildings in Chinese townships to warn people not to come to Hong Kong, to tell them that there will not be an amnesty because of some special event happening in Hong Kong, and to try and defeat those who seek to organize illegal immigrants to come.

MISS EMILY LAU (in Cantonese): Mr Deputy President, would the Secretary inform this

Council whether the Administration intends to discuss with China the repatriation of convicted illegal immigrants so that they may serve their sentence in China? If yes, could the Secretary elaborate on the kind of considerations the Administration will take into account?

SECRETARY FOR SECURITY: Mr Deputy President, we are continually looking into ways to seek to deter illegal immigration. The proposal that Miss LAU refers to is an interesting one and we are actively considering it at present. We have not made a decision as to what to do, but we need to take into account the social, legal and security considerations before we would proceed with this.

MR STEPHEN CHEONG: Mr Deputy President, does the Administration agree that the principle involved in solving this problem is close co-operation between the employers and the employees and that bashing either side alone is not going to help solve this particular problem?

SECRETARY FOR SECURITY: Yes, Mr Deputy President, we agree that solving the problem of illegal immigration requires the co-operation and support of the whole community for the Government.

MR WONG WAI-YIN (in Cantonese): Mr Deputy President, the Secretary just now mentioned in his reply that more than 1 100 employers had been prosecuted. How many of them were principal contractors, or did the Government only prosecute those "subcontractors on construction sites"? Did the Crown encounter any difficulty in prosecuting the principal contractors?

SECRETARY FOR SECURITY: Mr Deputy President, of the total number who have been charged, summonses taken out under section 38A of the Immigration Ordinance, which refers to construction site controllers, numbered 29. In 11 of the cases, the defendants pleaded guilty; in four cases the defendants pleaded not guilty but were convicted after trial; in five cases the summonses were withdrawn by the Attorney General before pleas were entered; in four cases the defendants pleaded not guilty and have yet to be tried; and in five cases the defendants have not yet entered pleas. There have thus far been no acquittals.

Sentences have ranged from fines of \$10,000 to \$125,000. There have not, to my knowledge, been any prosecutions of subcontractors on construction sites under section 17I of the Immigration Ordinance.

MR JAMES TO (in Cantonese): Mr Deputy President, would the Government not agree that by allowing extensive media coverage of illegal immigrants living on and working at construction sites with no immediate action taken by the Administration against them may carry a misleading message to people in China that the Hong Kong Government is allowing these to happen?

SECRETARY FOR SECURITY: Mr Deputy President, the police occasionally do take the media with them on raids in order to demonstrate to the public of Hong Kong the size of the problem and the commitment of the Hong Kong Government to deal with this problem. We do not condone illegal immigration in any way; it is the Government's strong and firm intention to arrest all illegal immigrants in Hong Kong, whether at places of work or elsewhere, and we do wish to get this message across to China, both into the villages and to the Chinese authorities.

MR JIMMY MCGREGOR: Mr Deputy President, can the Secretary say how many illegal immigrants were involved in the cases where prosecutions of employers have been undertaken, and whether any employer who has received a suspended sentence has been charged a second time?

SECRETARY FOR SECURITY: Mr Deputy President, as I said earlier, since November 1990 1 315 employers were prosecuted under section 17I of the Immigration Ordinance. To my knowledge, none of those given suspended sentences have been prosecuted a second time. With regard to the first part of the question, I do not know the answer to that. With your permission, Mr Deputy President, I will give a written reply. (Annex IV)

MR NGAI SHIU-KIT (in Cantonese): Mr Deputy President, I would like to follow up the supplementary question raised by Mr MCGREGOR. In the first paragraph of his reply,

the Secretary mentioned that some 53 000 illegal immigrants were arrested during 1990-91. How many of them violently put up resistance in the course of arrest? If the number was small, could the Administration explain whether it was an abuse of power or a violation of human rights to arrest an illegal immigrant with the use of handcuffs on both hands? Moreover, has the Administration ever received written representations from human rights champions or concern groups in protest against the way they were arrested?

DEPUTY PRESIDENT: That is a very wide-ranging question, Mr NGAI, and it does not seem really to come within the ambit of the main question or answer.

Personal data in computer databank

4. MR PETER WONG asked: Will the Administration inform this Council of the progress of preparing legislation to protect the privacy of personal data held in computer databanks?

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, I am the Chairman of a Working Group on Data Protection Legislation, which is tasked to prepare legislation to protect the privacy of personal data stored in computer systems. Members of my working group are mainly drawn from experts on electronic data processing, both in the private sector and within Government.

In pursuance of our terms of reference, we have examined the data protection legislation in force in other countries and we have also assessed their applicability to Hong Kong. We are now in the process of deliberating the basic features of an appropriate approach to data protection legislation and its implementation in Hong Kong; paying particular attention to the scope and content of such legislation, as well as the arrangements for the administration and enforcement of the protection scheme.

In the interim, the working group has established a set of data protection principles and guidelines which have been issued to both the public and private sectors, inviting their adherence to the principles and compliance with the guidelines on a voluntary basis. These principles were based on those which have

been adopted in the United Kingdom under the Data Protection Act 1984.

Since March 1990, a Privacy Sub-Committee of the Law Reform Commission has been examining the protection of personal data in recorded form. Its terms of reference are much broader than those of my working group, not being restricted to automated data. The membership of the sub-committee is correspondingly broader, with only a minority being electronic data processing specialists. In order that both parties could be mutually acquainted with the path taken by the other, arrangements have been made for cross-membership and exchange of minutes. These measures minimized but not totally eliminated the potentiality of the two groups adopting different approaches to the same subject matters.

To overcome this problem, we intend to use the occasion of the publication of the Privacy Sub-Committee's Comprehensive Report on its findings for public consultation later this year, to collect general public feedbacks on the wider question of the protection of the privacy of personal data. We aim to gauge public attitude and expectation in respect of this matter.

The next steps will very much be guided by the public feedback which we receive. We will have to consider how best to make progress jointly with the Privacy Sub-Committee of the Law Reform Commission.

MR PETER WONG: Mr Deputy President, in the fourth paragraph of the his reply the Secretary said that the sub-committee has adopted approaches different from the Government to some of the problems of privacy of information. Can the Secretary inform this Council what those differences are and why in this particular case public consultation is needed to resolve the differences?

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, the differences arise from the origin of the different studies. Our study was restricted to personal data stored in computer systems, whereas the study undertaken by the Law Reform Commission Privacy Sub-Committee arises from consideration of the Bill of Rights (BOR) and hence BOR considerations are more predominant in that they cover larger aspects of the study. And so, for example, where we have confined ourselves to the information stored in computer systems and not concerned ourselves with manual records, the sub-committee has an expanded scope of work which includes manual records as well. That is just

one example of the differences.

MR VINCENT CHENG: Mr Deputy President, will the Administration consider banning the selling of name lists by commercial and private organizations to mail-shop companies that results in unwanted junk mail?

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, we will certainly consider that in the context of the basic approach to the legislative framework. But I think we will not be banning the activities per se but we will be providing safeguards to ensure that basic privacy is protected.

MR MOSES CHENG: Mr Deputy President, would the Administration inform this Council what protection, by way of statutory provision or internal control, there is against information relating to individuals kept by government departments and agencies, such as the Hospital Authority, being released to other government departments or third parties?

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, at the moment there is no legislation governing the sort of protection that is mentioned by the Honourable Member. But as I mentioned in my main reply, we have issued a guideline to all government departments and other public institutions urging them to come up with measures which will give appropriate protection to personal data. Now we have recently completed a survey into the protection practices in both the public and private sectors and the results are encouraging. We have found that data protection practices in both the public and private sectors are satisfactory. Specific policies and procedures are laid down by most of the organizations covered by our survey in order that personal data stored in their computer systems are protected and we are also gratified to see that in many instances there are clear guidelines to safeguard against unauthorized data access and data disclosure.

MR SIMON IP: Mr Deputy President, would the Government agree that the right to protection of private information and the right to freedom of information are competing rights and that none can meaningfully consider one without considering the

other? Granting that, if the Government is to consult later this year on the question of the right to protection of privacy, would the Government also consult on the question of freedom of information and, if thought fit, introduce legislation in relation to both?

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, as I mentioned in my main reply, the scope of the work of the Privacy Sub-Committee of the Law Reform Commission is quite specific and it does not really concern itself with the freedom of information. This might be an aspect of work which is covered by the Law Reform Commission in other contexts, but when we conduct public consultation in the context of the present exercise we will be restricting ourselves to the right of protection of personal data.

MR CHEUNG MAN-KWONG (in Cantonese): Mr Deputy President, even if the Administration cannot or has no intention to control private institutions and private companies that exchange personal data for profit making, why does the Administration not control the exchange of personal data among government departments but instead merely ask them to follow a set of data protection principles and guidelines on a voluntary basis?

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, I do not think I said that we would not be monitoring or be putting under control by legislative means the activities of private institutions and private companies. I merely said that our emphasis would be on the public bodies. And in so far as the activities of the government departments are concerned, as I have said, at the moment we are considering how best to introduce legislation to cover the sort of areas which are of concern to Members, and pending the completion of our deliberation as to the best approach for a legislative framework, we have in the meantime promulgated a set of guidelines for both the private and public sectors to observe; but it is meant to be a temporary measure and that will be superseded once we have the legislation enacted.

DEPUTY PRESIDENT: Chief Secretary, you wish to supplement?

CHIEF SECRETARY: Yes, thank you, Mr Deputy President. In answer to the question, government departments are very well aware, through this circular which has been

referred to by the Secretary for Home Affairs, that they are not allowed to pass information which is gathered for one purpose to other government departments unless they do so under strict authority. That is well understood by all government departments.

MR HOWARD YOUNG: Mr Deputy President, will the Secretary inform this Council whether the terms of reference of the working group on data protection legislation also include prevention of computer-hacking, which is a different matter as opposed to deliberately releasing information but does have a bearing on the subject? If this is not included then is the Government satisfied that this matter has been looked at or taken care of in other ways?

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, I am afraid I am not personally acquainted with this concept of computer-hacking and so I have no way to decide whether it is within our terms of reference.

DEPUTY PRESIDENT: Would you like to explain the term, Mr Howard YOUNG?

MR HOWARD YOUNG: Yes, Mr Deputy President. As opposed to someone deliberately releasing information from inside, computer-hacking is where someone can gain access through technology into other people's computers without them knowing and extract information.

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, it is not specifically covered but I think the subject is covered in terms of the need to preserve confidentiality of data stored in computer systems; that is certainly within the terms of reference of our committee and we will certainly, in that context, seek ways to eliminate the opportunities for computer-hacking.

MR MAN SAI-CHEONG: Mr Deputy President, in Canada there is a Privacy Commissioner as well as an Information Commissioner and they are set up more or less at the same time. Will the Government inform us whether the subject of access to information

can be tackled along with the subject of privacy as they are so closely interrelated? Can the Secretary for Home Affairs also confirm whether or not it is the current thinking of the Government to move gradually towards more comprehensive legislation, instead of relying only on voluntary adherence to and compliance with the principles of the United Kingdom Data Protection Act 1984?

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, as I have made it clear, the voluntary scheme is meant to be temporary and once we have the legislation in place there will be no need for the voluntary guidelines. With regard to the first part of the question, as I have mentioned in reply to an earlier question, we are at the moment confining ourselves to the subject of access to information and that is our prime concern.

Deposit interest rates

5. DR CONRAD LAM asked (in Cantonese): In view of the impact of the "negative interest rate in real terms" on the quality of life of the general public, which is brought about by the combined effect of high inflation and low interest rate, will the Government inform this Council:

(a) what role the Government plays with regard to the fixing of interest rate by the Hong Kong Association of Banks;

(b) what factors the Government will consider when deciding on whether or not to exercise its influence on the fixing of interest rate; and

(c) what measures the Government will take to mitigate the adverse effects of the "negative interest rate in real terms" on the quality of life of the general public?

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President,

(a) In accordance with the Hong Kong Association of Banks Ordinance and the Association's Rules on Interest Rates and Deposit Charges, the Committee of the Association has a statutory obligation to consult the Financial Secretary on the maximum interest rates it sets on the Hong Kong dollar deposits governed by the Interest Rates Rules. This consultation is carried out between the Chairman of the

Association and the Secretary for Monetary Affairs, under delegated authority of the Financial Secretary, before weekly Committee meetings of the Association on Fridays.

(b) Government policy on interest rates is centred around the monetary objective of maintaining exchange rate stability near to 7.80 under the linked exchange rate system. When it is felt appropriate to do so, the Government will take action to influence interest rates with this objective in mind. The Government will normally exert its influence, through money market operations, on interbank interest rates. But as retail deposit interest rates cannot for long be significantly out of line with interbank rates, as this would result in the banks' suffering losses or making undue profits, the Hong Kong Association of Banks need to take account of the interbank rates when setting deposit interest rates. It is through this indirect market-related process that the Government exercises its influence over deposit interest rates set by the Association.

(c) On the quality of life in Hong Kong, I would first like to point out that the standard of living in Hong Kong has risen steadily over the years. For instance, over the period 1986 to 1991, the median household income has risen substantially by 29% in real terms, that is, averaging 5.2% annually.

As the Financial Secretary explained in his Budget speech, inflationary pressures in recent years have arisen from a structural change in Hong Kong's economy into a service-oriented economy and the Government has been tackling the inflation problem by addressing the supply side constraints such as land and labour.

Generally speaking, the level of interest rates should have little direct effect on the cost of living because the great majority of expenditure items covered by the Consumer Price Index are not sensitive to interest rate movements.

It is arguable that negative real interest rate might affect investment decisions, thereby leading to investment or over-investment in certain economic sectors such as the property sector. In order to avoid as far as possible the re-emergence of overheating in the residential property market, the Government has extended the ambit of liability to stamp duty and the banks have been adhering to a tight policy in respect of residential mortgage loans. In announcing the recent changes in deposit rates the Chairman of the Hong Kong Association of Banks made it clear that no relaxation of the present criteria for such loans was contemplated. Separately, a working group chaired by the Secretary for Planning, Environment and

Lands is looking at possibilities of addressing the question of the housing needs of the middle income group.

Lastly, latest statistics revealed that inflationary pressures have been moderating and it is hoped that the rate of inflation for this year will be considerably lower than in 1991.

DR CONRAD LAM (in Cantonese): Mr Deputy President, the Secretary mentioned in the second paragraph of his reply that "when it is felt appropriate to do so, the Government will take action" to maintain exchange rate stability near to 7.80. Will the Administration inform this Council whether it has drawn a bottom line or is prepared to pay any price for achieving the above objective, for example by further reducing the interest rates or even requiring depositors to "pay" for depositing money in banks?

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, as I said, the principal element of monetary policy is to maintain stability in the exchange rate. I believe that this is something which is in the overall interests of Hong Kong. The Financial Secretary in his last Budget speech spent some time identifying why he believed that this was a policy which should be pursued, and identified the advantages that it had. There may be certain occasions when we have to accept that the consequence of maintaining this stability is that we have no control over interest rates. This applied at the end of 1987 and the beginning of 1988 when we had very heavy speculative pressure in favour of a revaluation of the Hong Kong dollar. We successfully resisted that and the speculators went away. I do not believe that we are faced with that sort of situation at the moment. What we are seeing is a significant inflow of money into our stock market as international investors have re-evaluated the relative advantages of the Hong Kong stock market compared with other markets in the region, and therefore I think that it is a hypothetical question at this present time to talk in terms of negative actual interest rates.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, the Secretary just now mentioned Hong Kong's interest rate system, and it is well understood that the bank deposit system is related to the public's interests and standard of living. So is it profiteering to fix the lending rate at 7% to 10% while deposit rate remains at

2% to 3%? Does the Administration have any policy against such practice?

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, it is quite commonly stated that the margins between our deposit rates and our lending rates are excessive compared with other centres. That is in fact not the case. What must be borne in mind is that savings deposits which earn the lowest rate of interest have many of the characteristics of current accounts in other centres. Here they earn interest, elsewhere they do not. For instance, in most centres one cannot withdraw on demand cash from a savings account and one cannot have direct debits drawn on a savings account; so it is not reasonable to compare a savings account with the interest on deposit accounts -- that is, interest paying deposit accounts -- elsewhere. We do need, though, to have a profitable banking system, and in centres where the margins between the borrowing and lending rates have been inadequate it has usually ended in problems in the banking system. So I make no excuse for saying that we benefit from having a profitable banking system.

PROF EDWARD CHEN (in Cantonese): Mr Deputy President, I have two questions to ask and the first one is a follow-up to Mr CHIM's question. Although the margins between deposit rates and lending rates in Hong Kong are not too large as compared with other centres, the interest rates of banks in Hong Kong were higher in the past year than the traditional trend, with the current margins between deposit and lending rates standing at around 5% while the traditional trend is around 3%. Has enough attention been paid by the Administration to this problem? Second, with the all-round financial liberalization in the Asian Pacific Region and Hong Kong's promotion of free economy, is the Administration aware that the Banking Association has an interest rate agreement? Have the Secretary and the authority concerned considered revoking this agreement; if not, why not?

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, let me deal with the second part of the question first which relates to the interest rate agreement. I think one needs to exercise very great caution in any relaxation of rules in relation to deposit rates. I think one has only got to look at economies where they have relaxed it suddenly -- the United States, the United Kingdom and, most recently, Japan -- to see that that has created problems and that it has ended in a free-for-all where people have bid up deposit rates to levels at which they cannot get a return on the money without engaging in very high risk activity. Though it may not be widely recognized, the

effects of the interest rate rules in Hong Kong are being eroded, particularly by means of banks offering swap deposits. I am quite happy to see erosion -- I do not want to see revolution -- in this area.

As far as the first part of the question is concerned, I have already said that when one makes a proper comparison of the margins in Hong Kong, they are not significantly out of line with other centres. One specific area where the banks have increased their margins is in respect of residential mortgage loans. That was a response to a rapid increase in prices in that area and it was in recognition of the fact that, with that rapid increase in prices, the risks associated with that area might be larger than they would otherwise be.

DEPUTY PRESIDENT: This is the last supplementary. A number of Members are going to be disappointed but we have to move on, and I have given priority to those who have asked the least number of questions.

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, the money of the public is gradually eroded by high inflation and low interest rates, what is the Administration advice for the public as to how to reduce such loss?

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, I think that is almost identical to the main question to which I have already given an answer.

First-year, first-degree places

6. MR TIK CHI-YUEN asked (in Cantonese): Regarding the Government's intention to reduce the number of places in first degree courses in the original expansion plan, will the Government inform this Council:

(a) what the new target number of places in the first year of first degree courses for the academic years from 1992-93 to 1994-95 will be respectively; how the number of places to be reduced in various institutions is determined;

(b) what the expected impact of the reduction of places is on the course

arrangements and staff establishment of the institutions concerned as well as the Joint University and Polytechnic Admission System in 1992-93; what plans the Administration has to minimize as far as possible the potential negative effects; and

(c) what the amount of estimated savings resulted from the reduction of places is; and whether an undertaking can be given that the savings will be used for a specified educational purpose?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the Government's current policy on tertiary education, which was decided upon in 1989, is to provide first-year, first-degree places to at least 18% of the 17-20 age group by 1994-95. On the basis of population projections available at the time, a planning target of 15 000 first-year, first-degree places was set. The University and Polytechnic Grants Committee (UPGC) has been entrusted with the task of implementing this programme through the seven tertiary education institutions to which it provides funding.

New demographic data became available early this year, following the 1991 Census. These indicated that previous projections of the population in the 17-20 age group should be revised downwards. As a result, the Government decided that the planning target should be revised to 14 500 first-year, first-degree places by 1994-95. The UPGC and the tertiary institutions had accepted this revision to the planning target before it was announced. They are now engaged in working out the details of how the new target should be phased in over the next three academic years.

With reference to the three specific questions asked by Mr TIK, the answers are:

First, the number of first-year, first-degree places and their distribution between institutions from 1992-93 to 1994-95 are the subject of discussion between the UPGC and the institutions, in the context of the latter's academic development proposals for the 1992-95 triennium. This process is still on-going.

Secondly, because discussions are on-going, it is neither possible nor appropriate for the Government to anticipate what effect the adjustment of the planning target would have on academic planning, staffing or student enrolment. The task of accommodating the new planning targets falls on the tertiary institutions themselves. I am confident of their capability to take the necessary management decisions effectively. I am also assured that the UPGC is prepared to give the institutions

all the necessary advice and assistance and to consider sympathetically any practical constraints which may arise and which are drawn to its attention.

Thirdly, the UPGC will be examining, at its next meeting in September this year, the financial implications of the revised academic plans submitted by the institutions. Any funds which might become "surplus" to requirements as a result of this downward adjustment to student number targets would be returned to the Government. The Government will consider the best use for these funds, taking fully into account the requirements of different sectors of education.

MR TIK CHI-YUEN (in Cantonese): Mr Deputy President, regarding the over-allocation of places to students with conditional offers in tertiary institutions, would the present move by the Administration to reduce tertiary places result in students being forced to change programmes or faculties? Under this system of conditional offers, who should bear the legal responsibility if students are forced to change programmes or faculties?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the adjustments to student numbers will obviously have some implications for the Joint University and Polytechnic Admissions System (JUPAS). But I understand from the chairman of JUPAS that consultations with institutions have indicated no great problem. On overall terms, conditional offers are made one year earlier only up to 70% of available first-year first-degree places with 30% kept for allocation after Form VII. Of course, in respect of individual programmes, I understand that there may be three or four individual programmes out of a total of more than 200 where problems could arise but alternative arrangements can be made for the students concerned.

As regards the second question, conditional offers are precisely what they are; they are conditional and therefore I do not think the question of legal responsibility would arise.

DR LEONG CHE-HUNG: Mr Deputy President, can the Administration inform this Council of the criteria according to which the number of places to be reduced in the different faculties are being worked out? Will this be in relation to future manpower projections and will the Government be conducting a manpower needs survey for

different professions in the future?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the distribution of student number targets between institutions and between different faculties within institutions is largely a matter which is determined by the institutions in consultation with the UPGC and on which the Government relies on the UPGC's advice. Obviously, in considering these questions the UPGC will take into account such indications and projections as there may be as regards the future manpower requirements of Hong Kong. In that context, the Government and, in particular, the Education and Manpower Branch have been undertaking manpower projections and there are also various other sources of input into the Government as regards areas where increased demands for manpower are expected, and these are all fed into the planning machinery.

DR SAMUEL WONG: Mr Deputy President, could this Council be informed, when estimating the 17-20 age group population for 1994-95, what consideration has been given to the recent trend that more and more students are going overseas for their secondary and university education?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, I do need to consult the statistical experts on the precise answer but, as far as I understand, emigration is taken into account in compiling population projections.

MR HENRY TANG: Mr Deputy President, in the course of considering the reduction of the 500 first-year first-degree places -- done rather late in the year after the tertiary institutions have already committed their programmes for the next triennium -- has the Government considered whether in renegeing on some of the commitments made to the institutions compensation will be paid to the institutions?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, I think all managements would occasionally have to face situations where adjustments have to be made to earlier plans in the light of changing circumstances. This process, as far as the universities are concerned, is still going on and, as I stated in my main reply, if

there are any practical constraints and any real difficulties, the UPGC has indicated that it will render all necessary advice and assistance and will consider sympathetically any such serious constraints. I really do not think the question of compensation would arise in this context.

Written answers to questions

Profits tax and salaries tax

7. MR HOWARD YOUNG asked:

(a) what were the ratios of revenues from profits tax to revenues from salaries tax in the past three years;

(b) have similar ratios been observed between operating surplus and employees compensation in Hong Kong's GDP over the same period;

(c) if not, what are the reasons for the disparity in the two trends and is it government policy to ensure that salary earners' contribution to tax revenue is proportionate to their income as employees as reflected in the GDP; and

(d) how does the relative contribution of profits tax and salaries tax to total direct tax in Hong Kong compare with other economies such as Singapore, Japan and the United States?

SECRETARY FOR THE TREASURY: Mr Deputy President, I will address Mr YOUNG's questions in sequence.

(a) For the 1989-90, 1990-91 and 1991-92 fiscal years, the ratios of revenues from profits tax to revenues from salaries tax were respectively 2.03:1, 1.62:1 and 1.45:1.

(b) The ratio of employees compensation (labour income) to the gross domestic product (GDP) in the Hong Kong economy has been edging up in recent years, from about 50% in 1988 to 51% in 1989 and further to slightly above 53% in 1990. (The figure for 1991 is not yet available.) By contrast, the ratio of gross operating surplus

(which represents that part of the value added not pertaining to employees compensation, and thus covers company profits and depreciation of fixed assets) to GDP decreased from about 50% in 1988 to 49% in 1989 and further to slightly under 47% in 1990.

(c) These figures show that the ratios between employees compensation and GDP on the one hand, and between gross operating surplus and GDP on the other, are fairly stable, with a slight trend in favour of employees compensation. While the Government is concerned to ensure that salary earners do not shoulder an inequitable share of the tax burden, we cannot apply a simple formula to determine the proportions of total revenue to be paid by salary earners and corporations. For example, whereas tax is generally charged on business profits at a flat rate, for salary earners we have a progressive system of taxation with graduated rates.

In view of this progressive system and the fact that salaries have increased significantly in both money and real terms in Hong Kong in recent years, it is not surprising that the proportion of revenue contributed by salaries tax has increased.

(d) Hong Kong has a schedular system of taxation which consists of three separate taxes under the Inland Revenue Ordinance, namely salaries tax, profits tax and property tax. Separate assessments are raised in respect of a person's different categories of income. Generally, income is only chargeable if it has a source in Hong Kong. This taxation system is not used in any of the other economies mentioned. It is therefore difficult to make meaningful statistical comparisons between Hong Kong and overseas administrations in the way suggested. The countries quoted in the question all have income taxes which aggregate income and bring to charge a wider range of receipts than is the case in Hong Kong. In Japan and the United States, for example, the income of residents from foreign as well as from domestic sources is brought to charge. Social security charges, sales taxes and capital gains taxes are also applicable in some cases.

Loads falling off from goods vehicles

8. DR HUANG CHEN-YA asked: Goods falling off from vehicles while being conveyed on such vehicles have endangered the lives of other road users. In view of this, will the Government inform this Council:

(a) what legislative provisions and monitoring mechanism are currently in place

to ensure that goods carried by vehicles on roads are properly secured; and

(b) in the past 12 months, how many prosecutions had been brought against drivers who had failed to properly secure the loads carried by their vehicles on roads and how many of them were successful?

SECRETARY FOR TRANSPORT: Mr Deputy President,

(a) The Road Traffic (Traffic Control) Regulations (Cap. 374) require drivers to ensure that the loads of their goods vehicles are properly secured. Guidance on how to meet this legal requirement is provided in the Code of Practice for Loading Vehicles, which is available from the Transport Department free of charge. The police monitor compliance with the law. Contravention may attract a maximum fine of \$5,000 and three months imprisonment on first conviction, and a maximum fine of \$10,000 and six months imprisonment on subsequent conviction.

(b) Between May 1991 and April 1992, a total of 7 626 prosecutions were brought for failure to secure goods vehicle loads. The number of successful prosecutions is not available as proceedings in some cases are not yet complete. However, in the calendar year 1991, there were 8 417 prosecutions of which 8 105 were successful, that is, 96%.

Criteria for permission to enter Hong Kong

9. MR MARTIN LEE asked: Will the Government inform this Council:

(a) what criteria the Government uses in deciding not to allow individuals to enter Hong Kong;

(b) how many individuals with no criminal record have been refused entry in each of the past three years;

(c) whether the Government has a list of individuals who are not allowed to enter Hong Kong; and

(d) whether the Government has ever discussed individual cases with the

Government of the People's Republic of China or their representatives in Hong Kong?

SECRETARY FOR SECURITY: Mr Deputy President, I will answer the four parts of this question seriatim.

(a) The immigration authorities need to decide whether a particular traveller is subject to immigration control and whether he or she is a bona fide traveller. Travellers may be refused entry if they do not have valid travel documents. If they need a visa to come here, they may be refused entry if they arrive without one. People with valid visas may be refused entry if we discover that false representations were employed or material facts withheld for the purpose of obtaining the visas; or if a change of circumstances since the visas were issued has removed the basis of the travellers' claims to admission. Travellers may also be refused entry on grounds of restricted returnability; on medical grounds; on grounds of criminal record; because exclusion would be conducive to the public good; or where it is likely that a traveller will become a burden on Hong Kong.

(b) The Immigration Department does not keep separate statistics of the number of individuals with no criminal record who have been refused entry. The total numbers refused entry were about 42 800 in 1989, 34 500 in 1990, and 26 400 in 1991.

(c) The Government does maintain a monitoring system for identifying individuals who are not allowed to enter Hong Kong.

(d) The Hong Kong Government does not enter into discussions on individual cases with the Government of the People's Republic of China or its representatives in Hong Kong.

Ambulance service

10. DR CONRAD LAM asked: Will the Government inform this Council:

(a) of the number of ambulance calls responded to in each district in the past year;

(b) of the number of ambulances and the establishment and vacancy position of

ambulancemen in each district; whether there is any staff or vehicle shortage; if so, what measures are being taken by the Government to ensure that the standard of ambulance service will not be affected by the shortage of staff or ambulances;

(c) in normal circumstances, how long an ambulance takes to reach the scene in responding to a call of service; whether there are any internal guidelines stipulating the response time within which an ambulance is required to arrive at the scene; if so, what the stated response time is; and

(d) in the event of a serious accident involving casualties (such as landslides at various spots), what measures the Government will take to ensure that the injured will be provided with instant ambulance service?

SECRETARY FOR SECURITY: Mr Deputy President, the number of ambulance calls responded to in each district in 1991 was as follows:

District	Emergency calls	Routine removal calls	Total
Hong Kong	50 469	56 927	107 396
Kowloon	95 047	66 313	161 360
New Territories	88 695	62 326	151 021
TOTAL	234 211	185 566	419 777

The Fire Services Department has 208 operational ambulances and 49 ambulances for training and maintenance reserve. The staff establishment for manning these ambulances is 2 024 and there are no vacancies at present. There is no shortage of either staff or vehicles.

The number of ambulances and the establishment in each operational district as at 1 May 1992 are listed below:

Operational district	Number of ambulances	Ambulanceman establishment
Hong Kong	54	525

Kowloon 77 750

New Territories 77 749

TOTAL 208 2 024

The current standard response time to emergency calls for ambulances is 10 minutes. This standard was set by the Government in April 1987, following a consultancy study by the Health Operational Research Unit of the United Kingdom. The objective is to attend to 95% of the emergency calls within a 10-minute travel time ultimately. In 1991, 91.1% of emergency calls were met within the target time. The percentage can be improved when planned ambulance depots are opened.

Ambulances are despatched to the scene initially on the basis of information received by the Fire Services Communication Centre (FSCC). When the Officer-in-Charge of the incident arrives at the scene, he will appraise the situation and the requirement for fire services resources, including ambulances, and where necessary, request the FSCC to despatch additional ambulances to the scene.

In the event of a serious incident involving heavy casualties where more than four ambulances have been turned out or upon request of the Officer-in-Charge of the incident, a Mobile Casualty Treatment Centre (MCTC) will be despatched to the incident. The MCTC is equipped with additional ambulance aid equipment for the ambulance personnel to treat and stabilize the casualties at scene before conveying them to hospital. Should the situation so warrant, medical teams would be summoned to the scene to render medical treatment to casualties.

Death penalty abolition

11. PROF FELICE LIEH MAK asked: At the motion debate on the subject of the death penalty at the last Session of the Legislative Council, the majority of Members voted in favour of the abolition of the death penalty and the Secretary for Security undertook to bring forward legislation to achieve this purpose. Will the Administration inform this Council what progress has since been made and the timing for the introduction of a Bill to propose the abolition of the death penalty?

SECRETARY FOR SECURITY: Mr Deputy President, following the vote last year by the

Legislative Council in favour of the abolition of capital punishment, we have drafted the legislation necessary to achieve this.

The Government reaffirms that capital punishment should eventually be abolished in Hong Kong. However, given the current widespread public concern over law and order in the wake of recent high profile violent crimes, we believe that it would be insensitive to pursue abolition at this stage. Furthermore it would send the wrong message to criminal elements.

We will keep this issue under review and introduce the necessary legislation to abolish capital punishment at an appropriate time.

Naval base

12. DR SAMUEL WONG asked: Will the Government inform this Council:

(a) what the present position regarding the proposed relocation of the naval base from HMS Tamar to Stonecutters Island is;

(b) whether any target date has been set for completion of construction of a new naval base at Stonecutters Island; and

(c) whether there are any concrete plans for redevelopment of the site to be vacated by the existing naval base at HMS Tamar?

SECRETARY FOR SECURITY: Mr Deputy President, the project to relocate the naval base from HMS Tamar to the north shore of Stonecutters Island was announced in the Governor's Address to this Council in October 1989. The contract for these works under Public Works Programme item 170GG (now 7085GK) was let on 24 October 1991 and work began on site on 17 November 1991. Work is proceeding well and we anticipate completion by March 1993.

After the Royal Navy has moved from HMS Tamar the naval basin will be filled in and the land thus formed will be disposed of for commercial development.

Public clinic services

13. DR YEUNG SUM asked: Will the Government inform this Council:

(a) of the reasons for suspending the evening out-patients session in Aberdeen Jockey Club Clinic on 8 May 1992 when clinic services might have been in great demand because of the rainstorm;

(b) whether other public clinics were similarly closed on that date; and

(c) of the criteria used in deciding whether public clinics should be closed during rainstorms or other natural disasters?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, the replies to the three-part question are, seriatim:

(a) The evening out-patient service at Aberdeen Jockey Club Clinic was suspended on 8 May 1992 due to extremely inclement weather and severe thunderstorm. Even during the day, attendance was barely half the usual numbers.

(b) All 19 evening general out-patient clinics in the Department of Health were suspended that evening. The arrangement was announced through radio and television broadcasts and by notices at clinics.

(c) In deciding whether evening public clinics should be closed during rainstorms or other natural disasters, the key consideration is safety of patients. As a normal practice, general out-patient clinics are closed on the hoisting of No 8 typhoon signal and in similarly inclement weather conditions. Patients requiring emergency treatment have recourse to the Accident and Emergency Department in hospitals.

Noise nuisance generated by vessels

14. MR LEE WING-TAT asked: Will the Government inform this Council:

(a) what regulatory controls there are for noise emanating from vessels berthed close to residential areas including restrictions on the use of loud speakers; and

(b) of the statistics of complaint against noise nuisance of these vessels and actions taken, including prosecutions, if any, over the past three years?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, sections 4 and 5 of the Noise Control Ordinance (Cap 400) control intermittent noise produced in public places, including piers and waterways. Hence, noise emanating from moving vessels, including the use of loudspeakers on these vessels, is controlled under these provisions. Because of the intermittent nature of such noise, the Royal Hong Kong Police Force is empowered to enforce these provisions. Noise from vessels berthed at commercial piers is controlled under section 13 of the Ordinance, which allows the Environmental Protection Department to issue noise abatement notices to require appropriate action to be taken by operators of the vessels to abate the noise nuisance.

Over the past three years, the Environmental Protection Department has received 50 complaints where residential premises have been affected by noise associated with the operation of vessels at public cargo handling sites and commercial piers. The Marine Department has also received three more complaints associated with vessels berthing at commercial piers. Of those 53 complaints, 33 cases have been referred to the police for enforcement under sections 4 and 5 of the Noise Control Ordinance. The police initiated prosecution in three of these cases, and issued verbal warnings for the others. The remaining 20 cases have been dealt with by the Environmental Protection Department which has liaised with the vessel operators to work out measures, such as limiting hours of operation, to mitigate the noise disturbance.

Village street lighting

15. MR WONG WAI-YIN asked: Will the Government inform this Council of the following:

(a) the number of village street lamps installed in each district of the New Territories over the past three years;

(b) the number of outstanding applications for village street lamp installation

in each NT district; the earliest application date of these applications and the reasons why such applications have not yet been processed; and the estimated time required to process the existing stock of outstanding applications; and

(c) the waiting time normally required for an application to be processed; and whether the Government has any plans to shorten the waiting time?

SECRETARY FOR WORKS: Mr Deputy President,

(a) The numbers of village lighting points installed in each district of the New Territories over the past three years are as follows:

	89-90	90-91	91-92
Islands (including Lamma)	95	115	161
Tsuen Wan	54	19	54
Sha Tin	63	53	51
Sai Kung	100	33	95
Tai Po	263	198	149
North	99	120	173
Yuen Long	158	301	290
Tuen Mun	112	53	197
Total	994	892	1 170

(b) The number of outstanding applications for village street lamp installation in each NT district and the earliest application date of these applications are:

District	Outstanding application	Earliest application date
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Yuen Long	264	March 1989
Islands	156	June 1985
North	89	November 1989
Tai Po	51	February 1990
Sai Kung	270	April 1986
Sha Tin	47	July 1991
Tsuen Wan	60	September 1990
Tuen Mun	33	January 1990
Kwai Tsing	-	-

Total 970

Supply and demand is the main reason for the outstanding applications from earlier years, when the annual quota was insufficient to meet all requests. Consequently, villages with larger populations or locations considered to be crime or traffic black spots have been normally accorded higher priority. Lower priority has been given to villages with envisaged problems such as lack of electricity supply and difficulty in getting landowners' consent to works. The improved annual quota of 1 000 village street lamps since 1987-88 has been sufficient, following the same priorities, to cover most new applications and to reduce the backlog. The estimated time required to process the existing stock of outstanding applications is two to three years.

(c) At present the average waiting time required for an application is two to three years. The situation is steadily improving as the annual quota of street lamps installed is currently greater than the number of applications being received.

Yau Ma Tei Typhoon Shelter new drainage system

16. MR GILBERT LEUNG asked: As the present design and layout of the drainage system in the new Yau Ma Tei Typhoon Shelter may result in the accumulation of sewage in the shelter area as before, will the Government inform this Council:

(a) what has led to such deviation from the planning standards in the design and layout of the above drainage system and what impact it will have on the environment;

(b) when the construction of the sewerage system for West Kowloon will be completed so that sewage from that area will no longer be discharged through the stormwater drains into the shelter, how much the project will cost; and

(c) if the construction of the West Kowloon sewerage system cannot be completed in the near future, whether the Administration will consider modifying the present design and layout of the stormwater drains in the shelter so that sewage will be discharged farther away from the shore; how much such a project will cost; and how long it will take to complete?

SECRETARY FOR WORKS: Mr Deputy President, in replying to this question, I should take the opportunity to give an assurance that the design and layout of the drainage system in the new Yau Ma Tei Typhoon Shelter will not result in the accumulation of sewage in the shelter areas as before.

(a) The environmental guidelines under the Hong Kong Planning Standards and Guidelines is that no new sewer or stormwater drain should discharge into any new typhoon shelter, marina or boat park. This provision was included in the document so that no future boat shelter would be constructed in a manner which would result in the water within becoming extremely polluted, as is the case with most of the present shelters. The planning standards and guidelines allow a degree of flexibility in application, having regard to land use demands, local conditions, development constraints and resource availability. The decision to deviate from this guideline was taken only after careful consideration of what could be done to prevent pollutants from entering the stormwater outfall and the likely resultant water quality in the new typhoon shelter.

To prevent pollutants from entering the stormwater outfall, twelve Dry Weather Flow (DWF) interceptors will be constructed to divert the DWF from the storm drainage system to the foul sewerage system during dry weather. The DWF is the major pollutant carrier as it comprises, mainly, the flows from illegal connections into the storm drainage system. The DWF interceptors, while not completely preventing pollutants from entering the typhoon shelter, will reduce them to an acceptable level that will not cause serious pollution in the shelter.

The reasons for deviating from the Environmental Guideline by discharging the storm culverts into the typhoon shelter are:

(i) Shorter culvert lengths will reduce the head loss in the system, thereby reducing necessary improvements to the existing hinterland drainage network. This will greatly reduce the amount of disruption to streets and traffic.

(ii) The new design will reduce the length of necessary drainage reserves which would sterilize strips of land, 50 metres wide.

(iii) Serious problems of conflict between the drainage culvert and the proposed Airport Railway stations at Tai Kok Tsui and the Cherry Street Flyover, will be avoided.

(iv) An estimated cost saving of \$314 million due to shortening the total culvert length by 1.5 kilometres and reducing the scope of necessary improvements to the hinterland drainage network.

(b) Of the twelve DWF interceptors, two will be completed in mid -1993 and the remainder in 1995. The estimated cost of the DWF interceptor scheme is \$28 million.

(c) As the DWF interceptor scheme will be completed in the near future [see the reply to (b)] after which the quality of discharges into the typhoon shelter will be greatly improved, there is no plan at this stage to modify the present design and layout of the stormwater drains in the shelter area.

Liquidity adjustment facility

17. MR DAVID LI asked: What is the current status of the establishment of a Liquidity Adjustment Facility, and what is the projected schedule for its implementation?

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, following consultation with the Hong Kong Association of Banks, the Liquidity Adjustment Facility will be introduced with effect from Monday 8 June 1992. All licensed banks have been notified individually by the Office of the Exchange Fund of the details of the Facility.

Hong Kong dollar bonds

18. MR DAVID LI asked: Given that the Asian Development Bank plans to issue more bonds in Hong Kong, will this affect the territory's own efforts to raise capital for the Port and Airport Development Strategy projects?

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, bond issues launched in Hong Kong by prestigious multilateral organizations with top credit ratings, such as the Asian Development Bank, bring significant benefits to the development of our capital markets because increased availability of top-quality debt paper enhances the awareness and confidence of both local and overseas investors in the debt market. Obviously, a mature and well-developed debt market will facilitate fund raising activities, including those for the port and airport development projects.

In April this year, the Asian Development Bank launched a very successful issue of seven-year Hong Kong dollar bonds here. With the bonds denominated in the local currency and maturing well past 1997, the Bank's issue is a vote of confidence in Hong Kong's future and in its currency. The very enthusiastic response from the market indicates a substantial demand for first class Hong Kong dollar paper. The issue also helps to provide a benchmark for medium term money in Hong Kong. The Asian Development Bank issue should provide a useful guide for other borrowers when considering their funding needs in this market.

Should the Asian Development Bank wish to make any further issues here it will, as it did in advance of its April issue, consult us with respect to an appropriate timing, so that we can together ensure that there is no clash with the plans of other prospective issuers.

Multi-storey Buildings (Owners Incorporation) Ordinance

19. MR LEE WING-TAT asked: Will the Government inform the Council whether the legislative changes proposed to the Multi-storey Buildings (Owners Incorporation) Ordinance can be introduced to the Legislative Council within this Session as scheduled; and, if not, what are the reasons?

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, the draft Multi-storey Buildings

(Owners Incorporation) (Amendment) Bill 1992 will be submitted to the Executive Council for consideration very soon. If approved, it will be introduced into this Council towards the end of the current Session.

Urban squatter clearance

20. MR FRED LI asked: Will the Government inform this Council:

(a) of the reason for the Housing Authority's policy to rehouse those affected by squatter clearance in the urban areas in public housing units in extended urban areas, except otherwise in special circumstances; and the date of implementing such policy?

(b) with the deferred clearance of the urban temporary housing areas and the availability of vacant units in old-type urban public housing estates, whether the Housing Authority would consider allowing the flexibility of offering to the urban squatters affected by clearances (such as the residents of Ling Nam San Tsuen in Kwun Tong to be cleared by the end of June) vacant units in public housing estates or temporary housing areas in the urban areas?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, rehousing for squatters affected by clearances is provided on the basis of the availability of reception accommodation. It is not possible to offer local rehousing in new estates to all those cleared, particularly in the main urban area.

The Housing Authority's practice since 1987 has been to use the supply of public housing in the extended urban areas, such as Tsing Yi, Tsuen Wan, Sha Tin and Tseung Kwan O, to meet some of the demand arising from clearances in Kowloon. These areas are well served by public transport and have proved to be acceptable to most prospective tenants. In the case of Hong Kong Island, it has been possible to offer reception accommodation on the Island to meet clearance requirements. These rehousing arrangements are expected to continue in the foreseeable future.

The Housing Authority has been offering casual vacancies in public housing estates to squatters cleared in the main urban area, but urban temporary housing areas will not be used for this purpose because they will be cleared eventually. In the

case of Ling Nam Upper Village, new reception accommodation will be available in King Lam Estate in Tseung Kwan O for all household sizes, or Tak Tin Estate in Lam Tin for three to four-person households. There will also be casual vacancies for some in various Kowloon estates.

First Reading of Bills

LINGNAM COLLEGE BILL

LANDLORD AND TENANT (CONSOLIDATION) (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

LINGNAM COLLEGE BILL

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to provide for the incorporation of Lingnan College and for matters connected therewith."

He said: Mr Deputy President, I move that the Lingnan College Bill be read a Second time.

The Bill provides for the establishment, functions and governance of Lingnan College as a degree awarding body.

Lingnan College in Hong Kong was founded in 1967 by a group of alumni of the former Lingnan University in China. The College was first registered as a school and became an approved post-secondary college in 1978. In 1987, a review by the United Kingdom Council for National Academic Awards concluded that the courses offered by the College were equivalent in standard to those offered by some tertiary institutions funded by the University and Polytechnic Grants Committee (UPGC).

In the context of the current tertiary expansion programme to provide first-year, first-degree places for 18% of the relevant age group by 1994-

95, the UPGC has recommended that Lingnan College should be upgraded to a degree granting institution. The College has been under UPGC funding since July last year. The current plan is for the College to provide 2 000 student places, including 690 first-year, first-degree places, by 1994-95.

The Bill confers on the College a wide range of powers in connection with the establishment and running of the academic institution as a corporate body. These include the power to award degrees.

The Bill also provides the College with a new form of governance commensurate with its status as a publicly-funded tertiary institution. Two main bodies will be established, namely:

- the Board of Governors, with 40 members, as the supreme governing body of the College; and

- the Council, with 27 members, as the executive body of the College which will be responsible for its management and operation.

The Bill further provides for the appointment by the Council of an Academic Board to review and develop academic programmes and supervise teaching, research, admissions and examinations.

The Bill regulates the financial affairs of the College which is required to submit its estimates and programmes of activities to the Chairman of the UPGC. The College is also required to submit annual reports on its finances and general activities to the Governor, who shall cause them to be laid on the table of this Council.

The upgrading of the College may be seen as a recognition of the remarkable work of its founders and successive generations of staff and students. They have been dedicated to the pursuit of academic excellence, a tradition which I am sure will be continued after the College achieves its enhanced status.

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

Question on the adjournment proposed, put and agreed to.

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 1992

THE SECRETARY FOR HOME AFFAIRS moved the Second Reading of: "A Bill to amend the Landlord and Tenant (Consolidation) Ordinance."

He said: Mr Deputy President, I move that the Landlord and Tenant (Consolidation) (Amendment) Bill 1992 be read the Second time.

This Bill seeks to amend the Landlord and Tenant (Consolidation) Ordinance to allow the controls on rent increases of certain categories of domestic premises to be phased out by the end of 1994. It also provides for the enhancement of the level of statutory compensation payable to tenants dispossessed by landlords who intend to rebuild their premises.

Since 1941 pre-war premises have had their rents controlled under Part I of the Ordinance by relating the permitted rent to a multiple of the rent payable in 1941. The multiplier has been increased annually since 1976 and currently stands at 48. There are some 900 such controlled premises the tenants of which are paying on average a monthly rent representing some 59% of the market rate.

Part II of the Ordinance was introduced in 1973 and it now controls rents in respect of tenancies created before 10 June 1983 in post-war premises completed before 19 June 1981 with a rateable value of under \$30,000. Their rents may be increased once every two years by not more than 30% or up to a specified percentage of the prevailing market rent whichever is the greater. The current specified percentage stands at 70% of the market rent and tenants on average are paying at about 61% of the market rate. There are some 38 500 such controlled units, diminishing at a rate of about 5 000 per year through redevelopment or reoccupation by their owners.

Both forms of controls were introduced as temporary measures to protect tenants from excessive rental increases at times when there were severe shortages of housing. They were always intended to be removed when the supply of and demand for housing was reasonably balanced. We believe that an indicator to reflect this balance is the rate of increase in rentals which have slowed down considerably and averaged less than 10% per year for the last few years. Restoring rents of controlled premises to market levels will also provide incentive to their landlords to undertake a more active role in refurbishing and maintaining their properties.

The Bill before Members today provides for the introduction of a series of graduated statutory rent ceilings which will enable permitted rents to be brought closer to prevailing market rents by the end of 1994 at which time rent controls will lapse.

For Part I controls which currently affect some 900 pre-war premises, it is proposed to retain and increase annually the existing rent multiplier while introducing a minimum rent expressed as a percentage of the prevailing market rate. The latter will rise from 60% in 1992 to 92.5% in 1994. As a measure to safeguard the interests of the tenants, the current practice of not allowing rent increases to be made within 12 months of the last increase will be retained.

It is proposed to adjust Part II provisions which control some 38 500 post-war premises by increasing the present minimum permitted rent of 70% of the prevailing market rent in three steps to 92.5% in 1994. Again, we will retain the current practice of only allowing rents in this category to be increased once every two years.

The total number of premises affected by the above proposals constitutes about 4% of all private residential flats and the impact of the changes on consumer price inflation will be insignificant. We do not consider that the phased decontrol of rents will affect local rental market in any significant way.

We acknowledge that the local property market can be volatile. For this reason, we have included in the Bill provision to adjust both the levels of increases and their time-frame so as to minimize the impact of any unforeseen circumstances resulting from adverse market forces which might require intervention. We will be monitoring the situation continuously and carefully.

Tenants who eventually lose the protection of Parts I and II of the Ordinance will continue to retain security of tenure under Part IV.

With regard to statutory compensation payable under Parts II and IV to tenants dispossessed by the redevelopment of their premises, it is accepted that the current entitlement at a rate of twice the 1983 rateable value of the property plus removal expenditure and recompense for fittings is outdated and inadequate. The Bill proposes to amend the statutory basis for compensation to a multiple of 1.3 of the current rateable value. This will roughly double the level of statutory compensation

and allow a dispossessed tenant to rent similar accommodation for six months.

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

Question on the adjournment proposed, put and agreed to.

POST OFFICE (AMENDMENT) BILL 1992

Resumption of debate on Second Reading which was moved on 13 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).

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1992

Resumption of debate on Second Reading which was moved on 11 March 1992

Question on Second Reading proposed.

MR ANDREW WONG: Mr Deputy President, on 7 November 1990, this Council passed into law the Merchant Shipping (Registration) Bill 1990 to provide for the launching of the Hong Kong shipping register. On that occasion, the Administration announced its intention to exempt from profits tax income from the carriage of passengers and goods uplifted in Hong Kong by ocean-going ships registered on the Hong Kong shipping register. This is now being materialized in the present Bill. At the same time, the Bill also seeks to exempt from profits tax charter hire income of all ocean-going ships, irrespective of whether they are registered in Hong Kong.

A Legislative Council ad hoc group was formed to study the Bill. We have held three meetings, including two with the Administration, and we have considered five submissions received respectively from Johnson, Stokes & Master, Solicitors representing the Hong Kong Shipowners Association Limited, the Hong Kong Society of Accountants, the Federation of Hong Kong Industries and Shun Tak Holdings Limited.

As a result of this work, various amendments, basically technical ones, will be

moved at the Committee stage by the Administration.

As regards the principles of the Bill, the ad hoc group accepts that the combined effects of fees and charges payable by shipowners under the Hong Kong shipping register together with the provisions for the taxation of shipping profits under the Inland Revenue Ordinance would affect the attractiveness of the local register. To enable us to compete with other registers of similar standing, the ad hoc group supports the proposition that we shall no longer charge tax on profits made by owners of ships registered in Hong Kong, having regard to the initial registration fees and the annual tonnage charges we are levying under the shipping register.

As a matter of fact, of all the submissions received on the Bill, not one argued against the proposed exemptions from profits tax, effective retrospectively from 3 December 1990 (the date when the announcement was made), of ocean-going ship registered on the Hong Kong shipping register and charter hire of ocean-going ships. Queries were however raised as to when the other provisions in the Bill, in particular those provisions relating to river trade limits charter hire, domestic charter hire and dredging operation would take effect, in other words, whether or not they would be effective retrospectively. The Administration has clarified to the ad hoc group that insofar as these latter provisions are concerned, no retrospective effect is intended and they would only come into effect on the date of the Gazette notice (that is, up to the passage of the Bill). This will be made clear in the amendments to be moved by the Administration shortly during Committee stage.

What remains chargeable to tax under the Bill will now be, firstly, income from carriages shipped in Hong Kong waters, income from dredging operations in Hong Kong and charter hire income from ships operating solely or mainly within Hong Kong waters and, secondly, one half of charter hire income from operations between Hong Kong and areas within the river trade limits. The Bill thus consolidates charging provisions on shipping income and also introduces an anti-avoidance measure to draw "part boat" charters into the tax net.

As for the Bill's minor changes to the airlines profits provisions, they will now better define the basis for calculating the airlines tax liabilities. This is a welcomed move.

Mr Deputy President, with these remarks, I support the Bill subject to the amendments at the Committee stage.

SECRETARY FOR THE TREASURY: Mr Deputy President, subsequent to the introduction of the Bill into this Council on 11 March 1992, this somewhat technical piece of legislation has received considerable benefit from the advice and suggestions of the ad hoc group chaired by Mr Andrew WONG. In addition to holding two formal meetings with the Government, the group received representations from a wide number of interested parties as mentioned by Mr WONG. As a result of these discussions, various details concerning the application and operation of the new provisions were clarified. In addition, a small number of amendments, which I shall be moving later this afternoon, were agreed. I would like to place on record my appreciation for the work done by the ad hoc group.

Mr Deputy President, I commend this Bill to the Council, subject to the amendments which I shall move shortly.

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

Bill read the Second time.

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

IMMIGRATION (AMENDMENT) BILL 1992

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

Question on Second Reading proposed.

MRS MIRIAM LAU: The Immigration (Amendment) Bill 1992 is aimed at bringing the Immigration Ordinance into consistency with the Bill of Rights Ordinance, in short, the BOR Ordinance.

The Immigration Ordinance is one of the six pieces of legislation that are being subjected to a one-year freeze period under the BOR Ordinance. The freeze period will expire on 8 June 1992. An ad hoc group was formed at the Legislative Council In-House

meeting held on the 24 April 1992 to study the Bill. With the co-operation of members and the assistance of the Administration, the ad hoc group managed to complete the scrutiny of the Bill within a very tight schedule, making it possible to resume the Second Reading of the Bill today.

In its review of the Immigration Ordinance, the Administration has not covered Part IV which deals with the requirement to carry proof of identity because this part of the Ordinance is being considered by the Law Reform Commission in the context of police powers of stop and search. The Administration informed members that the Sub-Committee of the Law Reform Commission dealing with the matter took the view that this part would be able to withstand a BOR challenge. The majority of members of the ad hoc group expressed their support for the retention of the provisions contained in this part. One member, however, expressed his reservation. In view of the impending expiry of the freeze period and in order not to pre-empt any recommendation of the Law Reform Commission, the ad hoc group accepts that this part of the Ordinance will not be reviewed in the current exercise.

Mr Deputy President, I now come to the Bill itself. The Bill proposes modifications to two main areas -- the power to detain and presumptions in aid of the prosecution. In regard to the first area, the ad hoc group noted that the BOR Ordinance provided savings to immigration legislation which concern persons not having the right to stay in Hong Kong. Since Vietnamese refugees, by definition, are permitted to stay in Hong Kong until resettlement, the ad hoc group agrees that modifications to sections relating to Vietnamese refugees are necessary in the context of the BOR Ordinance. The existing Immigration Ordinance gives the Government the power to detain Vietnamese refugees in refugee centres. This power infringes the BOR Ordinance as the latter provides everyone who is lawfully within Hong Kong the right to liberty of movement. Besides, with the abolition of the closed camp policy in 1988, the power to detain Vietnamese refugees has actually become defunct. The ad hoc group therefore supports these modifications relating to the removal of such power.

The ad hoc group has also obtained assurance from the Administration that for Vietnamese refugees who contravene any condition of stay the Government is empowered under section 13A(4) of the Ordinance to cancel or vary a Vietnamese refugee's condition of stay. The Administration has also assured the group that the power given in this section will not be used to circumvent the law in respect of those Vietnamese refugees who are alleged to have committed criminal offences. In sections 29A and

31 there is provision for a deportee to be detained indefinitely for inquiry into both his own and other people's activities. The Bill proposes modifications to the effect that such person may only be detained for inquiry into his own activities and for a maximum period of 28 days. The ad hoc group supports this modification because the current provisions may be arbitrary in the context of Article 5(1) of the BOR Ordinance which provides, amongst other things, that no one shall be subjected to arbitrary arrest or detention.

In regard to the second area of modifications, that is, those relating to presumptions in aid of the prosecution, the modifications are necessary in the light of the presumption of innocence contained in the BOR Ordinance. In this respect, the ad hoc group is concerned that any modification should meet both the need to comply with the BOR Ordinance as well as the need to bring about successful prosecution. The sections being modified relate to prosecutions of those persons employing illegal immigrants and assisting entry into Hong Kong of unauthorized entrants. The current provisions in the Ordinance allow the presumption that a person is an unauthorized entrant or the owner or crew of the ship to stand until the contrary is proved. These sections are now modified to the effect that the presumption will only stand in the absence of evidence to the contrary, thus effectively reducing the standard of proof to enable the defendant to more easily rebut the presumption.

The ad hoc group considers the modifications acceptable for the purpose of bringing the Ordinance in line with the BOR Ordinance and at the same time maintaining the law enforcement ability of the Administration.

In the course of examining section 37K which deals with prosecution of persons who transport unauthorized entrants by sea, the ad hoc group expressed reservation in regard to the fact that the presumption can arise without the necessity of establishing any primary facts. The ad hoc group believes that the presumption should only arise upon an allegation which is based on reasonable grounds and the Administration accepts this view. I will therefore be moving an amendment to this effect and explaining the ad hoc group's thinking on this point at the Committee stage.

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

MR JAMES TO (in Cantonese) : Mr Deputy President, the Administration has avoided introducing an amendment to Part IVA of the Immigration (Amendment) Bill 1992, that

is, the part relating to the carrying and checking of identity cards. In overall terms, this part is most subject to criticism. In *R v Fung Chi-wood*, the Court of Appeal has explained that no precondition is necessary (such as a suspicion that a person is an illegal immigrant) before a law enforcement officer can demand to inspect a person's identity card. In other words, the court has clearly stated that no precondition need to exist for the inspection of a person's identity card. That means that if a police constable just wants to know how old a person is or how well his photo is taken or just to have a chat with him or otherwise contact him, the constable can demand to inspect his identity card.

Let us look at the underlying spirit of sections 17A to 17E of Part IVA and we will know where the problem lies. This part of the Ordinance first came into effect on 30 October 1980. This part is different from other legal provisions in that it can be repealed by the Governor in Council without the need to go through the normal repeal procedures. (In the case of repeal by this Council, an amendment Bill to repeal will be necessary.) In other words, it was intended to be a temporary or short-term measure to be introduced or cancelled as and when special circumstances so warrant. What then is "special circumstances"? As a matter of fact, they were related to the problem of illegal immigration then existing in 1980 and unconnected with the then law and order situation. In fact when this part of the Ordinance went through its Second Reading debate in the Legislative Council in 1980, the then Chief Secretary said in clear and unequivocal terms, "The object of this measure is to help detect illegal immigrants..... So anyone will be a suspect if he/she fails to produce an identity card or other certification upon being stopped and searched."

If we care to read through a few more sections of the Ordinance, we will know that this provision of intercepting people to check for identity cards relates to illegal immigration.

Firstly, this Ordinance, entitled the Immigration Ordinance, is not subsidiary legislation to another statute but has been introduced specifically for the purpose of immigration control.

Secondly, section 17D(1) provides that a person who fails to produce an identity card may be liable to arrest. Section 17D(3) provides that if an arrest is made by a police officer, but not an immigration officer, on the ground that the arrested person is found without carrying an identity card and that there is reason to suspect that he/she may be an illegal immigrant, the person arrested should be turned over

within the shortest possible time to an immigration officer for investigation as to whether or not he/she is an illegal immigrant. Construing this provision in its proper context, it is clear that the section is designed specifically for the detection of illegal immigrants rather than for maintenance of law and order or prevention of crime. If there is no reasonable cause to suspect a person to be an illegal immigrant, the power provided under this Ordinance should not be randomly exercised.

In a related development, the Administration has recently proposed amendments to section 54 of the Police Force Ordinance, which will restrict the exercise by a police officer of the power to intercept a person to check for identity documentation to circumstances where the person concerned looks suspicious to the police officer. Given the precondition of "suspicious looking", should a police officer check the identity card of a member of the public who does not look suspicious or who is not suspected to be an illegal immigrant? Members may say that the police will definitely exercise this power with reason and restraint.

In a legal sense, a law so written as to provide considerable leeway in construing and applying it, with neither inbuilt checks and balances nor restrictions as to the circumstances under which to apply it but relying solely on the discretion and restraint of the enforcement authority not to abuse it, runs counter to the spirit of the rule of law; it is a manifestation of the spirit of personality rule.

There have been numerous instances of abuse. For instance, in *R v Fung Chi-wood*, the police officer in question testified to the court that he did not suspect the Rev FUNG to be an illegal immigrant but still required him to produce his identity card for record purpose. When asked why the identity of a person committing no offence and not being an illegal immigrant should be put down for record, the officer told the court that he did so under the instructions of his superior officers.

Moreover, in *R v Fung Chi-wood*, the identity of the 19 people who participated in the lawful procession were put on record by the police. Could I ask if it is the Administration's intention, in enforcing this Ordinance, to keep track of the movements of each and every member of the public? If section 17C already sufficiently and reasonably empowers a police officer to randomly check the identity card of a person, why should the Police Force Ordinance be amended to the effect that the power to check the identity card of a person by a police officer be subject to the precondition of "suspicious looking"? In my view the Administration should take this

opportunity to amend this part of the Immigration Ordinance; it must not dodge it.

In paragraph 5 of the Legislative Council brief on the present Bill, the Administration said, "We have deliberately excluded from this amendment Bill Part IVA of the principal Ordinance which relates to the carrying of identity documentation because the relevant provisions together with others relating to the stop and search powers of the police have been referred to the Law Reform Commission. As the Law Reform Commission has yet to deliberate on these proposals, we are of the view that if we should deal with the provisions in Part IVA now we would be pre-empting the Commission's decisions. This would not be proper." I feel that this explanation is open to question.

Is the Administration meaning to tell us that it would follow and accept the recommendations of the Law Reform Commission? But if Members would care to look at the loitering law currently being considered, they would find that the Administration has chosen not to accept LRC's recommendation to have it repealed. I am of the view that if the Administration feels that the wide scope of the present Ordinance conflicts with the Bill of Rights, it should seriously review it and take the present opportunity to amend it. I and my United Democrats colleagues urge the Administration to introduce as soon as possible a Bill to amend section 17 of the Ordinance. The United Democrats would like to reiterate that they are not asking for a total abolition of the powers to inspect identity cards; they are only asking for a restricted and reasonable exercise of such powers to give effect to the rule of law and human rights.

Regarding section 37K(1), the point which Mrs Miriam LAU mentioned a while ago and which I raised in the ad hoc group meeting is that the provision is basically of a presumptive nature. The original section provides that a person is deemed to be an illegal immigrant if he/she is alleged to be so. We have now amended it to introduce an element of reasonableness, that is to say, there must be reasonable cause to suspect the person concerned to be an illegal immigrant before the presumption can stand.

However, section 37K(2) appears to be fatally flawed. The section provides to this effect: If a police officer of the rank of Superintendent or above holds the honest belief that a person is the owner of the vessel, or the agent of the owner, or the captain or a crew member, then that person is presumed to be the owner, or the agent of the owner, or the captain or a crew member of the vessel. That is to

say, if the Superintendent honestly believes, then the person is deemed to be so.

The general principle with respect to a presumptive provision is that there must be primary facts from which, through a reasonable process of deduction, to arrive at presumed facts. In the recent case of Sin Yau Ming before the Court of Appeal, the court ruled that the principle should be one of rationality and proportionality. In other words, it would not be proper to infer, from oversimple and unreasonable primary facts, a presumed fact which could hardly, if at all, have been reasonably arrived at.

Practically speaking, even though a police officer of Superintendent rank may honestly believe it to be a fact, he is not necessarily at the scene; as a matter of fact he never is in most cases. He relies on the evidence given by police constables who were present at the scene, in other words, hearsay evidence. Indeed, even police constables at the scene might have relied on other illegal immigrants who have alleged that a person is the owner, captain or crew member of a vessel, which would, in that case, be double hearsay. The second point I would like to make is that an honest belief is not equivalent to a reasonable belief. I believe Members will understand that there indeed may be the case of an officer of Superintendent rank honestly believing something to be a fact without bothering to find out whether it is so. But is it possible that from the primary facts as found presumed facts can reasonably be inferred? This is open to question. The third point I would like to make is that the Administration has told us that there is no cause for worry because most of the cases are tried before the District Court where legal aid is available, where statements from witnesses are provided to the defence before trial and where people concerned can be summoned to give evidence any time. My answer to this is : First, not all the cases will go before the District Court; if a case should come before a magistrate's court, the defence will have no automatic right to be given witnesses' statements before trial; the defence may request for the statements but the request may be denied. Secondly, should the police officer of Superintendent rank, in considering whether he holds an honest belief, give all witnesses' statements to the defendant? If the statement gives eventually do not turn up in court to give evidence, then the statements would not be evidence and in that event it would not be necessary to give a copy of each and every statement to the defendant. Finally, on the question of manpower, the Administration has told us that it would be a waste of time and manpower if every time the constables at the scene would be required to give evidence in court. My answer to this is: First, there is no precedent for this; many other cases that occur in the streets, some perhaps very minor cases that come

before a magistrate's court, do require the constable at the scene to give evidence. Secondly, according to police statistics, there were only 70 to 80 cases last year in respect of which this section of the Ordinance was invoked; the defendants in some of these cases entered a plea of guilty. These cases were not tried all at the same time or during the same month or on the same day. Given appropriate arrangements, I double if there indeed would be manpower difficulties. I am of the view that the Administration should at least pluck up courage to amend section 37K(2) the way it is amending 37K(1), that is, the section mentioned by the Honourable Mrs Miriam LAU a while ago. The section should at least be amended to require a primary fact as a reasonable cause wherewith to infer a presumed fact. This would be a more reasonable way of doing it. As regards other clauses in the amendment Bill, I would say they represent an improvement over the existing provisions of the principal Ordinance and there is less of a chance of violating the Bill of Rights.

As the Administration has introduced no amendment to section 17 and to the unreasonable section 37K(2) I mentioned earlier, Members from the United Democrats will abstain from voting on the present Bill.

SECRETARY FOR SECURITY: Mr Deputy President, in my very brief remarks, I would just like to, first of all, comment on Mr James TO's speech. He mentioned areas in particular where there is a dispute, that is, Part IVA of the Ordinance and section 37K(2). As to Part IVA this was discussed in great detail in the ad hoc group and I support the comments which Mrs Miriam LAU has made earlier on. It is shared by the Administration. As to section 37K(2), I believe that the amendment proposed here is reasonable. This assumption as to ownership and so on is rarely, if ever, in dispute. If the officer who made the arrest would have to give evidence in court, it would defeat the purpose of the certification system, which is, as Mr TO said, to avoid hampering operational efficiency. The officer normally makes such arrest on crew members of small vessels. Making the officer appear in Court for every case even where ownership is not in dispute would significantly impair operations.

I would like to thank Mrs Miriam LAU for her efficient chairmanship of the ad hoc group and her support for the Bill. This amendment Bill was only moved on 6 May and today we are resuming the Second Reading. I am most grateful to Members as a whole, and members of the ad hoc group in particular, for completing the consideration of this Bill so thoroughly and promptly.

With these remarks, Mr Deputy President, the Administration supports the amendment to this Bill which Mrs LAU will move in the Committee stage.

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

Bill read the Second time.

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

Committee stage of Bills

Council went into Committee.

POST OFFICE (AMENDMENT) BILL 1992

Clauses 1 to 7 were agreed to.

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1992

Clause 2 was agreed to.

Clauses 1 and 3

SECRETARY FOR THE TREASURY: Mr Chairman, I propose that clauses 1 and 3 be amended as set out in my name in the paper circulated to Members.

The amendment proposed to clause 1(2) is to clarify that, except for the concessions for international shipping, the new provisions will only come into operation on the date of publication of the Ordinance in the Gazette. The amendments to clause 1(3) reflect the Government's intention that any additional liability arising in respect of domestic shipping and the commencement of the anti-avoidance provisions will only become effective from the date of publication of the Ordinance.

A number of minor amendments are proposed to clause 3 in respect of section 23B of the main Ordinance. In particular, the words in brackets in subparagraph (7)(b)(i) are to be amended so that depreciation allowances will only be specifically denied in respect of that portion of the basis period during which a ship is registered on

the Hong Kong Register of Shipping and is used to produce exempt sums.

A new subsection (8A) is also to be inserted, to reflect the intention that appropriate annual allowances will be granted in respect of a ship which is owned at the end of the basis period and has been used for the purpose of producing assessable profits during the basis period.

Finally, definitions. The definition of "relevant sums" specifies the classes of income that are to be taken into account for the purpose of calculating a ship owner's assessable profits. It is proposed to amend paragraph (a)(iv)(A) of the definition to make it clear that it does not embrace international charter hire attributable to the passage of ships through Hong Kong waters or moving between berths in Hong Kong.

If the defined meaning of "sea" in section 23B(11) had to be read into the definition of "relevant carriage" in the same section, it is possible that Hong Kong's local shipping operations would escape tax on their profits. As this is not our intention, the definition of "sea" is to be amended to exclude its application to "relevant carriage".

Mr Chairman, I beg to move.

Proposed amendments

Clause 1(2)

That clause 1(2) be amended by deleting "1991 and all subsequent years of assessment" and substituting "1992 and all subsequent years of assessment, and shall come into operation on the date of publication in the Gazette".

Clause 1(3)

That clause 1(3) be amended by deleting "paragraphs (a)(iii)" and substituting "subsection (9) of that new section and paragraphs (a)(iii) and (iv)(A)".

Clause 3

That clause 3 be amended --

In new section 23B -

(a) in subsection (7)(b) -

(i) by deleting "subject to subsection (8),"; and

(ii) by deleting subparagraph (i) and substituting -

"(i) subject to subsections (8) and (8A), in the case of any initial allowance or annual allowance, as the case may be, that may be made to that person under Part VI, that allowance shall only be made in respect of that portion of the basis period during which the ship is not a registered ship (in respect of which the definition of "exempt sums" applies) to the extent that that ship is operated in that portion of that basis period for that year of assessment for the purpose of producing assessable profits;"

(b) in subsection (8) -

(i) by adding "(in respect of which the definition of "exempt sums" applies)" before "ceases"; and

(ii) in paragraph (b) by adding "subject to subsection (8A)," at the beginning;

(c) by adding -

"(8A) For the purposes of subsections (7)(b)(i) and (8)(b) -

(a) in the case of subsection (7)(b)(i), the reference to Part VI (which Part contains sections 37(2) and 37A(2) amongst others); and

(b) in the case of subsection (8)(b), the reference to sections 37(2) and 37A(2), shall, in both cases, be construed as if the words "at the end of the basis period" (in the first place where they appear in section 37(2), and where they appear in section 37A(2)) read "during the basis period."; and

(d) in subsection (11) -

(i) in the definition of "relevant sums" by deleting paragraph (a)(iv)(A) and substituting -

"(A) the operation of a ship navigating solely or mainly within the waters of Hong Kong; or"; and

(ii) in the definition of "sea" by adding ", except in relation to relevant carriage," before "means".

Question on the amendments proposed, put and agreed to.

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

IMMIGRATION (AMENDMENT) BILL 1992

Clauses 1 to 11 and 13 to 16 were agreed to.

Clause 12

MRS MIRIAM LAU: Mr Chairman, I move that clause 12 of the Bill be amended as set out under my name in the paper circulated to Members. Section 37K(1) reads "A person who in any proceeding under this Part is alleged to be an unauthorized entrant shall be presumed to be such until the contrary is proved." To bring the section in line with the Bill of Rights Ordinance, the Immigration (Amendment) Bill proposes repealing the words "until the contrary is proved" and substituting it with "in the absence of evidence to the contrary". The ad hoc group supports the modification as it enables the defendant to more easily rebut the presumption. Yet the current provision is that the presumption will arise upon mere allegation. This may not be compatible with the Bill of Rights Ordinance. The ad hoc group believes that certain processes of checking or inspection would in all probability be adopted by the Administration before the allegation is made. This is confirmed by the Administration. However the fact that there is no requirement in the legislation for the establishment of any primary facts may render the allegation arbitrary. The ad hoc group appreciates that the primary facts necessary to conclude that a person is an unauthorized entrant may vary from case to case but at least the requirement for primary facts rationally proportional to such conclusion must be demanded in the

legislation. The ad hoc group therefore proposes to amend the section to the effect that the allegation must be based on reasonable grounds and hence the proposed amendment.

Mr Chairman, I beg to move.

Proposed amendment

Clause 12

That clause 12 be amended by deleting paragraph (a) and substituting -

"(a) by repealing subsection (1) and substituting -

"(1) If in any proceedings under this Part a person is alleged to be, and there are reasonable grounds for believing that such person may be, an unauthorized entrant, that person shall be presumed to be such in the absence of evidence to the contrary."; and".

Question on the amendment proposed, put and agreed to.

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

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

POST OFFICE (AMENDMENT) BILL 1992

had passed through Committee without amendment and the

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1992 and

IMMIGRATION (AMENDMENT) BILL 1992

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

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

Bills read the Third time and passed.

Member's motions

DEPUTY PRESIDENT: In accordance with recent practice, I understand that Members have agreed to place a voluntary restraint on the length of speeches.

TELECOMMUNICATIONS POLICY

MR STEVEN POON moved the following motion:

"That in view of the expiry of the franchise of the Hong Kong Telephone Company Limited in 1995, this Council urges the Government to formulate without delay a comprehensive and long-term telecommunications policy so as to facilitate, among other things, the establishment of a second local telecommunications network in 1995, having due regard to the principles of protecting consumer interests, maintaining free and fair competition, and protecting the good reputation of Hong Kong."

MR STEVEN POON (in Cantonese): Mr Deputy President, I move the motion standing in my name on the order paper.

In 1988, when the Government invited tender for cable television, the thinking then was that cable television would at the same time provide a local telecommunications network. However, the plan did not materialize and we were not able to develop further our local telecommunications network. It is indeed very disappointing now that, four years on, the Government is still unable to present a new comprehensive telecommunications policy. Meanwhile, despite the scheme of control for the Hong Kong Telephone Company ending in March last year, we have not been able to come up with a new scheme of control. The franchise of the Hong Kong Telephone Company will also expire in 1995, but the Government has yet to give specific

indication as to how it intends to deal with the local telephone service. The Government can be said to have not a clue about the issue; there is no policy to speak of. The business sector and the general public, therefore, do not have any idea about the shape of things to come in terms of telecommunications.

At present, the local telecommunications services are provided by Hong Kong Telephone Company, Hong Kong Telecom International (HKTI), a number of mobile telephone companies and paging companies.

The forerunner of HKTI was the Cable and Wireless Company. The latter had for a long time the franchise to provide international telephone and telegram services in the territory. In 1981, a new franchise agreement was signed between the Government and the Cable and Wireless Company. It will run for 25 years and expire in 2006. The old franchise was to expire in 1987, but six years before its expiration, that is, in 1981, the Government made a point of hastily signing a new franchise with the Company, which is baffling indeed. Article 18 of the franchise agreement stipulates that the appointees to managerial and executive positions should be British nationals, unless the Governor's permission is secured for exceptional arrangement. One has the feeling that the new franchise is the product of political manoeuvring. There are many people who now query whether this agreement signed 11 years ago is really in the interests of Hong Kong people; there is even a suggestion that the agreement should be rescinded.

Let us now look back on the past performance of HKTI. In terms of quality, its International Direct Dialing service, international facsimile and related services compare favourably with comparable services offered in advanced countries and cities all over the world. HKTI has laid a Pacific submarine optical-fibre cable and is constantly seeking to improve our telephone connection with various provincial cities of China as well as every corner of the world. In terms of price, international calls made in Hong Kong are cheaper than those coming in from outside of Hong Kong. The service of HKTI is therefore satisfactory.

Under these circumstances, I think the suggestion that HKTI's franchise be terminated does not have enough grounds. Furthermore, the termination of a franchise agreement is a very serious matter. Terminating an agreement without enough grounds, for no apparent reason, will seriously tarnish the reputation of Hong Kong and the Hong Kong Government in the global scene; it will be a very unwise thing to do. I suggest that the Government should allow HKTI to continue to enjoy its franchise

rights.

Insofar as Hong Kong Telephone Company is concerned, in terms of quality, 94% of our telephones are digitalised, a percentage which is higher than that in the United Kingdom, the United States, Japan and Singapore. In terms of quantity, there are 1.5 telephone lines per household in Hong Kong, a ratio which again is higher than that in the United States, the United Kingdom and Japan. In terms of price, residential and business lines in Hong Kong cost less to rent than that in advanced countries. The service provided by Hong Kong Telephone Company is commendable.

However, I think that it is not the best way to regulate the telecommunications industry in the form of franchise. In a free market economy, competition is after all the best and the most ideal way. In the past, the telecommunications industry was monopolized all over the world; however, with the liberalization of the industry in the United States, the United Kingdom and Japan in the 1980s, success stories are abound. I really think that there is no need for the franchise of Hong Kong Telephone Company to be renewed in 1995; we should instead introduce a second telecommunications network.

The Executive Council has been reported to have, at its meeting last Tuesday, agreed in principle to the liberalization of the local telecommunications service in 1995. I welcome that reported agreement. But liberalization and the setting up of a second network should only form part of the telecommunications policy, rather than what that policy is all about. There is still a need for the Government to expeditiously formulate and make known to the public a comprehensive and long term telecommunications policy.

I have the following views on the telecommunications policy:

(1) While the tariff for international calls is cheaper in Hong Kong than in other countries, the profit margins of HKTl are very high indeed. I think such profit margins are already way above reasonable levels for a franchised company. It shows that the company has made no effort to share the benefits of lowered costs with its subscribers. I suggest that the Government should negotiate with the HKTl and request it to immediately make large tariff cuts and to set a time table for annual tariff cut within the next five years.

(2) According to the present arrangement, the revenue from international telecommunications services is to be split between HKTI and Hong Kong Telephone Company, such that about 60% will go to HKTI and the remaining 40% to Hong Kong Telephone Company. This ratio should be examined in the light of the high profit margins of HKTI and the need for Hong Kong Telephone Company to apply for tariff increase. I suggest that the Government should review that ratio to see if it is reasonable, in order to alleviate the pressure of tariff increase on domestic lines.

(3) Some economists have the view that revenue from international telecommunications services is actually used to subsidize rental domestic lines. But this is hard to prove. Given the high costs of the telecommunications industry, equitable sharing is a controversial issue. I think that the issue of cross subsidy, even if it exists, is not unacceptable. For in the absence of domestic lines, we will have no use for international telephone service. The costs of the two services are hard to divide discretely from each other. Besides, we have to make sure that the low-income households find the telephone tariff is affordable.

(4) Following the introduction of a second local telecommunications network, in order to enable it to compete effectively, the Government should make sure that it can be linked up with the network of Hong Kong Telephone Company and HKTI, at a reasonable price. The public may then be able to opt for telephone lines of the second network, in a way which is not influenced by huge tariff differential.

(5) Given the limited number of subscribers the second network is expected to have when it is newly introduced, the first network will still be in a position to control tariff. In this regard, in the initial stage of liberalization, the Government should still impose tariff control on Hong Kong Telephone Company in order to protect the interests of consumers.

(6) The Government has recently announced that it has started negotiations with Hong Kong Telephone Company on a tariff control scheme which will replace the existing scheme of control. The new scheme will determine the rate of tariff increase by a formula, that is, deducting the rate of inflation by a percentage or X. I am in favour of this scheme because it will exert pressure on the company through tariff control to improve its efficiency. However, the Government should elaborate how the percentage or X is arrived at.

(7) It is expected that the second network operator will likely choose the most

lucrative districts to launch their business. Hong Kong Telephone Company, however, is required to provide telephone service for all parts of Hong Kong, lucrative districts or not. This will not be fair to Hong Kong Telephone Company. I suggest that the second network operator should, after three years of operation, bear the same responsibility as Hong Kong Telephone Company, in terms of providing telephone service throughout the territory, including the districts in which it will operate at a loss.

(8) To liberalize the market, arrangements should be made to allow mobile telephones to connect with the HKTl network for the purpose of making an international call, without having to go through Hong Kong Telephone Company network or the second network. This will not only save connection costs and work to the benefit of subscribers, but will also allow mobile telephone companies to have a share of some of the benefits pertaining to long distance international telecommunications service.

(9) In 1988, the Government saw fit to include telecommunications network in the public tender for cable television. I think it was a great mistake and sounded like putting the cart before the horse. The Government should not have mixed its telecommunications policy up with its broadcasting policy; telecommunications network should not in any case be treated as being attached to an information service. I suggest that separate tenders should be invited for pay television and the second network at the same time. If it is necessary for the tender for pay television to go ahead first, then it should be specified in that tender exercise that the pay television licence will not include the right to operate other lines of telecommunications business.

(10) The Government should make an assessment of the local wireless telecommunications environment and formulate a long-term policy accordingly. The present situation is that mobile telephones, pagers and second generation cordless telephones are fighting for survival. The Government should keep its finger on the pulse where the future developments of science and technology is concerned such that the wireless telecommunications system will be able to further develop.

(11) The scheme of control is an indispensable part of the telecommunications policy. The present arrangement is for the Economic Services Branch to formulate policy with the Post Office providing the technical support. It lacks an effective monitoring mechanism. I suggest that we follow the practice of the United Kingdom

in terms of setting up an independent Telecommunications Office charged with the monitoring of the industry, laying down principles of tariff control and putting them into implementation, and consulting the views of the public and the business sector.

Mr Deputy President, telecommunications is a complex issue. The man in the street only knows that he has to pay the telephone bill; he has no idea why he has to pay so much money in the way of rent for telephone line and IDD charges. He has not been given any detailed explanation when it comes to relevant policies. Given that telecommunications services are basically provided by a franchised company, there is not much chance the public can have access to its operation. The Government has failed for many years now to formulate a telecommunications policy. Its frequent wavering and misguided steps taken have left the impression of a government which has neither the professional expertise, the confidence, nor indeed the determination, in terms of dealing with telecommunications industry. I urge the Government to form, without delay, a comprehensive and long-term telecommunications policy and to publicize it in such a way as to highlight to the general public the various factors which have been taken into account in the policy making process, in order that they have the opportunity to monitor this basic service which costs consumers \$20 billion each year.

With these remarks, I move the motion.

Question on the motion proposed.

DEPUTY PRESIDENT: With 15 Members listed to speak, I would remind Members that to carry out their agreement for voluntary restraint they should limit their speeches to not more than six and a half minutes each.

MR STEPHEN CHEONG: Mr Deputy President, I hope I will not take up the full quota because after having heard the Honourable Steven POON's speech, I feel I am speechless already because he has covered so succinctly all the areas. I would simply like to reiterate a few points.

The first and foremost point is that it is most important from a macro point of view for Hong Kong to be able to develop an efficient telecommunications service. In the light of China's open-door policy and her economic modernization programme,

we have already seen in the past few years how the economy of Hong Kong has been boosted by China's efforts. We have also seen that the Pacific rim in the past few years has developed tremendously on the economic front, which Hong Kong is also well placed to contribute to and take part in that economic development. With all these developments going on, if we do not have an efficient and reliable communications network both within and without our territory, it would certainly hamper our future development.

To that extent it is important that the Administration formulate a policy of what the future development of telecommunications is to be like. For that, I certainly subscribe to the fact that the second network decision needs to be made very quickly, so as to foster a freer competitive spirit. Nevertheless, it has to be borne in mind by the Administration that even if it decides to allow a second network to come in, what objectives does it hope to achieve? I would venture to suggest that the Administration should not allow any tenderer without any new technological base, managerial expertise and experience in that particular area to tender for the second network.

The second point I would like to make is to echo Mr Steven POON's point that telecommunications and broadcasting do have overlapping grey areas. The Administration should know the priorities in terms of each's importance in the macro interests of Hong Kong and that any decisions to be made by the Administration based on broadcasting considerations alone should not adversely affect telecommunications development in relation to the second network. Indeed, if subscription TV were to be considered by the Government, may I make a suggestion that it would be better in the overall macro interests for Hong Kong for both matters to be considered at the same time. If the future tenderers of the second network were to be interested in the operation of subscription TV, then might I also suggest that the Administration should consider putting in conditions that would require the tenderers to commit to the development of programmes that would have a high degree of local flavour, and not just buying programmes from outside territories to be re-dubbed into Cantonese for the viewers of Hong Kong.

Mr Deputy President, it is important that telecommunications be allowed to develop efficiently, and for that particular matter I would simply like to end by paying tribute to the work that the present telecommunications operators have done for Hong Kong. For the past 10 years they have really done their best to introduce the most updated technology into Hong Kong. They have also done their best to provide

an efficient service to Hong Kong at the cheapest possible price. For that, I think Hong Kong has to say "thank you". For the reasons given by Mr POON in relation to future development, free competition and free market economic philosophy, I certainly subscribe to the idea that we should have a second network by 1995. I do not think we should drag our feet; the Government should make a decision very, very quickly.

Mr Deputy President, I support the motion.

MR MARTIN BARROW: Mr Deputy President, I agree that the Government need to formulate a long-term telecommunications policy but I would like to add a note of caution on some aspects of the motion.

Whilst increased competition in the telecommunications service industry has brought benefits to consumers here and elsewhere, we should not forget that in Hong Kong we have a very efficient and cost-effective telecommunications system which has served Hong Kong well. There should be no disagreement with the principle that a second network should connect both the existing local network and the international facilities. However the prices for such connection should take full account of the cost of building, expanding and operating the networks and of the universal obligations imposed upon the existing provider of the service throughout Hong Kong.

As Mr POON has pointed out, the second network is bound to focus its services upon those customers who provide them with the highest profit. In other words, they have no incentive to build a telephone network to serve the fish farms in the Mai Po Marsh area. That is why the connection charges should be fair and reasonable but not be lower than the cost of providing the service. Otherwise the second network would in effect receive a cross-subsidy and there will be no incentive for that network to even try to provide a territory-wide competing network, always relying upon the existing network to give access to customers and never building a competing telephone network.

However, I am surprised that Mr POON thinks that it could be possible to build a competing telephone network to provide services throughout Hong Kong in the space of three years to serve 2.6 million homes and offices. Certainly, if the connection charges with the existing system are too low, then the second network will have no incentive to attempt this. I would also be concerned about the possible inconvenience to the population during the construction period of a new network.

On the regulatory environment, I would have no objection to an office of telecommunication-type independent authority being set up in Hong Kong. But the danger is that this may show that competition in the telecommunications industry does not result in less regulation or de-regulation as is often claimed, but possibly more regulation. And I hope that in considering the way forward, the Government will avoid any tendency towards over-regulation.

In conclusion I would caution the Government not to be over enthusiastic in the application of a competitive telecommunications policy. To do so could be damaging to Hong Kong's telecommunications infrastructure which is already the envy of many developed countries in the world and would clearly be a disincentive to future investment in the expansion and development of a public service which is crucial to Hong Kong's prosperity. Thank you.

MR LAU WAH-SUM (in Cantonese): We all know that progress comes with competition. Hong Kong is a society which has a free market economy; we always champion fair competition. We have been able to achieve prosperity and progress today, mainly because our business community has been able to operate and function in keeping with the principle of fair competition. But there are public utilities which, due to their nature of operation, have to be operated in the form of monopoly. These franchised utility companies have been able to provide satisfactory services and make their rightful contribution to society, although they have no competitors to contend with. The main reason for this is that we have an excellent scheme of control which does not only control the tariffs of these services but more significantly, specifies that the profit margins are to be based on asset value. That is an inducement for the utility companies to invest so as to catch up with the latest development in technology and equipment, which in turn improves the quality of service and efficiency. Although we have a scheme of control which is effective in terms of monitoring the utility companies, franchised rights are nevertheless incompatible with the basic principle of free market and fair competition. In the long term, franchised rights should be reduced to a minimum in order to promote fair competition and enable the public to have more choices and a selection of quality services at reasonable prices.

The franchise of Hong Kong Telephone Company will come to an end in 1995. The Government should take this opportunity to formulate a comprehensive long-term telecommunications policy. The franchise for telephone services should not be renewed, in order to pave way for the setting up of a second local telecommunications

network. This is a practicable thing to do, given that in the early 1980's, the telecommunications market in other advanced countries such as the United States, the United Kingdom and Japan, were liberalized and consumers have consequently been able to enjoy better services. The setting up of a second network will lead to fair competition between the two networks and improved services. In order to achieve better sales results, and therefore more profits, the competitors will increase efficiency and lower tariff charges. In addition, the Government can also, as part of its comprehensive, long-term telecommunications policy, allow other telecommunications services relating to the telephone network, such as mobile telephone, direct dialing international telephone and digital communication operators, to have the freedom of choice in respect of use of the two networks. Insofar as international telecommunications is concerned, direct link to the international telecommunications network without going through the telephone network is in keeping with the principle of fair competition and reducing the financial burden of consumers.

Hong Kong Telephone Company and its sister company, Hong Kong Telecommunications International, have so far been able to provide satisfactory services. Thanks to Hong Kong being a thriving international marketplace whose demand for telecommunications services far exceeds that of any South East Asian country, Hong Kong Telecommunications Company Limited, which is the parent company of both Hong Kong Telephone Company and Hong Kong Telecommunications International, has been able to achieve phenomenal growth in recent years. Meanwhile, given that telecommunications equipment has become increasingly inexpensive leading to steadily falling operating costs, the company was able to make an after-tax profit of \$5.67 billion last year. Admittedly, the profit growth was less than that of last year, but it is equivalent to 43% of its asset value, which is to say that its after-tax profits for the last two years or so have been enough to offset the entire cost of investment. That kind of return rate is very high indeed, and this trend can go on for years. But since the accounts of Hong Kong Telephone Company and Hong Kong Telecommunications International are not separated in the public release, there is no way of getting to know how much of the profit is made from the domestic telephone service and how much of it is made from the international telephone service. We can see from the documents issued by the company when it was publicly listed in 1988 that the Cable and Wireless Company (provider of international telephone service) was able to achieve an after-tax profit of \$800 million in the first half of 1988 with its asset value at \$1.8 billion. Put in another way, its profit for one year alone was enough to cover its entire cost of investment. It is in the light of this fact that

I agree with Mr Steven POON that the Government should work with Hong Kong Telecommunications International to work out a package deal for reduced tariff for each succeeding year. While it is acceptable that the Company should be entitled to a higher profits in the first couple of years of its operation given its huge investment in equipment, its profits should revert to a reasonable level after a period of time so that the community as a whole will be able to share the economic benefits of advanced science and technology.

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

PROF EDWARD CHEN: Mr Deputy President, the Hong Kong Government's existing telecommunications policy is out of date because it has been overtaken by events of remarkable technological change in the past two decades. The telecommunications industry moved from electro-mechanical to semi-electronic switches in the 1970s, and then to digital switching and optical fibre cabling in the 1980s. As a result, the importance of economies of scale in the industry has drastically decreased. In the old days, franchised or natural monopolies were considered essential for minimizing social costs and for ensuring the survival of the operators. Nowadays the telephone networks are providing different and separate services. The major fixed cost in telecommunications is conventionally land for housing exchange facilities. But one advantage of new technologies, among other things, is to economize on floor space. Also, new technologies reduce material cost and make possible a greater flexibility in the provision of services.

All these imply that such concepts as economies of scale, wastage, decreasing cost industry, and natural monopoly are no longer applicable to the telecommunications industry. The Government must face this reality of technological changes and reformulate its long-term telecommunications policy.

The disadvantages of a monopolistic market in the telecommunications industry in Hong Kong has been apparent for a long time. At least three issues can be raised in this connection. First, the IDD tariff rates have been much higher than they should be. The major cost components of long distance transmission decline by 8% to 20% a year in the 1980s, but IDD tariffs have fallen by less than 5% a year in real terms. As a result of its monopolistic power the Hong Kong Telecommunications International (HKTI) can enjoy a 60% to 70% net profit margin. If international rates were cut by 50%, HKTI could still obtain a 10% to 20% net profit margin which is normal for businesses in competitive markets. The amount of over-payment by consumers in

this case is estimated to be HK\$2 billion a year. The fact that Hong Kong IDD international tariff rates are low by international standards does not preclude the possibility that our rates can be even lower.

The second problem of a monopolistic market in Hong Kong's telecommunications industry is discrimination against the small businesses and individual consumers. This is because large businesses and multi-national corporations can bypass the normal international rates by leasing private circuits. Smaller businesses and individual consumers cannot afford to do this and they are also prevented from getting this benefit indirectly because the resale of leased circuit capacity is not permitted under the existing franchise arrangement of the Government with HKTI.

The third problem is misallocation of resources resulting from price discrimination and cross-subsidization in Hong Kong's monopolistic telecommunications industry. At present, the price differences between local and international services are not based on cost differences. For example, in the data communications service, international rates are 16 to 25 times higher than local rates, while international services cost only 1.5 to two times more to supply than local services. It is also argued that this price discrimination makes cross-subsidization possible and enables Hong Kong to enjoy a very low rate for local services. But in a general equilibrium framework, this cross-subsidization distorts the allocation of resources in as much as local services are over-used and resources for providing local services are over-employed. Such resources could have been used more efficiently in other sectors of the economy. Under the present level and structure of tariffs for local services, indiscriminate users are inevitable.

Against this background, a general liberalization of the telecommunications industry in Hong Kong must be a target of government policy. The first step should be the opening up of local telephone services by introducing a second network in 1995, on the expiry of the franchise of the Hong Kong Telephone Company. Meanwhile, the Government should consider price capping to replace rate of return regulation as a means of control. The advantage of price capping in promoting efficiency is well known, and it has proven experience in the United Kingdom. In the CPI minus X formula, X should be set at no less than 4% in the first instance. This is because in one important research work it is estimated that the total factor productivity increase has been 8.6% per annum in Hong Kong's telecommunications industry in the 1980s. Assuming at least half of the benefits of the increase in efficiency should be passed on to the consumer, X should not be smaller than 4.

More importantly, and as soon as possible, HKTI should be persuaded to do two things, although its franchise will not expire until the year 2006. First, HKTI should lower its IDD rates considerably in view of its high net profit margin. It is not unrealistic or unreasonable to ask HKTI to lower the international rate by, say, 10% in the first year and 5% each year in the coming three-year period. Second, HKTI should allow the resale of leased circuit capacity to third parties so that smaller businesses and individual consumers can also benefit from such private networks. Resale of domestic and international circuits has been legalized in the United States since 1981, resulting in more competition and lower charges for the general public. An additional importance of this partial liberalization in international service is to reduce the possibility of the existing company practising cross-subsidization for the purpose of out-competing the second operator, if domestic service will indeed be opened up in 1995.

If a second network is to be established, the second operator must be given a fair chance to survive. Some of us might fear that any decrease in international rates will lead to a drastic increase in local telephone charges. This fear is unwarranted. First of all, too low a price is not really desirable because it leads to misallocation of resources for the economy as a whole, and in practice the increase in local telephone charges should not be considerable. This is because the existing operator cannot afford to increase charges significantly in the face of the competition of a second operator. Moreover, experience in Japan and in the United States has shown that the demand for international telecommunications is often quite elastic. Rate reduction can lead to revenue increases rather than decreases.

With these words, I support the motion.

MR VINCENT CHENG: Mr Deputy President, I am for greater competition and I agree that the Government should formulate a telecommunications policy as soon as possible, taking into consideration technological changes and the changes in Hong Kong society.

Since some Honourable Members have already spoken or will speak eloquently on the merits of a second network, I would like to play the role of devil's advocate to remind ourselves of the practical problems that we may face if we decide to do so.

According to the present arrangements between Hong Kong Telecommunications International and the Government, only the franchise for the domestic market will expire on 30 June 1995. HKTI's international licence will not expire until 30 September 2006. If only the domestic telephone market is accessible to the new entrant and the more lucrative IDD market is not, I cannot see how it would attract new entrants. Already local telephone charges are so reasonable and the market fully serviced by the existing operator that it is difficult to see how such a market would be attractive to new operators unless the second network is allowed to provide other services such as Cable TV.

My concern is very simple. If the second network failed to take off but at the same time the franchise arrangement with the telephone company is not renewed in 1995, we would fall between two stools with no competition in the market and no control over prices charged by the telephone company. The experience of other countries in introducing second networks is not entirely satisfactory. In the United Kingdom domestic call charges rose by 60% between 1984 and 1991; in the United States domestic call charges went up by 55% between 1983 and 1990. These increases are higher than the corresponding inflation rates of 49% for the United Kingdom and 31% for the United States. If we are to introduce a second network, we must learn from the experience of these countries and avoid repeating the same errors.

So far I have not seen any consultancy paper on the viability of a second network. I therefore find it difficult to make a final judgment on this issue. I urge the Government to take a critical look at its telecommunications policy for the future. In particular I would like to see answers on the following doubts which I have in mind:

(1) Given the already high density of telephones in Hong Kong and that domestic telephone charges are low and subsidized, what attractions will the second network offer to potential investors?

(2) Since the quality of telephone service is already very high in Hong Kong, would the existing users switch to a second network simply because there is another network? What would be the incentive?

(3) How large a nuisance would construction of a second network create? How many kilometres of roads would likely be affected?

(4) Is the price capping mechanism of RPI minus X not a viable answer to protecting consumers?

I have no resources for a detailed research myself and I therefore do not have the answers. I have an open mind on this issue. I would like to see a detailed study by the Government on the viability and benefits of a second network before I decide on this issue which should not be argued purely on a theoretical basis.

We have a very good telephone service. We have to be extremely cautious in experimenting with new ideas so as not to jeopardize the industry and penalize a very successful and efficient operator. Thank you.

MR MOSES CHENG: Mr Deputy President, it had not been too long ago when we were not given any choice but to rent the simple black telephone set from the telephone company. Any attempt to connect a more advance telephone set which was purchased out of Hong Kong to the telephone line of the telephone company was considered to be acting in contravention of the telephone service agreement and would entitle the telephone company to terminate the services it contracted to provide to the user.

The introduction of competition in the supply of telephone equipments in the last decade or so has undoubtedly brought about a lot of changes. Besides the improvements brought about by the advancement in technology, competition has definitely extended the choice of the telephone equipments available to the consumers in Hong Kong. Competition has also brought about noticeable differences in the pricing of these equipments.

Comparing with a lot of developed countries of the world, Hong Kong can be proud of the telecommunications services currently being offered to its people. The level of pricing charged by the provider of such services compares favourably with other countries of the world. However it does not mean that we should be complacent. Rather on the contrary, we should vigorously look for improvements that would bring our telecommunications services to new heights, ensuring the leading position and good reputation of Hong Kong amongst its many keen competitors in the neighbouring regions.

Leading economists agreed that the best way to achieve improvements is through competition and that competition is a better way than price control of finding out how efficiently and inexpensively telecommunications services can be provided.

The motion proposed by the Honourable Steven POON calls for a comprehensive and long-term telecommunications policy which will facilitate, among other things, the establishment of a second local telecommunications network in 1995. Although some people might have reservation on a second network for Hong Kong, yet I feel that a second network would encourage effective and healthy competition. Notwithstanding the relatively small geographical area of Hong Kong, the growth in demand on the existing network in recent years strongly supports the feasibility of a second network.

Sufficient demand in the market solely would not suffice. Hong Kong must be capable of offering a framework which is conducive to healthy competition; a framework in which new entrants have an opportunity to become established and to grow. I believe that a reasonable amount of regulatory stability should also be assured by the Government so that new entrants would be prepared to enter into the arena of competition despite the presence of a long established player. The Government should therefore embark upon a comprehensive review and formulate without delay a long-term telecommunications policy.

A major part of such policy and the provisioning of a competitive framework during the initial period would undoubtedly involve the issue of regulating the charges for the various services. Recently the Government announced that it is negotiating with the Hong Kong Telephone Company for a new price control scheme to replace the profit control scheme which had expired. This new scheme would impose a cap on the price increase and would be linked to the rate of inflation as the permitted increase will be computed by the formula of $CPI (A) - X$, X being the projected financial performance and improvement of the company. This change to control prices rather than profits is based on the belief that it will encourage efficiency and that it will ultimately more likely lead to lower prices than methods which control profits or rates of return because the latter give little incentive to the company to reduce cost.

From the consultative document issued in January 1992 by the Director General of Telecommunications in England on the operation of a similar scheme there, we learned that an overall limit on prices that are charged to customers for a period of a few years encourages improvements in efficiency, as the company can retain any additional profits it generates as a result of achieving a greater than expected level of efficiency. It also counteracts a major problem of monopoly which is a tendency

to inefficiency. Setting the cap for a few years avoids detailed bureaucratic interference at each price change. Regular reviews at reasonable intervals are necessary to maintain the projected financial performance in line with the changes in the various factors.

In adopting a regulatory system of price control as part of the long-term policy on telecommunications, the Government should firstly seek to ensure that the structure of such system is efficient, taking account both of the resources required by the Government as the regulator, and of extra costs incurred by the company in complying with the regulatory controls.

Besides, the issues of whether provisions should be made so that the customers can share in the benefits from greater than expected profitability during the period of control; whether further controls should be introduced to link prices with the elements of service quality; whether the services provided should be divided into separate baskets and augmented by "sub-caps", or be covered by individual price caps and limits on the rate of increase of individual prices within a wider price basket; and the control on interconnection agreements among the various operators and the level of charges should be carefully studied before a conclusion is drawn.

Mr Deputy President, advancement in technology in the field of telecommunications has been tremendous in the past decade or so and the needs of the consumers in telecommunications services have been fast changing as a result of the substantial developments in Hong Kong; it is imperative for Hong Kong to have a comprehensive and long-term telecommunications policy which is conducive to growth and healthy competitions.

With these remarks, I support the motion.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, Hong Kong people have heard a number of theories relating to the opening up of the local telecommunications market and indeed there have been stories going around about the setting up of a second telecommunications network. Hong Kong people have been waiting for a long time; they hope to have the choice of a second network.

Presently, the services provided by Hong Kong Telephone Company, which operates the only telecommunications network we have, are admittedly satisfactory, and priced

at a more reasonable level than that of the United States and some European countries. But we must not forget that the high density of our population is very advantageous to the franchised local telecommunications services operator. For it can achieve high profits with low investment. Meanwhile, in order to cope with the complex telecommunications needs in the future, we should not be content with just one network for Hong Kong. We understand that the franchise of Hong Kong Telephone Company will come to an end in 1995; it is a very appropriate time to set up a second network around that time. If we allow more than one operator to provide this kind of service, then the law of survival for the fittest dictates that the level of service will be improved as a result of competition. In a competitive environment, the companies will attract consumers with lower tariffs and the public will at the same time be given a choice, which is in keeping with the spirit of a free market economy. This is a major principle of a free market which admits of no argument.

However, while opening up the market, I would like to remind the Government of the problems which may arise, that it should absorb the lesson learnt from its handling of the cable television. The Government should avoid turning the good breakthrough into a disaster; I urge the Government to pay attention to the problems which may arise. We also understand that it is going to be very expensive to set up a second independent network, in terms of cost and investment, whether it is done individually or in any other way. We should also be concerned whether the second network operator will charge lower tariff than Hong Kong Telephone Company. Also, will the service of the second network be different from the service now being provided by Hong Kong Telephone Company? In order to avoid chaos and inconvenience to the public, I suggest that the Government, in opening up the telecommunications market, should also introduce suitable monitoring according to present needs. For example, following the abolition of the franchise agreement, how will the Government monitor the operation, services, investment and tariff charges of two or more network operators? Insofar as the public is concerned, the issue is not so much the number of network operators which may be one, or two or three, as whether, more essentially, they can achieve long term gains in terms of price, quality and technology.

Mr Deputy President, I still have some misgivings about the motion proposed by Mr Steven POON, who happens to be a Director of China Light and Power Company despite his earlier resignation from his position of General Manager of the Company. But anyway, I am still prepared to, with these remarks, support the motion.

MR ALBERT CHAN (in Cantonese): Mr Deputy President, I will focus on the issue of the introduction of a second telecommunications network. Regarding the problem of the telecommunications policy as a whole, my United Democrats colleague Mr MAN Sai-cheong will give his comments in his capacity as our recreation and broadcasting spokesman.

Both the domestic and international telephone services in Hong Kong are run by franchised companies, respectively, the Hong Kong Telephone Company and the Cable and Wireless (now Hong Kong Telecom International). With the franchise of Hong Kong Telephone Company is scheduled to expire in 1995, it offers a good opportunity for competition to be introduced to the local telecommunications industry. The United Democrats take the view that the Government should introduce a second network in 1995 to allow competition. Meanwhile, the operator of the new network should provide all kinds of franchised services, including basic telephone services, in order to compete with the first network operator. Indeed, experience in opening non-franchised telecommunications markets indicates that competition will lead to falling tariffs, more choices in terms of service, product design and installation, and at the same time, the manufacturers will also provide more service advice to consumers. In this regard, the United Democrats believe that the introduction of a second network will bring in a new competitor who will provide more telecommunications service, and at the same time, enable the present operator of related services, that is, Hong Kong Telephone Company, to provide more and better telecommunications services. This will have a positive impact on the telecommunications industry of Hong Kong.

Indeed, the liberalization of our local telecommunications network is intimately related to the monopoly of international telephone service. For many years now, domestic telephone service has long been subsidized by earnings from international telephone service. In the past couple of years, Hong Kong Telecom International (HKTI) has been able to reap huge profits, thanks to the phenomenal increase in the use of international telephone service. This cross-subsidization has enabled the maintenance of low domestic telephone tariff for many years. In real terms, in the past ten years, the domestic telephone tariff has declined by 4% to 5% each year, with the profit rate standing at a mere 3%.

According to the above analysis, if the second local network is introduced while the monopoly of international telephone service is maintained, then the large cross-subsidization from HKTI on the strength of the international telephone service can maintain its local telecommunications service at a low tariff level, and this will in turn develop into a strong competitive edge. The United Democrats hold that,

in order to produce an environment of fair competition for domestic telecommunications service, it is necessary for the international telephone service to be opened up for competition. We also believe that such liberalization will lead to international telephone tariff falling still further. Presently, there are already not a few corporate subscribers switching to rental lines to cope with the cost of international telephone service. Indeed, outgoing international calls already exceed incoming calls in terms of length of time. It can be seen hence that the international telephone service market will have enormous potential for development.

The liberalization of international telephone service will also enhance the further development of our outward-looking electronic telecommunications and information industry. The government policy should be formulated in a way to encourage competition in the international telecommunications industry. In this connection, even though the Government may take the view that it is not appropriate to liberalize the international telephone service in the short term, it should consider, without prejudice to the franchised operation of Cable and Wireless, giving permission for other operators, including, of course, the operator of the second network, to freely use, upon paying the necessary fee, the existing telecommunications network facilities of Cable and Wireless, while prescribing that the voice lines are not for resale by the renting party. Meanwhile, the Government should also allow the second network operator to directly link up with the Cable and Wireless international telephone network under similar profit sharing arrangement as exists between Cable and Wireless and Hong Kong Telephone Company. It is believed that this will attract more players to join the international telecommunications and information industry, producing a local environment for fairer competition.

The United Democrats take the view that the Government requirements set for the second network operator should depend on whether the international telephone service is liberalized. That is why if liberalization does not take place at the same time as the opening up of the domestic network monopoly, then consideration should be given not to make it a requirement for the second network operator to provide basic telephone service in order to improve its competitiveness.

All in all, the United Democrats believe that it is only by introducing competition to the international telephone service that the second network operator will be in a position to fully develop, for the long term, its domestic telecommunications service in a healthy manner. In this regard, even though the

international telephone service cannot be liberalized in the short term, the Government should permit the second network operator to share some of the revenue from making connections to international telephone service. This is in order to provide a greater incentive for the second network operator to operate in a wider area so it can make profit from international telephone service. We believe that it will have a positive bearing on the long-term development of our telecommunications industry.

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

DR HUANG CHEN-YA (in Cantonese): Mr Deputy President, in my capacity as the United Democrats spokesman on economic affairs, I wish to focus my speech today on the impact of the telecommunications policy on the economy of Hong Kong. As Hong Kong enters into the phase of economic restructuring, tertiary industry is flourishing, and that explains our rapidly increasing demand for telecommunications services. This trend is clearly evident if we take a look at the development of telecommunications in recent years. However, there are still a number of commercial subscribers complaining about the local telecommunications services not being able to provide some advanced services and services are not quite readily provided, such that their interests are jeopardized. The United Democrats believe that one reason why the existing telecommunications services are not as good as one might wish them to be is the lack of competition, and subsequently the dynamic for innovation. I believe that the introduction of a second network will provide more choice in terms of telecommunications services and be conducive to competition, thus the telecommunications services will be improved.

As a matter of fact, the development of telecommunications is intimately related to the future economic development of Hong Kong. Our advantageous geographic position in the Asia-Pacific region, and our close telecommunications and economic links with China, mean that we are indeed very well-placed to become a telecommunications and financial centre of Asia-Pacific, and indeed of the whole world. The United Democrats take the view that the Government should endeavour to enable Hong Kong to become the most important international telecommunications centre. Despite our well-developed network, Hong Kong basically lacks a locally based telecommunications industry. For example, we produce very little locally in terms of software for use by our telecommunications network. Compared with advanced countries such as the United States and the United Kingdom, the operation of local

businesses is not information intensive. In other words, they have relatively less sophisticated demands for telecommunications technology, and indeed household use of electronic telecommunications is quite limited. We are lagging behind the other newly industrialized countries (NICs) in Asia such as Japan, Taiwan, and even Singapore. In the long run, this will have a grave impact on our competitiveness as a telecommunications and financial centre.

The United Democrats believe that the Government should encourage the development of telecommunications industry through an active policy. For example, it can encourage competition within the various areas of telecommunications industry. Secondly, incentives should be given to promote investment in research and development (R&D) in telecommunications technology. Thirdly, the Government should train local talent in telecommunications technology. Fourthly, consideration should be given with regard to teaming up with local business to develop telecommunications networking or telecommunications services. These measures are effective aids to the development of local telecommunications industry, which will in turn enhance the development of our service industry.

Another issue which bears on our economic development is the development of international telecommunications service. It is vital that, in order for Hong Kong to develop into a global telecommunications centre, we have to be able to efficiently and effectively obtain information from foreign countries and increase channels of communications with them as much as possible. It is noteworthy that the United States, the United Kingdom and Japan have opened up their international telecommunications industries for competition, and these countries happen to be the most well-developed countries in financial industry. It is a clear indication that the development of the financial industry relies heavily upon the services of the international telecommunications industry. The introduction of competition will provide corporate and individual financiers with free and direct access to the state-of-art telecommunications industry and electronic technology. This will translate into enormous benefits for our economy.

The United Democrats take the view that the international telecommunications market should be opened up and an element of competition introduced without delay. Even if we do nothing about the franchise of international telephone service in the short term, the Government should explore other alternative measures to promote, while upholding that franchise, diversified development of, and competition within, the international telecommunications industry. For example, the Government can

allow the individual, upon paying a certain service fee to Cable and Wireless, to have free access to the existing international network for commercial telecommunications purposes. This will enable more operators to enter the international telecommunications and information market and consequently, Hong Kong people and Hong Kong enterprises will have more channels of obtaining access to foreign telecommunications services. This will have a positive effect on our international telecommunications industry.

The opening up of the international telecommunications market will of course have a bearing on the tariff of international telephone calls. The Postmaster General, Mr Dominic WONG Shing-wah, has made a public observation that, in the event of competition being introduced to international telephone services, their tariffs are expected to fall by at least 10%. Compared with foreign countries, it is of course true that the tariff of international calls made in Hong Kong is very cheap. However, there is a steady increase in outgoing calls made in Hong Kong; last year, outgoing calls exceeded incoming calls by 13%, and that percentage will continue to increase. Falling tariff is a sign that the subsidy contributed by the territory as a whole to international calls will fall. The chief beneficiaries of the falling tariff will be the small businessmen, particularly those having entered into joint venture accord with Chinese partners and operators of export-oriented commercial and industrial undertakings. Last year, international calls between China and Hong Kong already accounted for one third of the total volume of international calls; it is believed that this ratio will continue to grow. We all know that our export trade and joint ventures with China are pillars of support for our future economic development. Falling telephone tariff will enable these enterprises to cut costs and increase their competitiveness and this will have a positive bearing on the economy of Hong Kong.

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

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, I will focus my speech on the proposed scheme of control by Hong Kong Telephone Company.

The Hong Kong Telecommunications Group has been able in recent years to achieve an annual profit which is consistently in excess of 40% of its shareholder's fund for the year. According to the latest figures, the Group has made a profit of \$5.6 billion for 1991-92, which is evidence of its high profit margins and its considerable profit size in absolute terms. At present, the Group is franchised to operate

domestic and international telephone services. Under adequate protection for its profit from domestic telephone service, the Group is in a position to monopolize a lion's share of the telecommunications market and to make enormous profits while the consumers have to pay an overly high price for its service. In this connection, it is upon us to consider the introduction of an element of competition and at the same time make amendments to the scheme of control as it now stands.

The proposed substitution of a tariff control scheme for a profit control scheme should deserve consideration, but I think the authorities concerned should first of all give adequate consideration to the following questions.

(1) How is "X" arrived at in the inflation rate minus "X" formula?

(2) How is the pricing formula for new products and new services arrived at?

(3) How to ensure that the company will not obtain a profit margin higher than the existing one?

(4) How to improve the public monitoring of the telephone company?

The United Kingdom was one of the pioneering countries to use a price control scheme for its public utility companies. For example, the British Telephone Company, which was privatized in 1983, was initially allowed to raise its tariff at the maximum on the basis of an inflation-rate-minus-3% formula, but in view of the rapidly rising corporate profits, the British Government decided to adjust the tariff increase rate to inflation rate minus 4.5%; the latest adjustment is for tariff to increase by not more than inflation less 6.25%. It can be seen therefore that it is not easy at all to justly determine the value of "X" which, if put at a low level, can easily result in the company making an excessively high profit.

Let us take Hong Kong Telephone Company as an example. Critics have pointed out that, prior to the massive lay-off by the Hong Kong Telecommunications Group in 1991, the corporate productivity was already growing by nearly 4% each year. Taking into account the improved efficiency brought about by the massive lay-off, the productivity of Hong Kong Telephone Company would definitely be over 4%; it is estimated conservatively to be 4.5%. Indeed, given its assured profits in the past, the company would not be too eager to cut costs to raise productivity. In this connection, I believe that if we change the way its profits are calculated, its

corporate productivity would definitely rise well above its present level. It is for this reason that if the value of "X", which reflects on productive efficiency, is not set at a percentage over 4%, then it would be very advantageous to the company.

Meanwhile, we should also consider ways of determining a reasonable price chargeable for new services provided by Hong Kong Telephone Company. For with the abolition of the profit control scheme, supposing the new services are already priced too high at the launching point, then it would not help much for control to be exercised over tariff increases. I think that a profit ceiling should be considered along with the introduction of a price control scheme. For example, the corporate profits can be controlled in such a way that they do not exceed the range of 18% to 20% of shareholder's fund; also, the company should commit itself to not raising its tariff in the few years ahead to a level above the average tariff increase over the past 10 years, in order to forestall profiteering.

In addition, the Government should also set up a committee with public and professional participation to scrutinize applications by the company for new service items, monitor the quality of the services provided by the company, receive complaints by subscribers and review the operation of the monitoring system, in order to let the public monitor directly the functioning of a public utility company. I hope the Government will, before amending its telecommunications policy, release detailed information and solicit public views, especially with regard to the tariff policy which has a bearing on people's livelihood.

Lastly, I wish to express my support in particular for Mr POON's suggestion that "the Government should negotiate with Hong Kong Telecom International about instituting tariff reductions immediately and setting out annual tariff-reduction objectives for the next five years, in order to protect the interests of subscribers."

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

MR FRED LI (in Cantonese): Mr Deputy President, Meeting Point and I fully support the decision taken by the Governor in Council in principle for the setting up of a second telecommunications network. We also support that, in negotiation with Hong Kong Telecom, the tariff control scheme should substitute for the long outdated profit

control scheme. I wish to mention in passing here that it is unfortunate that the profit control scheme governing China Light and Power Company which was not due to expire until 1993 was already renewed early this year with the company rushing to reach an agreement with the Government for an extension of 15 years. I am not sure if Mr Steven POON would agree that it would be in the interests of the general public and consumers should electricity charges and telephone tariffs be subject to the same kind of control.

My speech is in three parts; I will talk about the telecommunications policy, tariff, and the setting up of a second network.

(1) Telecommunications Policy

At present, the Government's telecommunications policy is carried out jointly by a number of responsible departments, but this frequently affects the efficiency of policy making. What is more, the Telecommunications Board is at present not a formal set-up; it is only an advisory body chaired by the Postmaster General. It lacks in transparency and there is no way the public may be able to get hold of information pertaining to the telecommunications policy and participate in the policy making process.

In order to increase policy making efficiency and its transparency, Meeting Point and I would suggest the setting up of an independent telecommunications bureau, with public participation, which would be charged with reviewing and formulating telecommunications policy. Membership of this statutory body should include professionals in the telecommunications industry, businessmen, legal practitioners, policy branch officials and legislators. The Government should set up a secretariat which is mainly composed of professionals to offer support to the widely represented telecommunications bureau, to get rid of the existing, multi-layered policy making process involving the Postmaster General, Telecommunications Authority and the Economic Services Branch.

(2) Tariff

On tariff, many Members have mentioned the fact that Hong Kong has now more than 2.5 million telephone lines, and that any change to telephone tariff will have a bearing on the financial burden of the domestic subscribers and the running costs

of business subscribers. In this regard, it is up to the Government to protect public interest and to come to an early agreement with the telephone company regarding the new tariff control scheme.

We believe that the Government, in preparing the new tariff control scheme, should give the first and foremost consideration to public interest, such that the tariff must be raised at a rate below inflation. There are four reasons for this.

1. Telephone service is a public utility service which is indispensable to the people in their daily lives.

2. Both domestic and international telephone services are at present monopolized by Hong Kong Telecom with a franchise issued by the Government.

3. The franchised company should be able to achieve high productivity and rapid growth in efficiency, under corporate management and given the amazing advances made in the field of telecommunications technology.

4. To provide telephone services, telephone lines have to be laid while to carry out maintenance and repair, road digging is required. All of these are achieved indeed at the expense of considerable public resources.

It is based on the above points that the cost increase for telephone service should be kept at a level below prevailing inflation rate. Hong Kong Telecom should share its earnings with the public by charging lower tariff.

The Government is now considering a new pricing scheme whereby the Consumer Price Index (CPI) minus the corporate efficiency index. Meeting Point and I think that it is a method which is worthy of consideration. For the use of the corporate efficiency index as a factor of calculation will encourage the company to actively improve its efficiency to enhance its cost-effectiveness. However, the Government should make public as soon as possible details of the new tariff control scheme, and explain to the public how the corporate efficiency index is arrived at. And public views should be sought before final decision is taken for the schemes implementation.

In each of the past ten years, the domestic telephone tariff increased on average by 2.5% less than the inflation rate. In this regard, from the perspective of public interest, the corporate efficiency of Hong Kong Telephone Company must have been over

2.5%. In addition, we would further suggest that, in the event of aggravated inflation in any particular year, on top of the subtraction of corporate efficiency index from consumer price index, consideration should also be given to the average tariff increase rate over the past five years, such that a lower than average percentage be used for tariff adjustment for that given year. This will avert the scenario of a sharp tariff increase in a year of unexpectedly high inflation.

In terms of overseas experience, the United Kingdom has been a pioneer in this respect, introducing its tariff control scheme as early as 1983. The United States introduced its tariff control scheme in 1987. This is indeed a megatrend or a global trend. The scheme of control is already out of date.

The value of "X" may be different for domestic telephone service and international telephone service. "X" for domestic service should be smaller in value while "X" for international service be greater in value. Given that telephone tariff adjustments must be endorsed by the Legislative Council, I suggest that future evaluation of "X" should continue to be a matter to be endorsed by this Council before it becomes effective.

(3) The Setting up of a Second Network

The liberalization of the telecommunications market for the setting up of a second network was a historic decision. We believe that market opening will help in the reform of telecommunications services resulting in diversified choice at a reasonable and affordable tariff.

Meeting Point and I entirely agree with the early setting up of a second network but details should be worked out and assessed.

Insofar as international telecommunications service is concerned, I suggest that although the franchise will not expire until 2006 it is the appropriate time to conduct a review of the service now. The scope of review should include price clearing standard for international calls, tariff for international and local calls, and cross-subsidization between Hong Kong Telecom International and Hong Kong Telephone Company. All of these issues need to be resolved as early as possible.

According to past experience, the Government has always been dragging its feet in terms of formulating a telecommunications policy. Meeting Point take the view

that there should be no further delays, that the Government should catch up immediately and expeditiously to draw up a comprehensive plan, and formulate a new telecommunications policy. Three years can easily slip by. I hope that, following today's debate, the Government can really go about arranging, as a matter of urgency, the setting up of a second network.

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

MR MAN SAI-CHEONG (in Cantonese): Mr Deputy President, Hong Kong is an information and financial centre in the Asia-Pacific region. The development of telecommunications is vitally important to the economic development of Hong Kong. However, the Government has not in the past formulated a comprehensive and long-term policy for the development of telecommunications. We have never witnessed the release of any public document by the Government elucidating its telecommunications policy and directions of development. The Government has always relied on the private sector in terms of pushing for telecommunications development according to their commercial decisions. Occasionally, a consultancy firm may be commissioned to study the state of development in the industry and its findings used as the basis for policy making. Indeed, we can see from these practices that the Government does not have a comprehensive policy to plan the future development of the telecommunications industry.

It is clear that such a policy of non-intervention by the Government would not be able to meet Hong Kong's needs as we moved into the 1980s. Rapid advances in telecommunications technology were made in the 1980s while, incidentally, Hong Kong underwent a change in economic structure which resulted in an enormous demand for information services. Starting from the mid-1980s, the Government has opened up various telecommunications markets resulting in intense competition. For example, the pager and mobile telephone have become very widely used in Hong Kong, and the number of facsimile lines has actually increased by 58 times between 1985 and 1991. This trend is indicative of the enormous market potential for personal telecommunications equipment and the intense public demand for telecommunications services generally. The United Democrats take the view that the Government should expeditiously formulate a clear telecommunications policy and actively promote the development of the telecommunications industry.

In the context of a global trend for deregulation of the telecommunications industry, and given the rapid development of telecommunications technology, we believe that the overall policy of the Government should be one which refrains from

over-regulation. The policy principle should be to gradually introduce new competitors and to provide an environment for fair competition. We hope that telecommunications services will develop along the lines of the mobile telephone market. With a large number of service providers, the market will react very sensitively to different prices and services; the market will have adequate choice and the consumers in turn will be able to benefit adequately from the open competition.

An appropriate agency must be in place to formulate a good and comprehensive policy. Given the fact that the telecommunications policy involves specialized and inter-disciplinary knowledge, and that science and technology develop so rapidly, it may turn out that the generalist administrative officers in charge of policy making are not able to keep abreast with the scientific and technological developments. Also, given the mobility of administrative officers, we may end up without a consistent policy. The United Democrats take the view that we follow the practice of countries such as the United States and the United Kingdom in terms of setting up a Telecommunications Authority with multi-disciplinary expertise, which is something akin to an Office of Telecommunications proposed by the mover of today's motion, to take charge of formulating a comprehensive and long-term telecommunications policy. Membership of the Authority may include professionals from all fields, including telecommunication technology, communications, law and economics, and representatives of public opinion. The Telecommunications Authority will also be responsible for formulating the broadcasting policy because the telecommunications policy is eventually intimately related to the broadcasting policy.

With the expiry in 1995 of the franchise for running domestic telephone service, the local telecommunications industry is indeed well-poised for further open competition. The United Democrats believe that, insofar as the long-term development of the telecommunications industry is concerned, the international telephone service should also open up along with the domestic network in order to achieve the goal of genuine and fair competition for our local telecommunications industry.

In the long term, the Government should open up the various areas of telecommunication services for competition which will be conducive to diversified development, technological innovation, protection of consumers' right to choose and a reasonable price level.

Whilst the second network would of course increase competition, we can learn from the experience of the United Kingdom, which opened up a second network in 1987, that a duopoly may not necessarily bring about satisfactory improvement of service and falling tariffs. The United Kingdom decided in 1991 to fully open up its telecommunications industry. The United Democrats think that in the long run the Government should also consider wholesale liberalization of our domestic and international telecommunications services for the sake of competition. For example, if the second network fails to bring about diversification, or if and when our telecommunications industry is such that considerable profits can still be made even with the admission of more players, then the Government should consider, in addition to the setting of a second network, the introduction of more operators.

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

MR JAMES TO (in Cantonese): Mr Deputy President, Mr Steven POON mentioned in his motion the point that the Government be urged, while upholding the principle of protecting the good reputation of Hong Kong, to formulate a comprehensive and long-term telecommunications policy. In this connection, I would like to say that, whether it be business or private communication, it is up to the Government to ensure that it be kept confidential, in keeping with the spirit of a quality communication service. I would like to stress the issue of confidentiality. Section 33 of the present Telecommunications Ordinance empowers the Governor or certain authorized officials, under special or specific or general circumstances, to intercept, ban or withhold certain information, in the public interest. I have the following criticisms to make.

(1) What, after all, is the public interest? Does it refer to ordinary crimes, or to state or regional security? Is it in connection with general law and order problems or health problems or disruption to major business activities that interception is called for? For example, a certain bank is feverishly unwinding its position on a certain currency to the jeopardy of the Hong Kong dollar exchange rate. Can the Governor use that as a justification for intercepting information relating to some of the future financial policies and measures of that bank?

(2) The Ordinance mentions that the Governor can authorize certain officials to intercept telecommunications. I think that a government of credibility should win the confidence of the business community such that they will not lend credence to

the scenario of the Governor lightly taking the decision of getting authorized persons to intercept telecommunications on vaguely conceptualized pretexts, because such telecommunications may cover a wide scope.

(3) I feel that a long-term telecommunications policy should also seek to protect privacy. For example, it is very easy for us to buy on the market receivers which intercept portable telephone conversations. This means that there is not enough protection of privacy in telecommunications.

(4) There are certain loopholes in the law. For example, the Telecommunications Ordinance mentions that messages in transmission should not be intercepted unless with the permission of the Governor. But we can see from the example of the paging machine that the law does not prohibit one from watching the computer screen of the paging company because it is hard to determine with legal certainty what is a message in transmission.

(5) I am most concerned about the following scenario occurring in Hong Kong, as it has occurred in some other places in the world. The government, in granting an operating licence to a company dealing in a certain line of communications technology, actually requires the company to provide in the company regulations for government access to an intercepting network. I think it would be very sad if this should happen.

Lastly, I would like to suggest that, firstly, the Government should have a clear principle and a reasonable control mechanism in terms of intercepting telecommunications; and secondly, adequate protection should be given to the privacy of the individual.

With these remarks, I support the motion.

DR SAMUEL WONG: Mr Deputy President, the first thing I would like to know is who is responsible for telecommunications policy.

There is a clear split between the Economic Services Branch and Recreation and Culture Branch on matters of broadcasting. Indeed there are distinct signs of conflict. On the other hand section 33 of the Telecommunications Ordinance seems to be the responsibility of the Security Branch and electronic data interchange is being handled by the Trade and Industry Branch. Information technology, which

contains a high degree of telecommunications, I think, comes under the Finance Branch. Electronic voting would presumably be the responsibility of the Constitutional Affairs Branch; physical security of telecommunications installations seems to come under the Works Branch and electronic road pricing was handled by the Transport Branch.

These are all matters of public telecommunications. There are also many telecommunications projects within the Government, which have common factors, such as frequency allocation, compliance with international standards, safety of powerful microwave radiation and allocation of funds for consultancy to avoid duplication, which should be within the common policy of somebody.

Let us consider for a moment telecommunications consultancies. These have been commissioned by the Marine Department, the police, Trade and Industry, one as part of the Airport Master Plan, by the Post Office, the Economic Services Branch, and RTHK and Civil Aviation have constant access to advice under the Technical Services Agreement. Yet when I asked a question in this Council on 29 April the Government would only admit to the Economic Services Branch being responsible for two over the last five years.

Clearly the Economic Services Branch is only responsible for part of the telecommunications policy.

All this makes it most difficult for the public to assess the scale of the problem. In particular when I asked, as part of that same question, for the individual cost of each study, the Government did not answer.

It is no wonder that so much dissatisfaction is voiced by the community, typically by Hong Kong Telecom, the General Chamber of Commerce and the Hong Kong Telecommunication Users Group, all of whom have recommended a separate regulatory body be set up to handle exclusively telecommunications, staffed with sufficient experts to enable it to do so effectively.

I am sure, then, the cost of studies commissioned by the Government which, in the absence of the financial data I requested, I estimate conservatively to be over \$10 million per year would be reduced, offsetting the cost of the specialists required.

One of the difficulties is that the higher level of the Administration does not seem to have laid down an overall telecommunications policy strategy, specifying clear responsibility and scope. If they had done so two things would have happened:

- firstly so many substantial portions of telecommunications policy would not have been abandoned to other Policy Branches;
- secondly the Administration would immediately have realized that it was a full time job and could not possibly be handled effectively by a Branch committed to other policy matters.

The motion urges the Government to formulate without delay a comprehensive and long-term telecommunications policy. A necessary step to make such a project viable is the formation of a separate policy and regulatory body dedicated exclusively to telecommunications. The recent change of Postmaster General and the pending change of Secretary for Economic Services makes the present the right time for this to be done.

A preliminary analysis shows some 50 headings under which some telecommunications policy consideration is necessary. All would need to be covered if such policy was to be deemed comprehensive. One of them is the establishment of a second local telecommunications network. Since this has been singled out in the motion I will leave the other 49 headings for another day.

I tried to get access to the reasoning behind the proposal for another network. I failed. The Governor last October told us, and I quote: "We will provide Members with all the information and explanation they need to assess and, I hope, support our proposal." The Administration has not seen it fit to honour that commitment. I do not know therefore whether to support a second network or not.

If by a second network we mean completely independent carrier system with the same commitment as the existing franchise, namely, to provide every location however remote at equal cost, then it is difficult to see how this could be competitive in a free market, bearing in mind the massive standing start of the existing operator. To make it competitive the regulator would have to give the new operator concessions in either tariffs or coverage which could hardly fail to be both unfair and unethical. This I could not support. If on the other hand the second network is to be one of competitive services based on a single source of carrier, as has been in the case

in the United Kingdom for decades for private networks, then the motion would have my support.

Mr Deputy President, since I have been unable to find out which is the concept I have, at the moment, to reserve my voting option. I would like to be able to give my full support to the need for a comprehensive policy; but I will be unable to support the motion unless the Government, even at this late stage, can disclose its proposal regarding the carrier for the second network.

MR HOWARD YOUNG (in Cantonese): Mr Deputy President, today's debate is mainly on the subject of telecommunications, but it also touches on the expiry of the franchise of Hong Kong Telephone Company. It is not my intention to debate whether we need a second network, or indeed who should be running it, because to a great extent, that is a commercial decision. My speech will mainly concentrate on the issue of tariff control.

At the adjournment debate held on 20 May on the monitoring of statutory bodies, I said in my speech that many utility companies, such as Hong Kong Electric, the bus companies, Hong Kong Telephone Company and so on are subject to a degree of control, for example, in terms of profits control. In making reference to the Airport Authority soon to be set up, I also enquired whether the Government would consider at this point the introduction of new methods of control. What I had in mind at the time was precisely what many colleagues are talking about today, which is the concept of using an "X" deducted index-linked factor. I thought two weeks ago that it was a new concept which, if brought up specifically, would lead to a lot of controversy. When I did bring it up at a meeting of the Co-operative Resources Centre (CRC) the following day, a special group was set up to look at this matter that very night. It was discovered that Mr Peter WONG had in fact studied the concept in great depth several years back. However, insofar as Hong Kong is concerned, the concept of using an "X" deducted index-linked factor is still an innovative idea today. Since it has been brought up by so many people today, it would become in the course of time not so new after all.

I studied over the past two weeks this concept of tariff control as practised in the United Kingdom for years, covering utilities such as gas, electricity, water supply and telephone service. Even the British Airport Authority is subject to this kind of tariff control, with the adoption of an "X" deducted index-linked factor.

I discovered after asking around that the value of "X" could be as high as 11. In that kind of scenario, if inflation is at a low level, many companies will have to initiate tariff cuts in order that the consumers will benefit.

Though today's debate is on telecommunications, and specifically on Hong Kong Telephone Company, I think we can widen our scope a bit and take a longer view. Indeed, the concept of tariff control is not limited to the telephone industry. As far as I know, Hong Kong Telephone Company has floated a balloon in a bid to find out whether the future tariff control scheme could be based on the formula of the consumer price index minus "X". This kind of concept should not be limited to telecommunications; we can also study the feasibility of its application to past, existing and future utility companies, and indeed some of our present public corporations which operate on public funds, but without adequate monitoring.

Price and tariff controls are mainly in order to, firstly, protect the interests of consumers and users; and secondly, to give a degree of protection to investors so as to encourage them to invest. Hong Kong is in a different environment today than 10, 20, or even five years ago. First of all, corporate investors are more optimistic about the economic prospects of Hong Kong than they were a couple of years ago. Meanwhile, to the investors, Hong Kong has its markets and it is a place where they can do business; the jitters bothering investors have lessened. It is for us therefore to ask ourselves if the formula linked to the consumer price index -- it does seem that we have a degree of consensus on this issue -- should be used to control the profits in various areas of public services within the field of telecommunications. If this formula is adopted, consumers will be the beneficiaries eventually while the investors too can obtain their reasonable profits. In this regard, it is not absolutely necessary that its adoption be delayed until after the franchise of Hong Kong Telephone Company expires in 1995. As I said in the last debate, and I will say that again, the Airport Authority which is soon to be set up is a monopolistic institution whose services will bear on users and consumers. Will the Government in this connection consider ways and means of controlling and monitoring the tariffs of public utilities, including, not least, telecommunications services, before 1995?

Mr Deputy President, with these remarks, I support Mr Steven POON's motion.

SECRETARY FOR ECONOMIC SERVICES: Mr Deputy President, I would first like to thank Mr Steven POON and all the Members who have spoken in this debate. They have covered

a very wide range of issues and provided us with some valuable views on how our telecommunications policy should develop in the future. It would be extremely difficult here today to do justice to all the issues which have been raised but I can assure Members that much of what has been said is similar to our own thinking.

As Mr POON has noted, the Administration's review of telecommunications policy has taken longer than expected. But given the complexity and importance of the issues to be considered, we have felt fully justified in taking time to ensure that the future regulatory environment produces the widest possible benefits for our community.

The current policy review has been prompted by a number of factors. First, there is the worldwide trend towards greater liberalization in the provision of telecommunications services. This trend is both fuelled by and fuelling technological change. New services and new ways of providing services have discredited the old orthodoxy of telecommunications as a natural monopoly. In Hong Kong we already have ample evidence of how competition can work to produce greater benefits for consumers:

- in mobile telephony, we have three competing operators and one of the highest rates of mobile phone "take up" in the world;

- in radio paging, we have 30 licensees and the highest per capita subscription rate in the world -- one in seven Hong Kong people are subscribers;

- in the supply of CT2 "telepoint" services, two operators have already built up a customer base of some 20 000 subscribers in just a little over two months.

The key question for Hong Kong is how much further competition should be introduced into the telecommunications market.

The second main factor prompting the review is the expiry in 1995 of the Hong Kong Telephone Company's exclusive franchise to provide local voice telephony by wireline -- or, in layman's language the local telephone service.

Amongst other things the company needs to plan its business beyond 1995. To do that it needs to know what the local telecommunications operating environment will be. Similarly, potential local network competitors need to know what services they will be allowed to provide: local data and facsimile services only, or voice telephone

service as well. Some potential competitors may or may not also be interested in providing subscription TV. We have no intention of mandating a linkage. But, if there is going to be competition, competitors will need to know what the ground rules will be, with regard, for example, to network interconnection. Investment lead times are such that these questions need to be answered as soon as possible.

A third factor prompting the review was the collapse of the Hong Kong Cable Communication consortium, which in 1989 was selected to provide a combined territory-wide cable television and second telecommunications network. The intention was to license that network to provide non-franchised services (mainly local data and facsimile) in competition with the existing local network operated by the Hong Kong Telephone Company. Had this project proceeded as intended, it would have provided the means for extending the scope of local network competition to include local voice telephony after 1995. But it did not, and we were obliged to rethink our strategy.

With these factors in mind we have been guided by several key principles. The first is that our telecommunications policy should ensure that the widest possible range of services are available to meet customer demands at reasonable cost. Second is a determination to maintain and enhance Hong Kong's competitive edge as a business and financial centre.

Third is our commitment to honour the terms of existing franchises and licences. To do otherwise would, we believe, send quite the wrong signal to the outside world about the way we do business here. Such a course could seriously jeopardize investor confidence.

Having said this we have no intention of allowing any expansion in the scope of existing exclusive rights. On the contrary we are taking a critical look to see what room remains for further liberalization without infringing them.

As an integral part of the review process we have been in discussion with the Hong Kong Telephone Company and Hong Kong Telecom International, on the possible ground rules for the introduction of greater liberalization both at the local and international level. We have also been discussing with Hong Kong Telephone Company what arrangements for the control of local tariffs should be introduced now that the former scheme of control agreement with the company has lapsed.

I am pleased to say that we have reached a broad measure of agreement on a number of important issues. It is now our wish to build on this agreement with the help of the views of Members of this Council and other interested parties.

I will deal first with the regulation of local tariffs. When the Hong Kong Telephone Company's scheme of control expired on 31 March 1991 the Company indicated to the Government that it did not wish to enter into a new agreement along the previous lines. We too had reached a view that the scheme of control, which enabled the Company to earn up to a maximum of 16% return on shareholders funds, was no longer the most appropriate means of regulation for the Hong Kong Telephone Company. We therefore agreed in principle with the Company that we should consider moving instead to a system of incentive regulation known as price-capping. This approach, which has been adopted in Australia, the United Kingdom and the United States, ensures that the weighted average annual increase in the charges for telephone services is not allowed to exceed the prevailing annual inflation rate minus an "X" percentage.

Following discussion with the Company I am pleased to be able to announce that we have agreed in principle that the level of "X" should be fixed at 4% for the remaining three years of its existing franchise, with a further review in 1994-95 to determine the level of the cap thereafter. As Mr Fred LI has pointed out, over the last 10 years under the previous scheme of control, the Company's telephone charges have increased at an average annual rate of CPI(A) minus 2.5%. So an "X" of 4% will result in telephone charges rising by some 1.5% per annum less than the historic trend. I am pleased to note, by the way, that this proposal is supported by Professor CHEN's very acute analysis. For our part, this is a good deal for consumers, ensuring that, in real terms, local telephone charges will decrease significantly while providing a reasonable degree of incentive for the company to continue to invest and improve its efficiency over the life of the price cap.

The determination of the value of "X" is an important first step, but the detail needs to be painted in before the picture is complete. For example, we envisage the need for one or more sub-caps, within the overall price cap, to ensure that crucial charges, such as the rental fee for a residential line, are not increased excessively to offset reductions in the prices of other services. We would also need to stipulate minimum quality of service standards to ensure that service quality would not deteriorate under the new arrangement.

I am very encouraged that so many Members today have expressed support for a price-capping regime. But it must be noted that the introduction of such a regime

for local tariffs is incompatible with the present powers of this Council to approve individual tariffs. Subject to the constraints of any sub-caps, it is a fundamental principle of price-capping that the company under such control should have a reasonable degree of flexibility to adjust the charges for individual services, either up or down, without the need for charge by charge approval so long as the overall price cap is not breached -- and albeit with the Telecommunications Authority retaining a residual power of disallowal, exercisable within a specified time limit. Accordingly, we will be seeking the approval of Members of this Council, at an early opportunity, to amend the Council's current power of approval over the Hong Kong Telephone Company's individual charges.

I now turn to the charges levied by Hong Kong Telecom International for international telephone services. It has been the Administration's view for some time that significant reductions are warranted in order that more of the benefit of the cost reductions that have been occurring in international telecommunications should be passed on to consumers. And I have noted the cause that had been made by many Members this afternoon. I am therefore pleased to be able to announce today that after intensive negotiation with the Company we have secured agreement in principle for IDD charges to be reduced by about 12% over the next three years: commencing with an 8% reduction in 1992-93; and followed by further reductions of 2% in 1993-94; and a further 2% in 1994-95. These reductions will be implemented in tandem with the introduction of the new arrangements for local tariffs. I believe they represent a major step forward, in the interest of the consumer.

During this debate, we have heard a very wide measure of support for introducing local network competition. I would like to respond to those sentiments by confirming that it is the Government's intention to replace the Hong Kong Telephone Company's exclusive franchise over the local telephone service with a non-exclusive licence when the franchise expires in 1995. This will pave the way for competing networks to provide local fixed-link voice telephone services, just as we already have competition in mobile telephone services. I should perhaps assure Members that the Hong Kong Telephone Company's non-exclusive licence would include a universal service obligation; that is the company would be obliged, as at present, to provide telephone service to anyone who requires it, regardless of where they live. In the short term, before expiry of the franchise, we would be prepared to license competitive networks wishing to provide non-franchised services such as data and facsimile, and local telephony thereafter.

Members will note my reference to competing networks plural. This is deliberate and reflects the fact that no decisions have yet been taken on how we should go about licensing new local networks and whether the Government, rather than the market, should impose a limit on the number that should be licensed. The main choice here is between a tender type licensing process, in which the Government selects one or more bidders to provide a competing network or networks or an open licensing regime -- such as has been adopted in the United Kingdom. Under the latter approach the Government would consider new network applications on their merits, as and when they are received. However, this would not mean a free for all. For example, applications might be ruled out if they would cause unacceptable public disruption because of additional road opening. This we believe would encourage applicants to make use of existing ducts and tunnels as much as possible and/or make innovative use of radio technology. The views of Legislative Councillors and other interested parties on the approach to licensing will be most helpful to us in finalizing our proposals.

Non-renewal of the existing exclusive franchise should not be interpreted as indicating that we are unhappy with the service provided by the Hong Kong Telephone Company. Members have commented on the high quality of service it provides -- and rightly so.

But we see no reason to shield the Company from competition after 1995, and thereby forego the benefits of improved innovation, price discipline and customer responsiveness that competition would bring. We believe that local network competition should be market driven. If entrepreneurs believe that there is a business opportunity in such competition, we should be prepared to consider their proposals.

For there to be effective competition, as Mr POON, Mr Albert CHAN and others pointed out, it will be necessary for a new competing local network to interconnect with the existing fixed-link telecommunications infrastructure of the Hong Kong Telephone Company and Hong Kong Telecom International. As part of the discussions with the companies to which I have already referred, we have reached a common view on the broad principles that should apply to network interconnection. First, we consider that any new local fixed-link network should, in the first instance, seek to negotiate its financial terms of interconnection at the local level directly with the Hong Kong Telephone Company. If the parties cannot reach agreement, we consider that the Telecommunications Authority should arbitrate between them on the basis that the new network should pay an access charge to the Hong Kong Telephone Company for

carrying its traffic and vice versa. This access charge would be calculated on the basis of current operating costs plus cost of capital, and would be the same in both directions.

As far as interconnection with the international facilities of Hong Kong Telecom International is concerned, we have agreed in principle with the company that the current system whereby the Hong Kong Telephone Company receives a share of international telephone service revenue should be converted into an access charge arrangement. Under the new system the Hong Kong Telephone Company, and any new local public fixed-link network, would receive payment on a per minute basis for carrying traffic to and from its customers and the international facilities of Hong Kong Telecom International. The charges payable would take account of the universal service obligation undertaken by the Hong Kong Telephone Company. So there would be no immediate, at least, phasing out of the present cost subsidy arrangement. We have also obtained Hong Kong Telecom International's agreement for these arrangements to apply to cellular mobile phone networks, which would, for the first time, be able to interconnect directly with the international gateway, instead of via the Hong Kong Telephone Company network. I am pleased to note that the developments are supported by a number of Members.

I should stress that the principles I have sketched out on interconnection only represent a broad framework within which the local network competition could take place. No decisions have been taken on the details. But I am sure that Members will understand that without agreement with the "sitting tenants" on a broad framework the path to network competition could be far less smooth. I can assure Members that the views they have expressed on the issue of interconnection will greatly assist our deliberations on the detailed arrangements and that we look forward to receiving further views on this issue from industry representatives and consumers.

Further liberalization in international services is of course constrained by the terms of Hong Kong Telecom International's licence which does not expire until 2006. There is, however, in our view still some room for further liberalization in international services without infringing the exclusive rights granted under that licence. In particular, we believe that current restrictions on the use of international private leased circuits to provide competing value-added services could be relaxed further. In addition, companies and organizations could be authorized to provide their own international private circuits by, for example, directly leasing satellite capacity.

Over the last few months there have been a number of calls in the media and from interested parties in the telecommunications industry for the creation of a so-called "independent" regulatory body. Some Members today have suggested the adoption of an Oftel-type model. We accept that there is a case for reviewing the level of resources directed to the regulation of telecommunications services in Hong Kong. The job of regulation is likely to become even more complex and demanding once fixed network competition is introduced post-1995. While I do not accept Dr Samuel WONG's criticisms about splits of responsibility. The Telecommunications Authority will need to broaden his team to include a greater depth of financial accounting and legal expertise in preparation for the new competitive market. Whether this is done by strengthening the resources of the Telecommunications Branch of the Post Office or by creating a separate office to regulate telecommunications remains to be decided. We welcome further views and suggestions on this.

In the time available I have been able only to give a broadbrush account of the Administration's thinking on some of the main issues that are covered in our review. I stand ready with my team to brief the relevant OMELCO panel at a suitable time. This will give interested Members a further opportunity to express views for the Administration's consideration prior to final decisions being taken on the outcome of our review.

Turning to Mr Steven POON's motion, I hope what I have said demonstrates that I fully share his view that we should be aiming for a comprehensive and long-term telecommunications policy which pays due regard to protecting consumer interests, maintaining free and fair competition and protecting the reputation of Hong Kong. The Administration is working hard to achieve this. Today's debate with Members' valuable contributions has brought the goal one step closer.

MR STEVEN POON (in Cantonese): Mr Deputy President, I would first of all like to thank Members for debating this important and complex issue with such enthusiasm. The public would like legislators to be able to debate complex and difficult issues, on their behalf, with wisdom and courage; they want us to be minders of the Government, going to the extent of monitoring its operation. The telecommunications policy may be likened to a young lady whose face is hidden by veil upon veil. Members who have spoken today have succeeded in partially unveiling her, so that the public may have a better view of her face. We have to continue with our effort to ask the Government

to present a comprehensive and long-term telecommunications policy. We request that the Government should heed the advice of Members who have spoken today, in the formulation of its telecommunications policy.

Mr Deputy President, I would like to respond now to a number of questions raised by Members. Firstly, I do not understand why Mr CHIM Pui-chung made reference to my position as General Manager of China Light and Power, saying that I was its General Manager and have now become one of its Directors; I do not know what he was trying to imply. I could only hope that it was nothing sinister, but he is not with us now. My answer to that is I happen to be particularly keen on telecommunications and indeed, while studying at university, I was so madly enthralled by the subject that it was second only to the fancy which I took to my girlfriend who is now my wife. That explains why I am so glad to have the opportunity of speaking my mind on this issue today.

I would also like to respond to a point made by Mr Fred LI. Not all utility companies are in a position to use the formula of inflation deduction. A very peculiar phenomenon pertaining to the telecommunications industry is that in terms of tariff make-up the depreciation rate accounts for only 15% while the other 85% is more or less linked to inflation. That makes it easier to deal with; for if it had been otherwise a chaotic situation would have arisen in pricing. I do not wish to go into details because it is a separate issue which, if given the opportunity next time, I would like to take up further. It is of course true that, having been the general manager of a power company, I am capable of being more specific in terms of analysing the financial aspects of telecommunications. I have no way of knowing whether that should count as a compliment or criticism.

However, I would like to move on to a number of other issues raised by Members today as to whether the second network would be able to turn a profit. There is a misconception that the second network is only good for making domestic calls, that it cannot be used to make direct dialing international calls. I think that is a misunderstanding. For no one will want to install a telephone line which offers no IDD service. In this regard, if the second network may be used for IDD purposes, then it should share some of the IDD revenue; put in another way, it is a profitable venture. I am surprised that Prof Edward CHEN and Mr LAU Chin-shek both made reference to a 4% figure -- which was immediately accepted by the Government, and even Hong Kong Telecom -- a sharp observation indeed on the part of these two gentlemen. Other Members have also expressed their concerns, which I will not repeat at this

point, except to urge the Government to take note. I would like to mention in particular the interesting issue of confidentiality raised by Mr James TO. I hope the Government, quite apart from its preoccupation with money, will consider also reconciling its telecommunications policy with human rights.

I am grateful to the Secretary for Economic Services for her reply to our many questions. Firstly, I thank her for the reference she made to the 4%. I mentioned earlier on the formula of RPI minus 4%, to which the two Members have agreed and perhaps considered to be a promotable idea. Secondly, the Government said that each item of service should fall within tariff control for otherwise the tariff for our domestic lines will shoot up, to a level which will no longer be affordable by low income households. That is a very good position taken by the Government and I would like to thank the officials for their concern for the interests of low income groups. On the expressed government wish that not all items need be presented to this Council for approval, I can see that there are 246 items which have to be approved by this Council, and under the Telephone Ordinance, tariff-related items number more than 200, with one item prescribing the dial label cost to be \$2, which is to say that if the price for changing the dial label goes up from \$2 to \$2.2, approval will have to be sought. But this will constitute another problem, which I hope the Government will thoroughly consider. What I find most interesting is the issue of tariff cut. Tariffs for IDD calls will be cut by 12%, 8% in the first year, and another 2% in each of the two following years. But whether that will be quite enough, we shall have to wait for an explanation to be given to us by the Government before we can make any comments.

I would like to say in conclusion that it would seem that the Government has already been negotiating with Hong Kong Telecom for some time now and considerable achievement has already been made. I think we should express our thanks here to Hong Kong Telecom for showing such good understanding of public needs in this respect and of the advances made in science and technology generally. We have naturally higher expectations of Hong Kong Telecom than ever before. I think it is commendable that the company has acceded to part of demands of the Government.

Lastly, I would like to thank Members for their comments and the Government for its reply.

Question on the motion put and agreed to.

6.34 pm

DEPUTY PRESIDENT: We will take a supper break for half an hour.

7.05 pm

DEPUTY PRESIDENT: Council will resume.

REVIEW OF MUNICIPAL COUNCILS AND DISTRICT BOARDS

DR YEUNG SUM moved the following motion:

"That this Council urges the Government to review the status, role, and structure of the District Boards and the Municipal Councils and the relationship between them, and to strengthen the representativeness and accountability of these bodies by abolishing their appointed and ex-officio membership in the next term."

DR YEUNG SUM (in Cantonese): Mr Deputy President, the motion which I, as the spokesman for constitutional affairs of the United Democrats of Hong Kong (UDHK), am going to move today is divided into two parts. The first part is to urge the Government to review the status, role and structure of the District Boards and the Municipal Councils and the relationship between them while the second part seeks to ask the Government to abolish the appointed and ex-officio membership in these boards/councils. These two parts are separated from each other. Mr Andrew WONG's amendment deletes part of my original motion, reducing it into one which only aims to call on the Government to conduct a review, with the specific request for the further democratization in district administration being cancelled. This totally goes against the original intention of my motion.

In my original motion, the call for the abolition of appointed and ex-officio membership is made independent of the review on district administration, because the Government can introduce democratic reforms without reviewing or changing the functions and structures of the existing district boards/councils. The UDHK believe that strengthening the representativeness of district boards/councils is a necessary step towards greater democracy in Hong Kong. It is also an important step in the

democratization process of Hong Kong to have the appointment system in whatever forms abolished and to make district boards/councils directly and fully accountable to the public.

Why is it necessary to abolish the appointment system in district boards/councils? The essence of the appointment system is that it enables the colonial government to consolidate its colonial rule by appointing the elite of the community and representatives of major interest groups into the ruling class so as to achieve the dual purposes of making use of local talents to assist the sovereign state in ruling the colony and neutralizing latent opposition force in the community through absorbing leading the elite into the hierarchy. By its very nature, it is a system which enables a government which is not accountable to the people it governs to identify local talents necessary for maintaining its authority as the powers that be and to absorb possible opposition into its ruling hierarchy. In fact, the appointment system is a tool commonly employed by colonial and dictatorial governments. It is a system which makes the whole ruling class accountable only to the people who have appointed it, instead of being accountable to the people it governs.

Some people may argue that appointed and ex-officio membership of the district boards/councils is worth preserving, since many of the appointed members are the elite and professionals and the ex-officio members from Rural Committees (RCs) do, to a certain extent, represent rural interests. I entirely agree with such a point of view. Appointed members are indeed people of high calibre and ex-officio members from RCs do represent rural interests. This mirrors precisely the essence of an appointment system adopted by a colonial government: the involvement of the elite of society and the leaders of indigenous villagers through appointment. Dear colleagues, when we take a vote on the appointment system later today, the first question we have to consider is what kind of political system we would like Hong Kong to adopt for the future. Are we to keep the colonial system or are we to gradually build up a system of government that will be accountable to the people of Hong Kong? Britain's administration of Hong Kong has only got five more years to go. Are we going to maintain the colonial system until 1995, 1997 or even later? Hong Kong will no longer be a colony in five years. It will instead be a Special Administrative Region (SAR) which operates under a political system that is based on the principles of a high degree of autonomy and the "Hong Kong people ruling Hong Kong".

The first and foremost thing to do in order to ensure that the above two principles

will be put into practice is to let Hong Kong people decide for themselves who are to govern them instead of allowing others to appoint a group of people into the ruling machinery. No matter how capable those people may be, there is no way by which Hong Kong people can ensure that the appointed elements will govern the territory in a responsible manner. Generally speaking, the direction in which the system of representative government has been developing since its introduction in the 1980s is to give the general public a greater say (in the affairs of Hong Kong) and place a greater emphasis on the participation of people at grassroots level instead of the elite so that public opinion can be reflected in greater measure within the government machinery and the government will in turn become more accountable to its people. The appointment system, however, runs counter to the above objectives. It is true that serving appointed members are professionals in their respective fields and ex-officio members (from RCs) are able to represent the views of indigenous villagers, but I think they have to gain the support of voters through the election mechanism and their own platforms before they may serve at boards and councils.

In Hong Kong's experience of developing representative government, direct elections started at the district boards/councils level. In fact, elected elements were introduced to the Urban Council as early as in 1952. There is no doubt that District Board elections, which first took place in 1982, have groomed many politicians and greatly enhanced the participation of the general public. However, there has been little change in the proportion of directly elected elements in the District Boards since 1985. Legislative Council seats for appointed members will all be abolished in 1995. If the next-term District Boards and the Municipal Councils are to retain appointed seats, then what we will see is a modern version of the story about the race between the hare and the tortoise in which the District Boards, and the pioneer of the system of representative government, unexpectedly lags behind on the road to democracy. The hare which used to lead in the race has been asleep for 10 long years.

The development of District Boards and Municipal Councils has now reached a stalemate, apart from having to face the problem of appointed membership. Therefore, the first part of my motion centres on the need for a review of the whole district administration. After the elections in 1991, the Legislative Council has conducted a review on electoral arrangements and started to review the relationship between the executive organ and the legislature. The UDHK would also endeavour to seek a change (in the number) of directly elected seats in the Legislative Council. These reviews would be even more comprehensive if the district administration is also

reviewed. In fact, the function and structure of the district boards/councils have not been reviewed for a long time since 1985-86. I would like to emphasize that the structure, function and composition and so on, of the district boards/councils are purely internal affairs of Hong Kong. Even the Basic Law has not made any provisions governing their structure and composition. As such, we can decide on our own the composition and structure of the district boards/councils. We should let all the Hong Kong people decide how to run their own place.

The UDHK consider that the role, status and structure of the district boards/councils as well as the relationship between the bodies of the two tiers should be reviewed. This is because the development of District Boards has reached a stalemate after 10 years' experience. The powers of District Boards have not been expanded in these 10 years. They are only district advisory bodies with a limited amount of funds to carry out cultural and recreational activities as well as environmental improvement projects. Although District Boards may discuss central policies and a wide range of matters relating to district administration, they do not have any actual power in district administration. The actual power is in the hands of government departments and district management committees. In the course of time, the importance which people attach to District Boards will diminish because they find that the representatives whom they have chosen cannot change government policies for them. Indirect elections and direct elections were introduced into the Legislative Council in 1985 and 1991 respectively. When the people have got representatives in the central body that reflects public opinion, the importance which the public and the mass media attach to District Boards will diminish further.

On the other hand, the advisory role of the District Boards and the two Municipal Councils has been on the decline. When the public find that they may turn to the directly elected Legislative Councillors to reflect their views, their eagerness to approach the District Board Members or Urban Councillors for assistance will be greatly reduced. Maybe Mrs Elsie TU is an exception. As quite a number of constituencies were reclassified as single-seat constituencies in the 1991 District Board Elections, the areas they represent have become much smaller and the interests much narrower. It is possible that sooner or later, the Area Committee Chairmen may play a more important advisory role than District Board Members.

Apart from this, the lack of a formal relationship between the district boards/councils and some central policy-making bodies (for example, the Housing Authority) has made it difficult for these central bodies to understand the actual

needs of the districts and has prevented the district boards/councils from giving full play to their advisory role. Without the participation of representatives from the districts, these central bodies tend to "make carts behind closed doors". The defunct "sale of public-housing flats to sitting tenants" scheme is a good case in point to demonstrate the ill consequences of making policy without thoroughly understanding the actual needs of the public. The UDHK therefore suggest that some central policy-making bodies within the government machinery such as the Housing Authority and Transport Advisory Committee should consider providing some ex-officio seats to be filled by District Board Members from various districts through election among themselves, so as to enable these central bodies to understand the actual needs of the districts.

During the early stage of the introduction of elected elements, the two Municipal Councils and the District Boards really played a significant advisory role, groomed certain political leaders and enhanced public participation. But now these functions have been on the decline. The Legislative Council has become the main body which reflects public opinion. To enable the further development of representative government and to enhance the status of the district boards/councils in the public's mind, the Government should strengthen the representativeness of these district boards/councils and expand their jurisdiction, so that the public may have a say in district management through their representatives.

Apart from roles and functions, the relationship between the District Boards and Municipal Councils as well as their structures should also be reviewed. Items of discussion at District Boards often duplicate those of the Municipal Councils and the advisory role played by the two is similar. Topics such as district administration, district-based cultural and recreational activities and environmental hygiene are often repeatedly discussed in the two tiers or in the District Boards and Area Committees. This gives one the impression that there is a duplication of effort.

Besides, the limited geographical size of each District Board often gives rise to a situation where the implications of items discussed by a District Board go beyond its physical boundary. Some District Boards have already set up joint meetings for the discussion of issues involving more than one district. But in the long run, this is not an effective method to solve the issue of co-ordination.

The above situation calls for not only a review of but also reforms in the district

administration scheme. Reforms should be carried out in the following areas: firstly, to strengthen the representativeness of district boards/councils; secondly, to enhance the functions of district boards/councils; and thirdly, to improve the efficiency of district administration. To strengthen their representativeness, it is most important to have district boards/councils all formed by representatives of public opinion. Meanwhile, the Government should also make improvements to the structure and functions of the existing district boards/councils as soon as possible. The UDHK are of the view that the existing structure of district boards/councils should be streamlined. The Government may consider changing the existing three-tier structure into a two-tier one by the amalgamation of District Boards and Municipal Councils and the formation of local councils, the number of which may be less than that of the existing District Boards. Alternatively, the Government may also consider maintaining the existing three-tier structure but with the amalgamation of certain District Boards to reduce their number. The UDHK are open-minded on this subject. This issue is raised for discussion. The Government should also consider giving more power and responsibilities to the district boards/councils, for example, to increase the annual allocations to district boards/councils and to give them more decision-making power in district affairs.

Dear colleagues, to let Hong Kong people manage their own districts more effectively through their elected representatives is an important step to achieve the goal of "Hong Kong people ruling Hong Kong." I hope honourable colleagues will support my motion which calls for the abolition of appointed and ex-officio membership of the District Boards and the Municipal Councils and to conduct a review of district administration. Mr Martin LEE and I, as delegates of the UDHK, went to the United Kingdom to press for democratization of Hong Kong's political system and to raise this issue with the people concerned. We have to emphasize that democracy is one of the civic rights enjoyed by Hong Kong people. It is clearly stated in the Sino-British Joint Declaration that there will be no appointed members in the legislature by 1995. We see no reason why it is necessary for the District Boards and the Municipal Councils to retain appointed membership for the next term.

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

Question on the motion proposed.

DEPUTY PRESIDENT: Mr Andrew WONG has given notice to move an amendment to the motion.

His amendment has been printed in the Order Paper and circulated to Members. I propose to call on him to speak and to move his amendment now so that Members may debate the motion and the amendment together.

MR ANDREW WONG moved the following amendment to Dr YEUNG Sum's motion:

"To delete "and" before "to strengthen", and to substitute the words after "these bodies" by ", and to announce the results of the review and reform proposals within one year."

MR ANDREW WONG (in Cantonese): Mr Deputy President, I move that Dr YEUNG Sum's motion be amended as set out in the Order Paper which has been circulated to Members.

First of all, I would like to begin by stating clearly that I wholeheartedly support the first half of Dr YEUNG's motion: "That this Council urges the Government to review the status, role, and structure of the District Boards and the Municipal Councils and the relationship between them, and to strengthen the representativeness and accountability of these bodies". I believe that members of the public, or even my colleagues in this Council, will not have any objection to such a proposition, for we get to understand the advantages and disadvantages of any system or structure after it has been in operation for some time. We should, therefore, conduct reviews and make improvements by taking into consideration the needs of the general public and the changes in our social environment so as to improve on the system or structure, enhance its efficiency of operation and enable it to take better care of the overall interests of the community.

For years I have been voicing my opinion on various occasions that the district boards/councils must be a forum which has power as well as responsibilities; it is only against such a background that the general public and the councillors can understand the essence of the democratic political system. However, it is regrettable that the present district boards/councils system vests the district boards/councils with more power than responsibilities or even turns them into "houses for idle talk". Not only do the general public feel that these district boards/councils exist only in name, but even councillors themselves feel helpless at the sight of such an unsound system.

There is only a period of about two years before the next terms of elections of the District Boards and the Municipal Councils will take place. The Government

should make use of this interval to conduct a detailed review of these bodies and then come up with some proposals for the consideration of all sectors of the community. This is also my purpose of moving an amendment to the motion today. The wordings I propose to be put in are: "to announce the results of the review and reform proposals within one year."

Mr Deputy President, as regards the latter part of Dr YEUNG's motion, that is "abolishing the appointed and ex-officio membership of the District Boards and the Municipal Councils in the next term." I do not register my agreement. I think the most pressing task is that the Government should conduct a review immediately. It is putting the cart before the horse and not logical to implement one of the proposals hastily before the review is completed unless the former part of the motion is withdrawn.

Mr Deputy President, I am in support of democratization of political system. The present two-tier district council system is riddled with imperfections and just now Dr YEUNG Sum has mentioned quite a number of them. His original motion is to review the status, role and structure of the District Boards and the Municipal Councils as well as the relationship between them. However, since so many problems exist, can they be solved root and branch simply by the introduction of more seats by direct election? I wish to reiterate that a comprehensive direct election is not a panacea to all complicated problems arising from the community and the district bodies. Would it be meaningful to have such "houses for idle talk" created by a comprehensive direct election with neither power nor responsibility or having only power but no responsibility?

Mr Deputy President, if the United Democrats of Hong Kong (UDHK) wish to put forward some reforms, they should not be so ambiguous as to say that either a two-tier or a three-tier structure will do. Everyone has his own ideals in mind, and I am no exception. I also have an ideal model for the existing district boards/councils. This model has not simply come out of imagination. It is a set of findings derived from the study of the needs of the actual situation, which has also taken into account the feasibility of operation.

I have always thought that as Hong Kong is not a large place, a two-tier structure would be able to meet its needs. The two-tier structure which I propose is made up of a central structure (that is, the Legislative and Executive Councils) and a district structure (which comprises about eight to 10 district authorities that can

be called "District Administration Councils"). These district authorities must have real power as well as decision power and can make suggestions on central policies within their specified terms of reference unofficially. However, these "District Administration Councils" can only discuss, decide and deal with district affairs within their terms of reference at their official meetings.

It is inevitable that the present three-tier structure would be confusing and there are overlaps in respect of their terms of reference. By combining the boards/councils of district administration into one single authority, that is, to establish a one-tier district structure, it will help facilitate the use of resources and ensure that these authorities will be able to carry out their due responsibilities and be accountable to the people. Of course, my ideas may not receive your agreement, but I hope that people from all sectors of the community will try to give their own views, or put forward matters that need to be probed into by the relevant authorities, so that the Government will make reference from them when a review is being conducted. I wish to point out that I am not the first one to propose a two-tier structure. As a matter of fact, such a proposal has already been made in the "Report of the Working Party on Local Administration 1966" which stated that Hong Kong only required a two-tier structure, not a three-tier one.

Mr Deputy President, in the long run, I favour that all council seats should be directly elected. However, we should also listen to and consider the rationale that appointed and ex-officio members be retained in district councils. As the system adopted in Hong Kong is that "new members take up the post while old members retire simultaneously", there may be, after each election, a situation in which there would be all new faces or the majority of members serving in the councils are new faces. Should the appointed and ex-officio membership be abolished at the same time, it might be difficult to maintain the continuity of the councils, neither could members have the benefits of accumulated experience. I must stress that the Legislative Council at the central level is an institution which reflects public views, while at the district level, the district council is an institution entrusted with the practical authority and responsibility. Hence, continuity has its undeniable significance to the district council.

Consequently, I propose creation of "veteran" seats in the "District Administration Councils" to replace appointed membership. Assuming that the "District Administration Councils" have 40 seats, and 30 of them will be filled by direct election, the remaining 10 seats should be filled by candidates who have

formerly served on the councils at various levels and who have been recommended by the 30 directly elected members. These "veteran" members not only have the experience in councils and public affairs, but also are well-acquainted with district affairs. Coupled with the fact that they are few in number and are recommended by directly elected members, there is no chance that they would dominate the "District Administration Councils".

As regards ex-officio membership, I think it is not completely devoid of merit to have members of Heung Yee Kuk and Rural Committees participating in the affairs of the District Boards and the Regional Council. This arrangement not only enables the interests of the minority groups in these districts to be looked after and protected or at least allows their opinions to be heard, but also reduces differences of opinion between urban dwellers and rural residents who both live in the community. But for the sake of promoting democratization, and if ex-officio membership is not to be abolished, study should be conducted on how rural elections can be more in line with the principles of fairness and democracy. The Government should probe into this subject when reviews are conducted.

Mr Deputy President, people in power will sometimes forget where their responsibilities lie. In the process of democratization, the foremost principle is to put equal emphasis on power and responsibility. If we do not emphasize the importance of having councils which are formed by members having real power and are accountable to voters, how can we make members of the public understand the true meaning of democracy? Those who argue that comprehensive direct election will lead us to Utopia, to the ideal kingdom are in fact neglecting the problem of accountability which is the most basic issue of the existing system. If a decision is made hastily, it would become an irresponsible way of doing things.

I hope that the Government would realize where its commitment lies and let the public see its foresight, that is, to strive to conduct a review on the role, functions and related matters of the District Boards and Municipal Councils within one year and then furnish us with a detailed proposal so that the district boards/councils system will be perfected as far as possible.

Lastly, I urge my colleagues to give careful consideration to my rationale for proposing the amendment to the motion and make a resolute choice.

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

Question on Mr Andrew WONG's amendment proposed.

DEPUTY PRESIDENT: With 20 Members listed to speak, I would remind Members that to carry out their agreement for voluntary restraint they should limit their speeches to not more than four and a half minutes each.

MR HUI YIN-FAT (in Cantonese): Mr Deputy President, the upsurge in democratic movements in many totalitarian or dictatorial nations in the past few years was irresistible. If those in power did not put through reforms in time to go with the trend of the times but rather resorted to armed suppression, it would lead to social instability and bloodshed incidents. Looking back at Hong Kong's democratic development, it is fortunate to see that with the people's toleration, the Government was able to carry out administrative reforms before it was too late to provide a proper channel for them to vent their discontent with the Government. As a result, the shocking effects on society caused by incidents such as those in South Korea and Taiwan in the course of democratic development were minimized.

For this reason, I think that the 18 directly elected seats to this Council introduced by the Government last year did not signal an end to our local administrative reform. On the contrary, I believe that there is still much room for democratic development within the confines of the Basis Law. One of the reform objectives is to abolish the appointed and ex-officio membership of district boards and the two municipal councils in 1995. The reasons are as follows:

(1) Representative government has undoubtedly opened the door for the people to democratic pursuit. For the past ten odd years, rapid developments in education and economy not only have enhanced people's living standard to a large extent but also, and more importantly, aroused the public spirit in pursuit of democracy and the public consciousness of monitoring the government. Therefore, if the present Government is not going to open itself to the public further, it will surely bring about unrest and instability in the future. In my opinion, the Government should allocate more seats in district boards and the two municipal councils for direct election so as to provide a proper channel for them to voice and discuss their grievances against district administration.

(2) As part of the central decision hierarchy, this Council is going to abolish all the appointed elements in 1995. It means that talented people from various sectors who wish to serve our society as members of this Council can only do so through fair and just elections. In fact, a mature political structure symbolizes the end of the era of monopoly of the privilege. However, if the district boards still retain part of the privileged system, it is obviously incompatible with the overall pace of democratic development.

(3) District boards have all along been the breeding grounds for political talents. I am sure that only through making available more elected seats that more ambitious people who wish to join the political sector will be attracted to run for elections and make greater contribution to society.

(4) It is said that the retention of appointed and ex-officio members is to ensure that talents from various sectors may contribute their expertise to district boards without having to take the trouble to run for election. This negative approach is out of having no confidence in public voting. I think that the positive approach is to encourage them to run for election, not to ask them to rely on privilege protection. In fact, talented people who wish to serve the community should have the courage and capability to face the challenge of the new era.

Regarding the first part of the motion, in my opinion, the role and status of district boards in district administration is similar to that of the two municipal councils on the whole. In order to avoid resources wastage due to duplication of efforts, the review by the Government in the future should aim at merging the district boards and the two municipal councils to form one large district council. If this aim cannot be fulfilled by 1995 due to the restraints of objective factors, the Government should at least abolish the appointed membership of the two municipal councils to make room for greater participation by elected district board members and to pave the way for full democracy in the future district council.

Mr Deputy President, the political reforms in the past few years have convinced me that democracy calls for the support and efforts of the public as a whole. The Government should feel ashamed and remorseful of what the colonial regime did in the past in respect of the suppression of the public's call for democracy. It should make good use of the next few years to work for the advancement of democracy within its capability rather than making empty promises.

With these remarks, I support Dr YEUNG Sum's motion.

MR PANG CHUN-HOI (in Cantonese): Mr Deputy President, the design of the three-tier system of representative government was meant to be a blueprint for the democratization of our political system. Nine years have lapsed since the inception of district boards in 1982. With changes in the political climate and the social environment, it is high time for us to review the functions of district boards, the Urban Council and the Regional Council and their inter-relationships.

The original aim of setting up district boards is to create an efficient channel of public consultation and to invite people's participation in community affairs at district level. Before the introduction of directly elected seats in the Legislative Council, each of the three-tiers has its own role to play and their functions are distinct; district boards have public representativeness and thereby encourage public participation in district affairs either directly or indirectly. Now the scene has changed.

(1) The role is obscure. Some district affairs are being brought into the Legislative Council. Relatively speaking, the Legislative Council is a direct and more efficient channel of consultation than district boards. As a result, the consultation function of district boards is overshadowed to the extent that the degree of concern and the importance attached to district boards by the public is reduced.

In the past, district board elections were characterized by keen competition. However, for the elections held in 1991, of the 274 elected seats, 81 candidates (that is, about one third of the seats) were returned unopposed. This phenomenon bears witness to a slightly declining function of district boards.

(2) Changes in the population make-up and local characteristics of the districts have gradually weakened traditional local influence. As a result of the accommodation problem, the shifting of the economic core of the family and the emergence of new towns, there is a quick mobility of the population with people in the urban areas moving into the New Territories and vice versa. Traditional local influence is gradually fading out as new residents do not have as strong a feeling towards the district as the indigenous dwellers, nor do they possess a strong sense of belonging. Both the interests of the old and the new residents indeed need to be looked after. But with a change in the structural distribution, the composition

of district board membership should be adjusted accordingly. Therefore, I support a review on the ratio of appointed members.

The public in general are satisfied with the operation and the performance of the Urban Council and the Regional Council. The long-established Urban Council is particularly highly regarded to a certain extent by the public in view of the fact some of its seats have been returned by direct elections for years. It is very important for us to consider carefully the present situation of each tier and to carry out review. However, before the results of the review are available, we should not jump to the conclusion that all appointed or ex-officio seats be abolished. Therefore, I support Mr Andrew WONG's amendment.

MR SZETO WAH (in Cantonese): Mr Deputy President, the amendment is proposing to replace "by abolishing their appointed and ex-officio membership in the next term" in the original motion with "and to announce the result of the review and reform proposals within one year". Obviously, the amendment betokens a desperate struggle on the part of the appointed and ex-officio members against the democratization of district administration. The so-called "to announce within one year" is just a stalling tactic.

To Mr Andrew WONG, "abolishing appointed and ex-officio membership" would mean pre-empting the outcome of the review. What the original motion calls for is a review on the status, role, and structure of the district board and the municipal councils and the relationship between them. As for democratization, that in itself a valid conclusion borne out by human history and the trend of the times; it is no more necessary to review it than to review whether we should enjoy human rights, breathe and eat.

Speaking about democratization, some people will invariably come up with the idea of "evolving in an orderly and gradual manner". The story of the hare and the tortoise is well known to all. But have Members ever heard of the race between the tortoise and the boulder? This tortoise is the self same one as in the story of the hare and the tortoise, while "boulder" is a fossil, an absolutely immobile fossil. Since its inception, the Regional Council has evolved neither "in an orderly" nor "a gradual manner", but is in effect an absolutely immobile fossil. The democratization of the municipal councils and the district boards is slower than even a crawling tortoise and has remained almost where it originally was. Is it not a joke that the absolutely

immobile fossil and the crawling tortoise should talk endlessly year after year to people, who walk with both legs, about "evolving in an orderly and gradual fashion" and "not proceeding too fast"?

Some do not support the idea of having more than 20 directly elected seats on this Council in 1995 because the number will exceed that prescribed under the Basic Law, as if they would be for it if no such restriction was imposed by the Basic Law. The Basic Law has not imposed any restraints on the democratization of the district boards and the municipal councils; why then do they not render their support? Obviously this is because they are not the ones with vested interests in a democratic system. Such being the case, the various grounds for objection are but mere excuses.

Mr Deputy President, with these remarks, I support the original motion and oppose the amendment.

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, Dr YEUNG Sum's motion today is to urge the Government to review the status, role and structure of the District Boards and the Municipal Councils and their relationship but at the same time request the Government to abolish their appointed and ex-officio membership in the next term. With the development of representative government in Hong Kong, it is necessary to review the two municipal councils and district boards and even the whole structure of the three-tier system of representative government. However, it will be rather hasty and arbitrary to pre-empt the review.

In fact, representative government has been in operation in Hong Kong for some time and there are many issues which require a review. For example, is the three-tier system necessary? Do the two municipal councils and district boards duplicate their functions such that part of the resources is wasted? These are some of the issues which arouse wide public concern. Besides, areas call for a review include: is the supervision of government departments by district boards and the two municipal councils effective? Is there sufficient information available to facilitate monitoring the operation of government departments and whether the ratio of membership requires adjustments? Since there are many issues involved in the review of the structure and system of district administration, it will take considerable time in studying and need extensive consultation before we can reach the right conclusion. I think that the Government should consult members of the two municipal councils and district boards and seek the views of people from various sectors as

well. However, it seems to me that the motion today is indeed a bit hastily moved and I am not able to take in its content for the moment.

I have contacted some Urban Councillors and district board members recently to seek their opinions on the content of this motion. I feel that the majority agreed that we should carry out a review on the functions of the boards and councils and their inter-relationship. But they had reservations about abolishing their appointed and ex-officio membership in the next term. In their opinion, appointed members often perform the function of providing a balancing effect in the boards/councils. Take district boards as an example, some elected members, when expressing their ideas to the Government, might only care about the interests of their own constituencies without taking the interests of the whole district and the problem of resource allocation into consideration. In this case, it is necessary to have appointed members to give their more neutral and unbiased opinions.

Moreover, some district board members are of the view that problems in connection with the functions of the district boards in recent years have called into question their roles and dampened people's desire to run for district board elections. In the 1991 district board elections, to many's surprise, of the 274 directly elected seats, 81 candidates were returned unopposed. It showed that people who wished to run for district board elections were in fact not great in number. And as for those who ran for the elections, some might merely regard district board as a stepping-stone. Therefore, they worried that should the Government abolish the appointed membership in district boards, the next district board elections would see more members being returned unopposed.

Mr Deputy President, a bona fide review on the district administration should focus on the structure, function and operation of the boards/councils rather than on the issue of elected or appointed members. Of course, with the development of democracy in Hong Kong, it is understandable that the number of appointed and ex-officio members in the two municipal councils and district boards should be gradually reduced so that all their members will eventually be returned by election. As for the merging of the functions of the two municipal councils and district boards, it is acceptable to me. But it is inappropriate for us to jump to a conclusion regarding the structure and system of district administration because the time is not ripe and we need a careful study and extensive consultation.

Mr Deputy President, with these remarks, I will vote against Dr YEUNG Sum's motion

but support Mr Andrew WONG's amendment.

MR LAU WONG-FAT (in Cantonese): Mr Deputy President, having removed all the qualifiers in the original motion, there is in fact one sentence, that is, to ask the Government to abolish the appointed and ex-officio membership of the district boards and the two municipal councils in the next term. I think that such a radical request is made out of "adventurous romanticism" which seems to be high-sounding but in fact having no regard to the actual situation and not being in the interests of Hong Kong as a whole.

Looking back to the evolution of Hong Kong's political system in the past century or so and the progress of democracy from a pragmatic point of view, I totally disagree that the existing arrangement of membership is too conservative. Of course, the number of appointed members should be reviewed but it should be carried out progressively according to actual situation. If we reduce the membership across the board recklessly, I think that it is rash and unacceptable, regardless of the consequences.

District boards and the two municipal councils are just like any other boards/councils whose members should come from different fields and be representatives from various sectors to ensure issues to be discussed by boards/councils are to be considered in a more comprehensive way without bias. It is argued that the Legislative Council is going to abolish the appointed membership in 1995, therefore the other two tiers should follow suit. Such an argument sounds reasonable. But, in fact, the two cases cannot be mentioned in the same breath. Their major difference lies in the fact that there are functional constituencies in the Legislative Council whereas the other two tiers have none.

Due to this major difference, unlike the Legislative Council, district boards and the two municipal councils cannot ensure a sufficient number of professionals to join them. Moreover, the electoral constituencies of these two tiers are relatively smaller in area thereby placing candidates such as social workers, teachers, social activists and so on who have frequent daily contacts with large numbers of residents at a more advantageous position. It will obviously put a damper on the professionals' desire to run for elections and also reduce their chances of winning the election. An across-the-board abolition of the appointed membership, I believe, would run the risk of polarizing the membership in the district boards and the two municipal councils elections. The effective operation of these

boards/councils will be affected as well. In view of this, we have good reasons to retain appointed membership because through their contribution, the Administration can achieve the purposes of supplementing the insufficiency and striking a right balance between different views.

Likewise, ex-officio membership has its own value. It must be pointed out that the Government gives certain ex-officio seats to representatives of the rural body in the New Territories district boards and the Regional Council, not to please the rural force, but out of practical needs. The rural areas are quite different from the town centre districts of the new towns in terms of size, population, customs and the need for public utilities and services. Besides, it is the New Territories indigenous residents living and growing up there from generation to generation who are hardest hit by the many large scale development projects carried out by the Government in the New Territories.

To ensure an implementations of efficient and fair policies and to achieve a stable and harmonious environment, the Administration has to take all factors into consideration and set up a mechanism to allow for the participation of rural representatives in district boards. With the mass flow of the urban residents into the New Territories, it is also necessary to see to it that the interests of the indigenous villagers, who have become the minority in terms of population, are not overlooked. The existing rural representatives who are appointed ex-officio members are indeed elected according to statutory electoral procedures and therefore possess a considerable degree of representativeness. If the ex-officio membership is abolished, the inevitable outcome would be a serious weakening of their co-ordinating role in the New Territories boards and the Regional Council. And the social impact it brings about ought not to be underestimated.

Mr Deputy President, as an ex-officio member in the Tuen Mun District Board and the Regional Council and also the Chairman of the Heung Yee Kuk, I support the retention of ex-officio membership. This may appear to others that I am speaking for my own interest. I believe that other appointed members may also face the same embarrassing situation. But how about the elected members? Cynically speaking, is it that elected members support the abolition of appointed membership with an ulterior motive of currying favour with the voters for more seats for themselves or the political groups they belong to? When discussing this topic, I do not feel that I am in an inferior position. For those self-conceited people with prejudiced views, they are merely the pot which calls the kettle black. They are self-deceiving.

I agree that the Administration should carry out a comprehensive review on district boards and the two municipal councils. But the review must be objective, open and realistic. To come to a conclusion before carrying out any review is illogical and contrary to the principle of democracy. I think that apart from the issue of membership, the scope of the review should also cover other areas. It is more important for the Administration to consider delegating more power and allocating more funds to the boards. It will boost the morale of district board members and ensure that district boards may serve the community more efficiently.

Mr Deputy President, with these remarks, I support Mr Andrew WONG's amendment.

MRS PEGGY LAM (in Cantonese): Mr Deputy President, the development of the political system is a major issue in the latter part of the transition period of Hong Kong. The members of the Co-operative Resources Centre consider it appropriate for Dr YEUNG Sum to urge the Government to review the status, role and structure of the district boards and the municipal councils, but cannot agree to the abolition of the appointed and ex-officio membership of these bodies in the next term as proposed in the motion.

Most of the members of the Co-operative Resources Centre feel that there is value in retaining the appointed and ex-officio membership although a few members think that no conclusion should be drawn until the findings of a review are available. We do not support the idea of abolishing the appointment system in haste in the absence of any review or consultation, because this is not characteristic of "democracy". In today's motion debate, Mr LAU Wong-fat, member of the Co-operative Resources Centre has just spoken on the question of ex-officio membership. Mr Gilbert LEUNG, another member of the Centre, will express his views as a member of the Regional Council while Dr LAM Kui-chun will speak on the retention of the appointment system in the district board. I, for my part, shall reflect the opinions of the chairmen of the 19 district boards.

Mr Deputy President, there are 19 district boards in Hong Kong. Of the chairmen of these 19 district boards, seven (myself included) are directly elected board members. As for the remaining, three are ex-officio members while nine are appointed members. The chairman of a district board is elected from among members of the board. I have consulted the chairmen of the rest of the 18 district boards for their opinions on the wording of the motion put forward by Dr YEUNG Sum and the result is, with the

exception of one who supports the motion proposed by Dr YEUNG Sum, the other 17 chairmen including myself are of the opinion that the last phrase in that motion, that is "abolishing the appointed and ex-officio membership in the next term" should be deleted. Seventeen district board members think that there is value in retaining the appointed and ex-officio membership while another chairman agrees that no decision should be made until the findings of the review are available.

Mr Deputy President, I am an elected district board member. Based on my experience with the district board over the past 10 years, I can say from a very objective point of view that there is value in retaining the appointment system. My grounds are as follows:

(1) As no functional constituency seats are provided on the district board, the appointment system ensures that the composition of the district board can provide adequate representation and balance of the interests of different sectors of society, so as to prevent the control of the district board by certain sectors, or interest groups, which is extremely important in maintaining the harmony in the district and the community as a whole. As an advisory body as well as a link between the Government and the public, it is essential that the district board should have as wide a representative profile as possible in order to function properly;

(2) The appointment system makes it possible to select the prominent and the talented, and to induct people who specialize in different skills, knowledge and experience to become district board members, so that those with the abilities and the aspiration of participating in district administration can have the opportunity to serve the community through various channels;

(3) Since the appointed members are not subject to pressure from voters in their districts, they can take into account the overall and long-term interests of the community as a whole when dealing with problems;

(4) The Government implemented the district board system under the District Administration Scheme launched in 1982. The number of elected members and that of appointed members then were identical, but after the review conducted in 1984, the number of elected members in 1985 was twice that of appointed members, making it impossible for appointed members to influence the way elected members reach their resolutions; on the contrary appointed members and elected members complement each other in the discharge of the functions of the district board;

(5) Certain tasks in the district board need to be done by people quietly slogging away with little chance of exposure to the limelight of public view. The independence enjoyed by appointed members enable them to take up such a role without worry;

(6) A lot of people are asking whether direct election in full means democracy. This is really open to question.

Finally, it has been stated clearly in the White Paper The Development of Representative Government: The Way Forward published in February 1988 that "Hong Kong's stability and prosperity owe much to consistent policies and prudent development. This points to the need to evolve gradually from the unique system that has served Hong Kong well until now, and not to force the pace of reform to an extent that might introduce instability and uncertainty into the administration of the territory." I am definitely in favour of the idea that democracy should evolve gradually. The number of appointed members can be reduced step by step until the boards or councils become fully elected. However now is still not the time to cancel appointed membership altogether.

Mr Deputy President, on the above grounds, I submit that it is impossible for members of the Co-operative Resources Centre to support Dr YEUNG Sum's motion. All members of the Centre support the amendment motion proposed by Mr Andrew WONG.

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.

DR LEONG CHE-HUNG: Mr Deputy President, hailed as the first step towards a representative government -- some 10 years on -- let me ask a question: what ever happened to the district boards?

The White Paper on District Administration in Hong Kong, published in 1981, listed the Government's aims in establishing district boards as firstly to create a better channel of communication between residents and the Government, and, perhaps more importantly, secondly to give residents a more direct say in government services and policies affecting the districts.

Recent developments have witnessed nothing but digression from these aims. The boards' funding has been cut. High ranking government officials no longer attend district board meetings. The boards have even been "advised" not to discuss territory-wide policy issues, even though the issues involve, when put into perspective, the touch and concern of each and every district.

Has the Administration's ear gone deaf?

This third tier of our hierarchy still has a role to play in providing an effective forum for public consultation and to advise on matters with which district residents are more familiar. Why is it then that, after 10 years, we still have one appointed district board member to every two elected councillors?

As a sign of greater transparency, the Urban Council opened its meetings to the public in November of last year. This move I welcome, but it is not enough. The primary source of income for the two municipal councils come from rates. As with all taxpayers, I want to see my money well spent.

The two municipal councils are financially autonomous bodies, vested with powers. They take care not only of mental nourishments in the form of recreation, but also of matters that affect our immediate well being, such as refuse collection. It has been said dustmen contribute more to the health of society than doctors -- as a doctor, I am the first to admit the truth of that.

Since directly elected councillors account for just a third of the members in the municipal councils, how then can the constituents sanction councillors who fail to act in their interests? Where is the accountability?

A government that is implementing policies approved by the masses need not fear that those policies will be voted down by the elected. It is unpopular policies that require appointed members to safeguard their passage. The true test for approval can only be gleaned in the absence of appointed members, who perhaps out of loyalty may toe the government line.

What better mandate is there than an endorsement through election. Those appointed by the Government cannot possibly claim they represent the people.

Fortunately the Basic Law does not impose the same restraint on the district boards and the municipal councils, as it does on the pace of democracy for the Legislative Council and the selection of the Chief Executive. But even with the Basic Law straitjacket, the Legislative Council itself will not have any appointed members in the next Session. The two municipal councils each nominate a member to this Council. It is absurd to retain a backdoor appointment system, whereby allowing an appointed Urban Council member, who lacks popular mandate, to gain access to the higher tier. At this point in time, therefore, what possible justifications are there for the retention of appointed and ex-officio seats?

Yes, the role and structure of the lower tiers ought to be reappraised and their relationship strengthened. The Legislative Council committee on election reform has so far concentrated on the 1995 Legislative Council election. When this task is completed, I suggest either this committee, or alternately a new group, be set up to review the district boards and the municipal councils.

Mr Deputy President, last week the Governor Lord WILSON raised the issue of incentive to drive district board appointees to run for future elections. But what incentives will there be if members can still fall back on being appointed? I do not see therefore the need to delay the abolition of appointed and ex-officio members. Accordingly, Mr Deputy President, the Hong Kong Democratic Foundation and I support Dr YEUNG Sum's motion.

MRS ELSIE TU: Mr Deputy President, as an elected member of the Urban Council, I declare an interest.

Today I will address only that aspect of the motion and the proposed amendment that relates to the Urban Council, and in so doing I am speaking as representative

of that constituency.

In a debate in the Urban Council yesterday concerning what stand I should take at this sitting today, there was naturally some divergence of opinion. However, the general view did not oppose the suggestion of a review, as mentioned in both the motion and in the amendment.

Mr Deputy President, I think it is important to remind Members of this Council that the Urban Council at present includes 21 members elected by universal franchise, 15 of them being elected directly to the Urban Council, and six others directly elected to district boards and subsequently indirectly elected to the Urban Council. The number of appointed members is 19, of whom 15 are directly appointed to the Urban Council, and four others are appointed to district boards and subsequently indirectly elected to the Urban Council. The directly elected element is therefore 52.5% of the Council, while the appointed element is 47.5%. The Council therefore has a majority of members elected by popular vote and there are no ex-officio members.

The jurisdiction of the Urban Council covers issues of health, recreation and culture, and the building of various facilities required for its work. The Government, in making appointments, has obviously chosen members for their expertise in the field of council work. At present appointed members include two doctors, three in the building construction industry, two accountants, nine businessmen, one an expert in culture, one an expert in sport, and one an educator. The elected members include six educators, four lawyers, five social workers and six involved in various kinds of business. If the appointed membership were to be abolished some arrangement would have to be made to fill the vacuum with the required expertise. One way would be to co-opt experts, or for the council to make appointments instead of the Government. This would take time and thought; so sudden change would not be desirable. At present, and for the past 10 years, the council has run smoothly and without political wrangling; so the need for change is not urgent, especially as the elected element already predominates, and the Urban Council is more democratic than any other body of the Government in Hong Kong.

As a lifelong democrat, I personally would welcome democratic progress being made by 1995, but I believe that we need some consultation first with district boards, municipal councils, and the public in general. To make a decision to abolish appointed

members of the Urban Council before any review is completed would be steamrolling the issue without considering the damage that might be inflicted in the process.

Mr Deputy President, at yesterday's Urban Council meeting, a secret ballot showed that 75% of the 36 members present were in favour of my supporting Mr Andrew WONG's amended motion.

I therefore support the amendment.

8.10 pm

DEPUTY PRESIDENT: I propose to take a short break and resume in 10 minutes.

8.25 pm

DEPUTY PRESIDENT: Council will resume.

MR MARVIN CHEUNG: Mr Deputy President, first I must declare interest as an appointed member of the Urban Council. Both the motion and the amendment call for a review of the district boards and municipal councils. I would like to begin by asking why a review is necessary at all. What is perceived to be wrong with the present arrangements? In Dr YEUNG Sum's speech he advocated some sweeping changes to the structure of district boards and municipal councils. Whilst he has advanced some plausible arguments in favour of his proposals, there are serious implications to his proposals which merit close scrutiny. I urge the Government to consider the full ramifications of his proposals before reaching any final decision.

The original motion calls for a review but then announces as a foregone conclusion that appointed and ex-officio membership should be abolished. Although Dr YEUNG Sum and Mr SZETO Wah have argued that the abolition of appointed membership is a separate issue, I do not find the argument to be convincing. If we are to change the structure and functions of district boards and municipal councils it must follow that we need to consider the membership of these bodies. Putting the cart before the horse like this would make the proposed review meaningless. If a fair review is to be conducted

we must ask the Government to start with an open mind to examine the available facts and to listen to all the arguments before drawing a conclusion.

I ask this Council to focus on what is perceived to be wrong with the district boards and municipal councils that necessitates the removal of appointed and ex-officio members. The supporters of the motion consider that the elected and appointed members on these bodies clash rather than complement each other, so that abolishing appointed members will result in those who remain working more effectively. Having been an appointed member of the Urban Council for many years, I for one can assure this Council that the working atmosphere in the Urban Council has been and continues to be harmonious and constructive. There is division of responsibility and sharing of power between elected and appointed members. They do not regard each other as political rivals in discharging their duties in the council. I would urge the Government and the public to consider the present roles of elected and appointed members and their respective contributions to the work of these bodies. Historically, there has been a tendency for the majority of the elected members to come from the ranks of certain sectors of the community, for example, social work and education, whereas most of the appointed members are recognized leaders of the local community and persons with business and professional backgrounds. The fact is that appointed members complement elected members and vice versa, thus providing these bodies with the widest possible representation of views, interests and skills. The effect of abolishing appointed and ex-officio members would be to produce an unbalanced and unrepresentative membership of the boards and councils. The turnout in previous elections for the district boards and municipal councils has been low and there is no indication that it would increase significantly in the foreseeable future.

In this transitional period it can be argued that it is the appointed members and not necessarily the elected members who in fact represent the silent majority. Until the majority of the people of Hong Kong are educated and motivated to express their wishes through the polls, I believe that the present system of appointment to these bodies is the most appropriate in ensuring that they are representative and accountable.

Finally, we ought to consider the nature of the district boards and municipal councils themselves. The functions of the municipal councils are both legislative and executive; a balance has to be struck between political ideals and the practicalities of the task in hand. Appointed members, being apolitical, provide the necessary balance. I suggest that it is this balance of skills and interests

which ensures the integrity of any representative public body, and I further suggest that strong reasons should be demanded and given before tampering with a system that has served the people of Hong Kong well for so many years.

Mr Deputy President, for the reasons given I do not support the original motion but I support Mr Andrew WONG's amendment.

MR CHEUNG MAN-KWONG (in Cantonese): Mr Deputy President, the essence of colonial government is dictatorship, which rules the people through an unchallenged and top-to-bottom organ of power. But as a matter of fact, the days of colonial rule in Hong Kong are numbered.

Besides, colonial rule will only incite revolts from the locals. The Hong Kong history in the 1960s and the 1970s is a clear testimony to this point. Therefore, the 1980s saw the beginning of the introduction of democracy mechanism to Hong Kong's political system. In 1985, the Government published the "Green Paper on Representative Government" which categorically laid down a proposal to progressively return power to the people.

Some are very happy to learn that the proposed democratic system of government is going to develop "progressively". To them, "progressively" may mean "no changes for the time being" or even "remaining unchanged for 50 years". This is actually the case in reality. The number of elected seats in the district boards and the two municipal councils has not changed since 1985. For those who supported progressive democratic development in 1985, have they ever tried to strive for an increase in the number of elected seats? Unfortunately, they have just employed "progressively" as an excuse to block the progress of a democratic government.

Dr YEUNG Sum's motion today, may it be carried or not, is significant in that in the run-up to the end of the colonial rule, it aims at terminating what will be the inheritance of the colonial government, that is a top-to-bottom boards/councils system whereby the authorities can wield influence and achieve checks and balances through an appointment system.

Dr YEUNG Sum's motion will undoubtedly arouse opposition from appointed members of different tiers. One of the reasons put forward by those opposing the motion is that appointed members may balance the opinions in the councils/boards. In fact,

the hidden meaning of such a saying implies that appointed members are put in place to counterbalance elected members in order to suppress public opinion. Mr Deputy President, let us sit back and think it over. If the appointed members are really playing the role of counterbalancing and suppressing public opinion, then they are nothing but the Government's tools. When the tools become worn-out and obsolete, they may be discarded and replaced. The real winner is always the invisible manipulator behind the scale, that is the Hong Kong Government which holds the power of making the appointments.

Mr Deputy President, I must acknowledge that among the different tiers of appointed members whom I know, many are experienced and able professionals whose sincerity and zeal in serving the public is indisputable. However, I feel that to serve the public in the councils/boards in a really lasting way, one should not rely on being appointed because the Government may terminate the appointment according to its needs. The only means is to win the approval of the voters through election on the strength of one's track record in public service. Therefore, I hope that there will be righteous wise men among the appointed Members who would stand up to support Dr YEUNG Sum's motion.

Mr Deputy President, I am afraid that my hope will be dashed. Over the past few days, the appointed Members have joined hands and opened fire on Dr YEUNG Sum with high efficiency. The only point I find interesting is that even some elected Members are against the abolition of appointed membership in 1995, that is the last elections before the termination of the colonial rule. I have carefully considered this phenomenon. One of the possible explanations, mind you, I repeat, one of the possible explanations is that they see through the future rulers of the Special Administrative Region. Although these rulers may be against colonialism in words, they are, in fact, in favour of dictatorship so that when they assume power after 1997, they will continue to rule the people of Hong Kong like an emperor.

Mr Deputy President, with these remarks, I support Dr YEUNG Sum's motion because I am not one who likes to chant "long live to emperor". The only exception is that I would like to chant "long live democracy".

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, first I must declare interest as an elected member of the Regional Council.

When 1997 draws close, the local colonial government is going to come to an end. All members in the Hong Kong Legislative Council are to be returned by election in 1995. For this reason, it is only too natural that the two lower tiers of the three-tier system, that is, the district boards and the two municipal councils, should have all their members elected before 1995.

It is strange that there are people still emotionally attached to the appointment system under the colonial government. I am not saying that the appointed members are less competent than their elected counterparts. But appointed members are, after all, accountable to the Hong Kong-British Government which has the power to make the appointments. Since appointed members are appointed by the Government, they inevitably owe their loyalty to it. Even if they do not care whether they are going to be reappointed or not, the appointed members are obliged to toe the line and support the Government's policies either out of sensible consideration or loyalty. We may also look at it from a different angle. Would the Government appoint someone whose political views are different from its own? Maybe yes, but it must be very few and their views are not incompatible. The appointment system is not built on an impartial enlistment of the best and the brightest. Otherwise, the Government should conduct extensive consultation exercise and invite public nominations in its consideration of the list of appointed members before making the appointments. But this is not the actual case. The introduction of an appointment system is in fact a revelation of the central government's unwillingness to delegate power and to change from a mode of centralized colonial rule to a democratic election system with the general public's endorsement. As a matter of fact, the Government does not want to surrender its power to the people. This is a blatant deviation from the principle of "Hong Kong people ruling Hong Kong".

I welcome the introduction of representative government by the Hong Kong-British Government which allowed for elected members on the district boards. But what stalls the further development of the representative government? Is it that the residents do not have sufficient civic awareness? Is it that there are no competent people around to run for elections? Is it that the pace of democracy is too fast? All of these are not the answer. It is entirely due to the Government's unwillingness to surrender its power to the people so soon. The Hong Kong-British Government dares not even abolish the appointed seats on the district boards which do not enjoy any statutory power and are mainly consultative in nature but wants to impose more control over them. What is our narrow-minded Government afraid of? Is it afraid that it may not be able to control the public representatives on the district boards? In

fact, the appointed seats of the district boards should have been abolished in 1991. Their abolition in 1994 has already held up the pace of the development of the representative government. As for the Urban Council and the Regional Council, their jurisdiction covers only matters in relation to culture and recreation, sports and public hygiene, nothing to do with central policies. They do not have sufficient power to challenge the Government or to exert any influence. The Government's worries are unjustified. Fearing that too many talented politicians come from elections? The power and degree of influence of the district boards and the two municipal councils are so limited that even the Basic Law does not take them into consideration and does not impose any restrictions on them. If the Hong Kong-British Government has a bona fide intention to practise democracy, there is no reason at all for it to retain appointed seats any longer.

Mr Deputy President, I wish to see the British Government leave behind more deeds which will win our praise and gratitude when it pulls out of Hong Kong and will not let us down again. Bearing in mind that the British Government itself is returned by election, it is immoral and wrong to hinder the progress of democracy. I support the original motion.

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, my understanding of the wording of the motion for debate before Council is that the original motion moved by Dr YEUNG Sum should be divided into two parts. The review mentioned in the first part focuses on improving the structure and functions of the district boards and the municipal councils. The second part proposes abolishing the appointed and ex-officio membership of these bodies in the hope of strengthening the representativeness and accountability of such bodies. As the focus of each part is totally different from the other, it is not necessary to include "representativeness and accountability" for review as proposed in the amendment motion. I agree with the first part of the original motion, that is, a review on district administration is necessary. It is beyond doubt that members of boards and councils on the two tiers of district administration should be directly elected. If appointed and ex-officio membership will no longer exist in the Legislative Council in 1995, why then should such membership not be abolished in the district boards and municipal councils? What are people afraid of?

I support the abolition of the appointed and ex-officio membership in the district boards and the municipal councils to tie in with the progress of democratization.

In the first place, the Legislative Council cut the number of its official Members in 1985, that of its appointed Members in 1988, and that of its ex-officio and appointed Members again last year, which was the year of general election, so as to gradually fulfill the objective laid down in the Basic Law that all members of the legislature in the future Special Administrative Region shall be elected.

By comparison, one third of the members of a district board are directly elected since 1988, but the number of directly elected seats has not been increased over the past three terms. The number of directly elected members in each of the municipal councils has, up to the present, still not exceeded half of the total number of members in each of these councils. It is thus clear that the work of strengthening the representative base of the above bodies is extremely slow, or has even come to a halt.

More important still, the retention of ex-officio and appointed membership is a perpetuation as well as aggravation of various negative effects at present.

Since elected members have to take care of the interests of the electorate, the views of voters of different constituencies can find expression in the course of deliberation and transaction of business by boards and councils. Ex-officio and appointed members, however, are not accountable to the electorate. It is therefore easier for them to form groups to defend the proposals put forward by the Government, and then, by enlisting the support of a few directly elected members, it is very easy for them to obtain the decisive number of votes in the boards and councils while other directly elected members are relegated to the ranks of the "opposition".

Apart from being unfair to the directly elected members who represent public opinion and who are accountable to the public, such phenomenon also constitutes a supreme irony on the Government which for so many years has made use of huge public funds to encourage voters to vote. Members supported by the voters have obligations to fulfill which are not matched with corresponding power or authority. This is exactly the reverse of having authority but no obligation, as previously pointed out by my teacher. As a result members are required to speak out, but have no authority to decide. In view of this, may I therefore ask where do voters get the incentive to vote? How can voters believe in the fairness and rationality of a representative system of government? Rather than saying "power lies in voting" would it not be more apposite to say "real power comes from being appointed"? I feel that there is more truth to this and hope the Government will not try to cheat the public.

Only when the district boards and the municipal councils are fully elected bodies will they be able to balance the varied needs of the electorate through fair and just politicking such as canvassing, lobbying and co-ordinating. I also believe that only with fully elected membership in place can voters directly judge and monitor the performance of members of boards and councils.

Mr Deputy President, I understand that a 100% direct election is not necessarily a popular election; yet if an election is not a 100% direct election, then it is definitely not a popular election. Therefore I support the motion. Thank you, Mr Deputy President.

DR LAM KUI-CHUN: Mr Deputy President, as a former member of a district board I am speaking with some first-hand experience but no current conflict of interests on this motion.

As I understand it, district boards are consultative bodies from which the Government draws advice. To have thorough consultations, the Government needs to obtain opinions from as many sectors of the population, and from as many angles as it can reach. Appointed members are drawn from a wide variety of people. Currently many such members are typical successful local Chinese; traditional virtues including modesty and humility are their mainstream characteristics. Generally, they are cautious; they loathe to make promises of political results. Commonly, in arriving at solutions to problems, although they may start with potential benefits, they are quite concerned with potential difficulties and limitations. These in fact are hallmarks of mature thinking -- they make sound advice to policy makers. Unfortunately, they also make poor election slogans. Not many such people feel inclined to stand in elections. If the Government desires really widespread opinions to its policies from modest successful people, the only practical way to obtain input is to appoint them into public office.

On comparison between appointed and elected members of current district boards, I find that the two populations are quite distinct. Appointed members have an age profile one decade senior to elected members. There are more businessmen and professionals in the appointed group, but more journalists, social workers and students in the elected group. It leaves no doubt in my mind that the appointed and the elected members complement each other in the district boards. This was also the

conclusion reached by Mr Marvin CHEUNG.

For the electorate, let me take as an example the by-election of a district board member last month in the district of Pak Tin. Two-thirds of the population in that district had not registered as voters. Of the registered voters 81% did not exercise their right to vote. That meant that approximately 93% of that population there stayed out of that election process. They are the silent majority. What we understand as the quality of life in Hong Kong refers to what happens to this majority. They are typically traditional Chinese. They mind their own business; they rely on their own resources; they practically never demonstrate in the streets, neither do they shout slogans nor petition the Governor; most irritating to some Members, perhaps, in this Council, they avoid electoral activities. However, if suitable representatives are identified in their midst to enter into dialogue with the Government, their voices can be heard. Such voices carry tones of deep empathy with the rest of the silent majority. In the present state of things, they cannot yet be substituted by elected members who come from a different type of people.

Mr Deputy President, history moves slowly, evolving through decades and generations. The current reality in Hong Kong is such that the silent majority is still not embracing the electoral process with great alacrity, and this is borne out by repeated opinion surveys recently. If history does not come up with a better political system than what we understand as democracy at present, then Hong Kong should aim at full-scale democracy as its long-term political goal. But at the present stage, the general Hong Kong population is not yet ready for it.

Dr the Honourable YEUNG Sum's motion aims to drastically exclude appointed membership in the district boards. I believe our population is not yet ready for it. However, I would keep an open mind and be prepared to accept the findings of a reasonable review. If the result of the review so warrants, I am prepared to change my mind accordingly. So I support the Honourable Andrew WONG's amendment.

DR CONRAD LAM (in Cantonese): Mr Deputy President, I should like to declare interest first. I have been a district board member since 1981. I was an appointed district board member from 1981 to 1985, and from 1985 up to now, I have been an elected member. So the hope expressed by Mr CHEUNG Man-kwong just now was already fulfilled, albeit partly, in 1985. My many years of experience in the district board has deepened my understanding of it. The status of district board members has been elevated with

the development of representative government. In 1985, as many as 12 Members of the Legislative Council were returned by indirect election from the district boards, and it was then that the status and role of the district boards reached their apex. But since the replacement of representative government by the "convergence theory", the development of district boards has nosedived. After the direct elections of 1991, district board members seem to have been relegated to mere decorative pieces wherewith to adorn democracy and representative government.

In 1991, of the 18 directly elected seats on the Legislative Council, one third were taken up by candidates who were not district board members. It reflects that district board members, being the first generation products of representative government, were not able to bring into full play the advantages that they should possess. Nevertheless, as a venue for fostering intended politicians, the district board still has its existence value. In determining whether appointed seats on the district board should be retained, we should consider two questions. The first one is the role played by the district board, and the second is that played by appointed district board members.

The terms of reference of the district board are to advise the Administration on matters affecting the welfare and livelihood of people within the district, and also on government plans and their priorities, environmental improvements and recreational affairs and so on. As a matter of fact, there are already many professionals in various government departments, like the City and New Territories Administration, the Social Welfare Department, the Royal Hong Kong Police Force, the Transport Department, the Highways Department, the Environmental Protection Department and the Education Department and so on, who have in-depth understanding of the problems mentioned above and are providing relevant services to the public. So what kind of advice does the Administration in fact expect from district board members? If the Administration thinks that the district board is part of the system of representative government, that is to say, part of a democratic system and is therefore to function as a bridge for communication between the Administration and the public, then it should be plain to all what the district board is all about.

The more a district board member can reflect the opinions of the people within his district, the more qualified he will be for discharging his duties. So the representativeness of a district board member elected by the public is beyond doubt. In contrast, an appointed member represents none other than himself; hence there is little to be said of him in the way of representativeness. The advice he gives to

the Administration within his terms of reference is nothing but his personal opinion. For many years, the Administration has hindered the progress of democracy through appointed members in the district board to the effect that it has not been possible for public opinion to receive proper attention in the district board. It is unwise for the Administration to have done so.

I can also say from my personal experience that life is much easier for an appointed district board member than an elected one both in terms of workload and accountability. If members of the public have a problem and need the help of a district board member, they will usually call on an elected member. Setting up a district board member office seems not to be the preference of the vast majority of appointed members, and they in fact can be said to have no district base. If they intend to seek a second tenure, they only have to render themselves accountable to the City and New Territories Administration, because the power of recommending appointments is vested in the District Officer. Currently, both the district board chairman and the Urban Councillor returned by the district board are elected from among district board members; so the CNTA is, to quite a large extent, influencing the way the district board and the Urban Council operate. I have seen in my district appointed members not being re-appointed because they had argued with the District Officer at meetings of the district board. So if the Administration is to completely shake off the poor image of controlling the district board or attempting to do so, it must remove the appointed seats as soon as possible. In a democratic system of government, what the councils and boards need are representatives elected and recognized by the public, and not a group of "governing elite" who are "selected" by the Administration without any accountability to the public. This proposition applies equally to Hong Kong.

Mr Deputy President, I am well aware of the strange political phenomenon in Hong Kong, and that is that the stronger the public representation on a body, the weaker its power will be, and conversely the weaker the representation, the stronger will be the power, and the body without any representation will become the "leader". However, the average intelligence of Hong Kong people is now higher. They know what is absurd, what is reasonable and what is not. Personally, I will of course not hold the British Government solely responsible for the sluggish progress of democracy in Hong Kong because, as can be seen from history, many Chinese people in Hong Kong, even though brought up under the colonial education system, still espoused the traditional, conservative and obsolete Chinese way of thinking (I have to, however, point out that the Chinese tradition has its good side and bad side). And there were

some Chinese who, having spent long years studying in democratic countries like the United Kingdom or the United States, were nevertheless untiring in containing the democratic development in Hong Kong. The abortive YOUNG plan is one of the typical examples to illustrate my point. I hope that these people's latterday counterparts can wake up in time and rise to work for democracy and the improvement of people's livelihood.

Mr Deputy President, with these remarks, I support the motion of Dr YEUNG Sum.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, when the public discussed the appointment system, some people, including Mr Andrew WONG whom I hold in high esteem, suggested that the system was advantageous to the continuity of the councils/boards system and the political system. The United Democrats and I cannot support such an opinion.

First of all, I would like to ask one basic question. What are we going to retain through the appointment system? Under the present political set-up, the appointment system is basically a mode of government under the colonial system; a means by which a foreign government, that is, the United Kingdom, exercises control over local political affairs. The request to retain the appointment system before 1997 is basically a recognition of the legality of the colonial rule. On the other hand, the Chinese leaders support the idea that there will be no need for any appointed members in the Legislative Council, as their view is reflected in the Basic Law. For those who support the retention of appointed seats on the district boards in the run-up to 1997 and beyond, do they think that the Chinese side has not prepared the Basic Law carefully or that the leaders of the Chinese central government are supporting something which is actually wrong.

The second issue concerning continuity involves the question of experience and professional advice. Many are of the opinion that only through the appointment system can the relevant experience and professional advice be passed on. It is wrong. If we apply this logic on all the democratic countries in the world, does it mean that their governments are often thrown in a state of disintegration and their policies suffer from discontinuity? The opposite is the case. In democratic countries, we see stability and policy continuity whereas under totalitarian regimes, political unrest is frequent. Let us look at the situation of Hong Kong. From 1982 up to the present, the district boards and the Urban Council have already held four

direct elections whereas the Regional Council has held three elections. Many of the elected members have been serving for three to four terms up till now and they have accumulated enough experience. Many of these elected members are likely to be re-elected and the problem of continuity as mentioned by Mr Andrew WONG just does not exist. As regards the issue of professional advice, members that are returned by elections come from various trades and professions

DEPUTY PRESIDENT: Mr WONG, is it a point of order or a point of elucidation?

MR ANDREW WONG: Point of elucidation, Mr Deputy President.

DEPUTY PRESIDENT: Do you wish to give way, Mr LEE. It is up to you whether you wish to give way.

MR LEE WING-TAT: Yes, Mr Deputy President.

DEPUTY PRESIDENT: Would you take your seat, Mr LEE?

DEPUTY PRESIDENT: Yes, Mr WONG.

MR ANDREW WONG (in Cantonese): Could Mr LEE enlighten me where I said that a problem of continuity would emerge if there were no appointed members?

DEPUTY PRESIDENT: Mr LEE, it is up to you whether you reply.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, I would like to continue with my speech. As regards the issue of professional advice, members that are returned by elections come from various trades and professions. These members represent a wide range of organizations. There are also independent candidates among them as

well. I would like to stress one point here. Professional advice may not necessarily be drawn from boards/councils. Otherwise, each council/board should allocate seats for different professionals. In fact, professional advice is drawn from committees established under the boards/councils.

Mr Deputy President, I am the Chairman of the Kwai Tsing District Board. But I and Mrs Peggy LAM are two extreme types of district board chairman. I am that type of person who is often being referred to as too obstinate in the pursuit of democracy and too idealistic about one's own country and society. Mrs Peggy LAM said that 17 district board chairmen supported the appointment system. I am not surprised at all. But if the appointment system is removed, I wonder if some of the present district board chairmen still can assume their chairmanship. I dare say that many of the present district board chairmen take up the post because of the support of the appointed members. For this reason, they have to look after the appointed members' interests. If the 18 District Boards Chairmen have the chance and courage to conduct opinion polls in their own districts, they will find that their views run counter to those of the public. Mr Deputy President, the United Democrats are of the opinion that the best way to achieve continuity is to formulate policies with due respect given to public opinion. It is only through a democratic system, not an appointment system, that such an aim can be realized.

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

MR GILBERT LEUNG (in Cantonese): Mr Deputy President, I would first like to declare interest as an elected member of the Regional Council; I thrice ran in the district board elections and twice in the Regional Council elections.

Many Members have spoken of the district board and Urban Council. As the representative of the Regional Council I will concentrate on the Regional Council in my speech.

Strengthening of representativeness and accountability

First I would like to make clear my position. Five years from now Hong Kong will practise a political system with a high degree of autonomy and with Hong Kong people ruling Hong Kong; so the strengthening of our system's representativeness and accountability to the public is indeed the inevitable trend. In order to ensure a

smooth transition, I would say that the Government should, within the present constitutional constraints, improve as much as possible the representativeness and accountability of the existing political system. This is the cardinal principle to follow and the right way to go.

Outcome of Regional Council consultation

But in concrete terms, does it mean that all appointed and ex officio seats on the district boards and the two municipal councils should be deleted in the next elections? On this point I have consulted 36 of my colleagues in the Regional Council and I would like to report here the outcome of this consultation. Of the 36 members I have asked, 24 supported Mr Andrew WONG's amendment motion; five preferred the original motion, three abstained and the remaining four have not responded even by this morning. To conclude, of the respondents, 82% support Mr Andrew WONG's amendment while only 18% support the original motion.

In my view the result indicates that Dr YEUNG's original motion lacks a thorough understanding of the actual circumstances and therefore fails to provide a way to achieve greater representativeness and accountability of the system. The motion is also flawed in that it seeks to introduce radical changes with unseemly haste.

Composition of the Regional Council

At present the Regional Council is composed of directly elected, indirectly elected, ex-officio and appointed members. Co-operation among members of the council, however returned, can be said to be very harmonious. Of the 36 members, 12 are returned by direct elections in different districts of the region; nine are members from the nine New Territories district boards returned by indirect elections; three are from Heung Yee Kuk and the remaining 12, one-third of the total number of members, are appointed. As to the professions of these appointed members, there are two university lecturers, two lawyers, two businessmen, a secondary school principal, a doctor and an engineer. Together with the Chairman of the Regional Council and two rural leaders, these appointed members all come from the New Territories and their representativeness is evident.

The phasing out of the appointment system

The appointment system in bodies of public representation is a colonial product.

But with the end of the colonial era in view, I think the appointment system is destined to phase out. A number of appointed seats should be deleted in the next term, and in the term after next when Hong Kong shall have entered a new historic stage, all the remaining appointed seats should be removed. The gradual elimination of appointed seats from the present 12 to zero in two terms' time can give the appointed members who still intend to serve the public enough time to prepare for elections, so that this change in the rules of the game will not deprive such competent and enthusiastic people of the chance of serving the public. I think this is a more appropriate arrangement.

Enhancement of the accountability of appointed members during the transition period.

During the transition period, the Administration should strengthen the transparency and accountability of the appointment system, announce its criteria of appointment and account for the appointment decisions, so as to ensure that only the truly eligible persons are appointed by the Administration to serve the public during the transition period.

The ex-officio seats for Heung Yee Kuk : Reflection of the views of the rural residents

There are three ex-officio seats in the Regional Council to be held by the chairman and the two vice chairmen of Heung Yee Kuk, accounting for one-twelfth of the total number of seats. I would like to remind Members that the chairman and vice chairmen of Heung Yee Kuk are returned through a three tier election; they are first elected as village representatives, and then elected into the rural committee and finally into the General Committee of Heung Yee Kuk. It can be said to be a separate system of election. The rapid urbanization of the New Territories in the last 20 years did create a certain impact on the role of Heung Yee Kuk, but it cannot be denied that the Kuk has been able to discharge the duty of reflecting the views of the rural residents. The number of rural residents now takes up only a small percentage in the population of the New Territories, and many of them are vastly different from residents in new towns in terms of lifestyle and interest profile; so it can hardly be expected that the views of these rural residents can be effectively reflected solely through the direct election channel. Therefore, I think there is a practical necessity for the Regional Council to retain the three ex-officio seats for Heung Yee Kuk.

I agree that review and improvement may be needed within Heung Yee Kuk so that views of rural residents can be more effectively reflected. Whoever cares about the interests of the residents should take that as his prime concern and address it. The original motion, however, hastily calls for the abolition of all ex-officio seats, depriving rural residents of the channel to air their views. This is tantamount to putting trivialities above essentials.

Conclusion

Mr Deputy President, as I pointed out in the beginning, I agree that representativeness and accountability of the district boards and the Regional Council should be enhanced. Nevertheless, the original motion calls for a review on the one hand and urges for an immediate decision to abolish all appointed and ex-officio seats in the next term on the other. I cannot agree. I further oppose the original motion's oversimplified way of lumping appointed membership in general with the unique ex-officio membership in the New Territories, ignoring utterly the unique circumstances in the New Territories. For this reason, I cannot agree to Dr YEUNG Sum's original motion; and I believe this is also the reason why most members of the Regional Council oppose it.

With these remarks, Mr Deputy President, I support the amendment.

MR ERIC LI (in Cantonese) : Mr Deputy President, I am an appointed member of the Eastern District Board. I do not know whether I would be reappointed in 1994 granted that there would then still be appointed seats on the district board. Therefore I can only declare a "possible" interest. However, the present debate not only relates to the demise or continued existence of appointed seats; it also relates to the increase of elected seats and substantial changes to the political system. If there are political bodies who are bent on enhancing their political influence through elections and whose strategies have identified appointed membership as an inhibiting factor in their quest for domination of the election market and for political power, then members of these bodies would be in the same position as I am with a "possible" interest to declare. It is because they will certainly be proposing to abolish appointed seats in order to achieve a political objective most advantageous to them.

I would say here, in clear and unequivocal terms, that I oppose the motion proposed

by Dr YEUNG Sum because a similar motion was recently debated before the Eastern District Board and voted down. Therefore, in speaking against the motion today, I carry the mandate from many of my district board colleagues.

At an Eastern District Board meeting last Thursday all 36 members were present and it was unanimously resolved that the advisory role of the district board should be maintained and that certain decision-making powers, such as environmental improvement on a district scale, should be appropriately enhanced. On the question of appointed membership, 24 members (more than half of whom are elected members) supported its retention, six opposed it and six abstained or did not express an opinion. However, an overwhelming number of members agreed that should appointed seats be abolished the vacant seats should be filled by elected members.

I will attempt to outline the views in favour of retention of appointed membership.

(1) District representation

Many appointed district board members have well-entrenched connections with reputed district organizations. These organizations had been performing the role of a communication bridge between the Government and the people before the district boards came into being. Members of these organizations are respected and loved by local residents. They have been elected to their respective positions within the organizations by the local residents. Therefore they possess a good measure of representativeness in discharging their functions and carrying out the businesses of the district.

Since the introduction of a directly elected element into the district boards in 1982, there have been substantial qualitative changes to the district boards. According to a survey recently published by the University of Hong Kong, over half of the current elected members are members of political organizations. It is therefore evident that professional political organizations have gradually infiltrated the district boards which are now being used as the training ground for a "second camp" to co-ordinate efforts to bring "one-way" pressure to bear on the Administration in respect of central policies. This process of politicizing the district boards is continually eroding the original functions of the district boards in carrying out district businesses. This traditional and important role has now to a very large extent been taken up by appointed members. If appointed seats were

abolished, the district boards would be poised to undergo a further politicizing process; they might very likely degenerate into a "multi-track" mini "forum".

(2) Balanced view

Appointed members generally have better management experience or professional expertise. Very few of them join political organizations and thus they are able to offer comparatively independent and objective professional opinions in circumstances free of hostile competition to make up for the shortage of experience on the part of elected members; this has enabled boards and councils to reach conclusions based on balanced and practicable views. Furthermore the views of the minority can find effective expression through appointed members.

As a matter of fact, the above arguments were advanced during the review in 1987-88 of the system of representative government. From the speeches and expressed opinions of members of the Eastern District Board it is evident that none of the members oppose the phased introduction of a greater number of elected seats to replace appointed seats. At last Thursday's Eastern District Board meeting, of the 24 members who supported the retention of appointed membership, five advocated outright that the number of appointed seats could be reduced from 1994. It can therefore be seen that basically the district board members are open and liberal minded. What we are opposed to is fast and acute changes. In opposing such changes, we are not safeguarding our own interests, nor are we taking a confrontational stand against "democracy".

I personally think that the result of voting by the district board on this subject can be objectively analysed as follows -

(1) Satisfactory operation of the present system

Elected members tend to "plead the common people's case and champion vigorously their cause". Appointed members have often to take up the role of a bridge to harmonize relations and to cultivate mutual trust in order to achieve uninterrupted co-operation. This has led to "overall co-operation", together with its attendant good effects, in the carrying out of district businesses, much to the benefit of residents of the Eastern District. Members in general are satisfied with the present modus operandi and it is their hope that a fair measure of continuity will exist.

(2) Accommodating attitude of most of elected members

Most elected members recognize the contribution of the appointed members. They hope that a review of the system will give appointed members the opportunity for honourable retirement and not "being elbowed aside once their job is done".

(3) Reservation as to the fast-paced reform strategy of some political organizations

Although members accept the concept of representative government - that is to say, the views of every stratum of society can, through political parties, be reflected to the stratum above it and thence further up - yet they do not find the existing political parties sufficiently mature to carry out this important responsibility without mixing up the basic functions and roles of central and district organs. One of the reasons for this is that there is a communication gap between reform-advocating political parties and the people of the locality with the result that these political parties have failed to gain the trust of the people. On account of this, some of the independent elected members may even be hoping that the district board will remain, "temporarily" at least, an organ to check and balance the Legislative Council and central policy makers so that the voice of the district can be accorded a fair measure of respect and that district boards will not degenerate into becoming the "mouthpiece" of political organizations.

I am of the view that in principle we should not oppose the gradual development of representative government. But objective realities are leaving the Government with no alternative but to conduct a cautious review before deciding how to go about it. None other than district board members know better how the district board operates. But now an "outsider" is hastily proposing a reform, which will have far-reaching implications, without first making public the contents of the motion he is moving and in total disregard of the democratic posture that he has all along adopted of widely consulting the public on almost everything. Some district board members are piqued over this. They feel that their views are not being respected and they are also suspecting the Legislative Council of adopting a "double standard" to apply "top-down pressure" on them to whip up a political storm.

I should like to take this opportunity to thank my colleagues on the Eastern District Board for the valuable views they have given me. Although I am not an elected member I am willing to discharge my "representative" obligation. I feel that the vote of confidence cast by most of the elected members of the Eastern District Board

in favour of the appointed members points to the bonds of mutual acceptance, trust and respect subsisting between the appointed members and people of the district. This has boosted my confidence in the development of representative government in the Eastern District. I would not have the least regret even if I were to retire from the Eastern District Board two years from now.

Mr Deputy President, with these remarks, I support the amendment moved by the Honourable Andrew Wong.

DEPUTY PRESIDENT: With four Members still to speak, I think we are going to fall behind the agreed timetable as I ought to be calling on the Secretary for Home Affairs to speak at 9.21 pm.

MR TIK CHI-YUEN (in Cantonese): Mr Deputy President, Meeting Point consider that two major principles, namely (1) efficiency and (2) democratization, should be observed in further developing district administration. As far as efficiency is concerned, we agree that the Government should review the present status and role of the district boards and the municipal councils. I have been a member of the North District Board since 1988, and according to my experience with the district board over the past few years, I find that the functions carried out by the district boards are diminishing gradually. There are three major causes for this:

(1) Insufficient resource and manpower input into the district boards by the Government;

(2) Reduced emphasis on and concern for district boards by the public and the media;

(3) Failure of the district boards, being no more than an advisory body, to fulfill the expectations of the public.

As the functions of the district boards diminish, many district board members feel a lack of interest in the work they are supposed to be doing in their districts, and are unable to experience a sense of satisfaction. Of course, not all the district board members are so lacking in initiative. However, it is true that a number of members do feel that their initiative and dedication are becoming less keen than they used to be. As for the municipal councils, although they are vested with substantive

powers, their scope of competence is limited. When members of the municipal councils meet the public and are confronted with problems in such areas as traffic, medical and health or law and order -- problems which are related to the livelihood of the man in the street -- they feel powerless to help, as the municipal councils are competent to deal with recreational, cultural and municipal matters only. Members of the municipal councils will then have to express the views of the public through other channels, which greatly reduces the efficiency and effectiveness of the members in dealing with problems. Since things have somewhat gone awry with the role and status of the existing district boards and the municipal councils, Meeting Point suggest that these two tiers of boards and councils can be combined and that a number of such combined councils be set up on a regional basis to take the decision-making and advisory role on municipal policies so as to enhance efficiency.

Mr Deputy President, all along Meeting Point have striven for democratization; therefore we fully agree that all members of the district boards and the municipal councils should be directly elected in the next term. We are not happy with the ratio of elected members to appointed members in the district boards and the municipal councils, particularly in the constituency to which I belong, that is New Territories North (including the Tai Po District Board and the North District Board). The Tai Po District Board comprises 22 members, of whom only 12 are returned through popular election. Similarly the North District Board comprises 22 members, of whom only 11 are returned through popular election. This is not in line with the democratic development of Hong Kong. In addition, I have conducted a telephone survey in connection with this motion debate to ask for the views of residents in my constituency. Of more than 300 polled, 80.4% were in favour of the proposal that members of the district boards and the municipal councils should be returned through popular election, and only 2.7% were opposed to it. In proposing that the district boards and the municipal councils be fully elected bodies, Meeting Point are not negating the contributions to the district communities by the appointed and ex-officio members, nor is it depriving them of the opportunity to participate. But, with the broad principle of democratic development in mind, our demand that the district boards and the municipal councils be fully elected bodies is justified and in line with the will of the public. We are not satisfied with the amendment motion proposed by Mr Andrew WONG, who merely urges the Government to conduct the relevant review and announce the results. What we are asking for is a more democratic and more efficient system for Hong Kong.

Mr Deputy President, with these remarks, and on behalf of Mr Fred LI and Mr WONG

Wai-yin, I support the original motion.

MR JAMES TO (in Cantonese): Mr Deputy President, I believe that we may set up special committees or advisory bodies in various fields independent of the existing councils/boards system to enlist those who have potential and are likely to be appointed as members of the councils/boards but will not run for elections. Their participation in these committees/bodies may allow them to give full play to their potential, serve the public, provide valuable and constructive advice and co-operate with one another. Each will serve the public with his expertise and work for the well-being of the people. As such, I think that the interests of Hong Kong citizens will not be adversely affected if all the district boards, especially their appointed members, are abolished.

I would like to respond to several points put forward just now by some Members. Dr LAM Kui-chun quoted an example that in the election in question, 93% of the people did not express their view and even stayed out of that election process. This prompts me to ask one question. On what rational basis can the appointed members say that they represent these 93% of people?

Then, Mr Gilbert LEUNG proposed that changes should be introduced gradually so that the appointed members are given enough time to prepare for elections. I believe that it is necessary because some of them have to take time to transform themselves into "chameleons" to turn their back on those who appoint them. I am sure that time should be given to them to do so.

As for Mr Eric LI who mentioned that we should give the appointed members opportunity for honourable retirement instead of "elbowing them aside once their job is done", I think that it is the Government itself that should be blamed rather than the democratic system or the elected members. Thank you.

DR SAMUEL WONG (in Cantonese): Mr Deputy President, first of all, I must declare my interest as an appointed member of the Urban Council. The original motion says "That this Council urges the Government to review the status, role and structure of the District Boards and the Municipal Councils and the relationship between them, and to strengthen the representativeness and accountability of these bodies". Up to this point, the motion is quite meaningful, and I believe members of the public would agree

that this is the right time for a review. Regrettably, the motion ends with the wording "by abolishing their appointed and ex-officio membership in the next term." This is just like "drawing conclusion before conducting a review". I do not support such a way of doing things.

Perhaps someone may think that the presence of appointed or ex-officio membership is very undemocratic. At an Urban Council meeting held yesterday morning, a Councillor remarked that the presence of appointed membership inevitably turned elected members into the opposition party, thus resulting in a distorted situation. This is something which I do not agree with. Do elected members have to oppose everything? Are policies implemented by the Government all gone wrong?

At present, democratization of the political system is still in progress. Members returned by direct elections still do not include experts from all fields. This means that we cannot have the widest representation of talents. In fact, if a policy is analyzed from different angles, there will be different views and conclusions. Being an executive organization, the Urban Council is providing services in areas such as hygiene, cleansing, recreation, culture and so on. The Council therefore needs to have members with experience and expertise in various fields. For some reasons, it is difficult to recruit experts from all fields through direct elections in the near future. On the other hand, appointed members have all along been identified and nominated by government officials and then appointed by the Governor. Take the Urban Council as an example, to improve the present situation, consideration may be given to replace the appointed members with people indirectly elected from functional constituencies, based on the types of services provided by the Council. In short, we can invite relevant functional constituencies, such as legal, architectural, accounting, engineering, medical, cultural, recreational, traders and banking and so on, to nominate a representative to the Urban Council. These indirectly-elected members may be nominated by their respective trade associations/unions. This proposal, therefore, helps to solve the problem of the appointment system which is being described as undemocratic. It will also provide the Council with expertise in all fields to discharge the statutory duties of the Council.

Mr Deputy President, I support the amended motion proposed by Mr Andrew WONG.

DR YEUNG SUM (in Cantonese): Mr Deputy President, due to the time limit, I shall only briefly deal with a few points. I would like to seriously explain my motion again

to honourable colleagues, hoping that they will not lump together the two parts of my motion as one. My motion has spelt out in some detail the status, role and structure of the district boards and the municipal councils and the relationship between them, all of which I have dealt with comprehensively in my speech to this Council earlier on together with some proposals that we put forward. All these are within the scope of review. In other words, what need to be reviewed are the status, role, and structure of the district boards and the municipal councils and the relationship between them. Anything outside the scope will of course not be subject to review. And what is outside this scope of review? It is the complete removal of the appointment system in the next term of the district boards and the municipal councils in order to be in line with the democratization process in Hong Kong. I hope that Members, before casting their votes, will consider carefully the thinking, the reasoning and the grounds thereof that the mover marshalled in the process of putting together the original motion and not regard the two parts of the motion as one single whole. Of course, I do not know how Members will vote, but I do hope that they can at least have a deeper understanding of my motion before casting their votes.

Regarding the second part of my motion, people have laid strong emphasis upon some traditional concepts, like the election of the virtuous and able persons, which means that the elected ones must be professional, modest, benevolent and prudent. Such people are mostly appointed, and they are ideal members of boards or councils. Therefore, these people have to possess certain qualities. They must be able to secure a heavy poll; anyone failing this should not be allowed to stand in an election. In fact, these are very traditional ways of thinking and are part and parcel of the Chinese cultural heritage. I wish to make this clear and I hope Members will ponder over it: Standing in an election is a human right, a civic right of every citizen in Hong Kong. So we should not take such qualities and social backgrounds as the yardstick for measuring who should or should not stand in an election, and who can or cannot become a member of a board or council. The essence of democracy is not to elect the most brilliant people, but those who obtain a mandate from the electors. The test for the elected ones will be the next election when those with poor performance will be beaten at the polls and lose their seats. We should not let those who think themselves well qualified stay in office for life, nor should we allow the authority to designate certain people for office on a long-standing basis. The main point of democracy is that the public has the right to choose their representatives in the boards or councils. Every citizen has this right. This is the equality of suffrage and an exercise of choice by the electors. It cannot be said to be a wrong choice if the elected one turns out to be not that good; it is because the choice

is still the valid choice of the public, and such a choice is within the right of every citizen to exercise. I hope that Members will ponder over this.

Many Members have said, and we agree, that democracy is good in the long run. This makes me recall the play "Waiting for Godot" by Samuel BECKETT, which I read when studying in university. The play is about two persons who chat while waiting for God. God, however, fails to put in an appearance even at the end of the play. We talk about and say we are supportive of democracy, which is far away from us. But when will that democracy be realized? There are still five years before Britain ends its rule over Hong Kong, at which time Hong Kong will enter the era of "Hong Kong people ruling Hong Kong with a high degree of autonomy". In the past, perhaps very few people would be interested in politics, but now the Hong Kong people want to be the master of their own destiny. We should fight for the opportunity of administering Hong Kong before the retreat of the British Government, and the British Government should provide such an opportunity to the Hong Kong people. We are neither begging the Chinese Government nor the British Government. We are just asking for the return of the rights that should belong to us, namely, human rights and civic rights. These rights are enshrined even in the Sino-British Joint Declaration. If we cannot remove the appointed seats in the district boards and the municipal councils in these five years, will you believe that there will be a chance to do so after 1997? I dare not give a definite answer. But if we can remove the appointed seats, why do we not do so? Hong Kong has a stable economy, a tradition of the rule of law, as well as outstanding and active mass media; racial conflict basically is not existent here, so why can we not abolish the appointment system? Besides, there will not be any appointed Members in the Legislative Council in 1995; then why should there be appointed seats on the district boards and the municipal councils?

I hope that Members can ponder carefully over what I have just said before casting their votes; and I hope they will vote according to their reason and conscience and contribute to the progress of democracy in Hong Kong. Thank you.

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, the role, functions and composition of district boards and the two municipal councils and their inter-relationship were the subject of two major reviews in the 1980s. In March 1990, the Administration announced the introduction of direct elections into the Legislative Council and an increase in its number of functional constituency seats. An undertaking to review the composition of district boards and the two municipal councils before the elections

scheduled for 1994 and 1995 respectively was also given at the same time. Today's motion debate is, therefore, most timely in providing us with rich food for thought on the way forward as we are about to commence the review.

Role and functions of district boards

The role and functions of district boards are provided for under section 20 of the District Boards Ordinance, which was enacted in 1981. District boards provide useful fora for public consultation and participation at the district level. They have a mainly advisory role with substantial influence over district affairs. They are also allocated public funds to spend on local recreational and cultural activities.

District boards are now a well established feature of the three-tier system of representative government. They have continued to play the vital role of reflecting the full range of community views on topical issues and subjects of special concern, such as law and order. Through community involvement programmes and minor environmental improvement projects, district boards have made an important contribution to community building efforts and to improving the quality of life at the neighbourhood level.

The role and functions of district boards were reviewed in 1984 and 1987, consulting district boards extensively on both occasions. Both reviews highlighted the importance of district boards as district consultative organs and vehicles of district community building. The 1988 White Paper entitled Development of Representative Government: The Way Forward draws the following conclusion, and I quote, "District boards have proved themselves to be a valuable part of the representative government in Hong Kong. There is no demand for fundamental changes to their present role.... There is however clear support for developing their advisory role."

Composition of district boards

The composition of district boards is laid down in section 6 of the District Boards Ordinance. It provides for a mixed bag of membership with a majority of elected members. The different make-up of urban district boards and the New Territories district boards is intentional as we aim to maximize the effectiveness of the district boards in performing its main advisory function. Throughout the 1980s, we have

introduced certain changes, always with the objective of ensuring that the district boards remain as representative as possible of the community in which they serve.

Insofar as the current system goes, experience has shown that it has worked to the satisfaction of most, if not all, of those concerned. The quality and the range of advice we get from district boards owes much to the full spectrum of interests represented on district boards.

There is hardly any need in a dynamic city like Hong Kong to warn against complacency. We must make sure that our institutions stay with the times and still perform their roles effectively and efficiently. We have no fixed view on how district boards might develop in the future.

Municipal councils

The functions and powers of the two municipal councils are set out in the Urban Council Ordinance and the Regional Council Ordinance respectively.

It is significant for us to note that the Regional Council was only established in 1986, after the setting up of district boards. The inception of the Regional Council put the final piece of jigsaw in place to mark the completion of the three-tier representative government. If deficiencies were identified in this system, remedial measures would have to be taken to rectify them. We will consult as appropriate on this matter.

Relationship between municipal councils and district boards

We have recognized from the very beginning that there must be a strong functional relationship between district boards and municipal councils. This is because of the nature of the services and facilities provided by the municipal councils which are mainly district-based. These services and facilities are provided in accordance with objective planning standards which are not called into question. The problem lies with the priority in which they are provided. It is in this area that the need for a strong and cordial relationship between the district boards and the municipal councils is mostly felt.

The present system of providing an effective link between the district boards and the municipal councils has taken some time to develop and evolve. Although it

is working reasonably well, any suggestions for further improvement will be very carefully considered.

Concluding remarks

Mr Deputy President, I have gone into some length in explaining the evolution and workings of district boards and the two municipal councils. During this time, we have witnessed changes aiming to improve the effectiveness of their roles in the three-tier system of representative government in Hong Kong. All these, I believe, are clear demonstrations of the Administration's commitment to its development.

Looking to the future, changes to the composition of this Council will continue not just in 1995 when this Council will become fully elected but also in 1999 and 2003 as stipulated under the Basic Law. It is therefore a question of fundamental importance whether the existing system of district boards and municipal councils calls for further major changes. I would however agree with the view put forward by most Members speaking on the motion today that we should keep an open mind in this respect. I have listened very carefully to their views. I would not attempt to respond to the various proposals put forward. Suffice for me to say that these will be taken into full account in our review of the relevant constitutional arrangements, including the appointed and ex-officio membership of district boards, the Urban Council and the Regional Council as well as the relationship between the boards and the two councils. We will fully consult both the district boards and the municipal councils in this process, and of course we will consult the public.

To ensure that it will be completed in time for the next round of elections in 1994-95, the Administration aims to complete the review within 12 months.

Question on Mr Andrew WONG's amendment 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: Yes, Mr TO?

MR JAMES TO: A point of clarification, please, Mr Deputy President. (in Cantonese) I ask for a clarification just to ascertain one thing. I am not sure if the Acting Attorney General has taken an oath in this Council. I make this point for fear that it might cause confusion to the voting. If he has, then there is no problem.

DEPUTY PRESIDENT: Mr TO, in this Session it was 6 November.

DEPUTY PRESIDENT: Would Members please proceed to vote? I will check with Members before the results are displayed.

DEPUTY PRESIDENT: Before the results are displayed, do Members have any queries? The results will now be displayed.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mrs Rita FAN, Mr PANG Chun-hoi, Mr TAM Yiu-chung, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mr Martin BARROW, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mrs Elsie TU, Mr Peter WONG, Mr Vincent CHENG, Mr Moses CHENG, Mr Marvin CHEUNG, Mr Timothy HA, Dr LAM Kui-chun, Mr Gilbert LEUNG, Mr Eric LI, Mr Steven POON, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG and Mr Howard YOUNG voted for the amendment.

Mr HUI Yin-fat, Mr Martin LEE, Mr SZETO Wah, Dr LEONG Chi-hung, Mr Jimmy MCGREGOR, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum and Mr WONG Wai-yin voted against the amendment.

Prof Edward CHEN and Mr CHIM Pui-chung abstained.

THE DEPUTY PRESIDENT announced that there were 29 votes for the amendment and 21 votes against it. He therefore declared that Mr Andrew WONG's amendment to Dr YEUNG Sum's motion was approved.

DR YEUNG SUM (in Cantonese): Mr Deputy President, on behalf of the United Democrats of Hong Kong (UDHK), I would like to thank all colleagues for their active and enthusiastic participation in this debate. Now the result has come out, we, as usual, accept it. Though somehow disappointed, I still have to accept it. Those who voted for Mr Andrew WONG's amendment, in reality, voted against not just my original motion, but also the pace of democratic development in Hong Kong. Some eight or 10 years from now, should someone query why the Hong Kong Special Administrative Region still retain the appointment system from the colonial days, those who said aye today, I think, might have to examine their conscience. Of course this is certainly not what I would like to see because my UDHK colleagues and I do not wish to witness the survival beyond 1997 of the present appointment system in those boards and councils. Notwithstanding that the UDHK's motion is defeated today, I am sure all those who champion democracy and I myself will continue to strive for the abolition of appointed seats on the two municipal councils and the district boards.

The amendment proposed by Mr Andrew WONG has done away half of my original motion. Nevertheless, I still deem a review necessary, and everybody is in favour of having one. We will spare no effort in our participation in the review, in the hope that our opinion leaders will consequently be able to run local affairs in a more efficient manner.

We are in favour of conducting a review, as it is precisely part of my original motion. However, on behalf of the UDHK, I have to point out that we cannot lend our support to the amended motion, because it amounts to a sentence devoid of any political orientation, which also leads one to create a wrong impression that in urging the Government to review district administration, this Council has overlooked the most unreasonable feature in the system -- the existence of a large number of appointed seats. As a party that champions democracy, the UDHK cannot support a motion in a debate on political system, that fails to propose any improvement and also deliberately turns a blind eye to existing deficiencies. Therefore, the UDHK have to abstain from voting for the amended motion.

A moment ago the Secretary for Constitutional Affairs indicated that the

Government would conduct a review on district administration. Again on behalf of the UDHK I call on the Government, in addition to a review of related issues, to conduct a comprehensive opinion poll so that public opinion on the abolition or otherwise of the appointed seats in those boards and councils can be canvassed and acted upon accordingly. Once again I would like to thank all colleagues for their active participation in the debate.

Mr Deputy President, these are my remarks.

Question on Dr YEUNG Sum's motion as amended by Mr Andrew WONG's amendment proposed, put and agreed to.

Adjournment

CHIEF SECRETARY: Mr Deputy President, I move that this Council do now adjourn.

DEPUTY PRESIDENT: Mrs Miriam LAU 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 Transport to reply.

Traffic congestion at Cross Harbour Tunnel

9.40 pm

MRS MIRIAM LAU (in Cantonese): Mr Deputy President, since the imposition of a passage tax on the Cross Harbour Tunnel by the Government in 1984, the traffic congestion at the Tunnel has never been solved. The problem still bothers Hong Kong. During the two years before the imposition of the passage tax, the traffic volume at the Cross Harbour Tunnel averaged 108 000 vehicles a day. With the imposition of the passage tax, the traffic volume reduced slightly. During the first two years, it fell by 8%, to 99 000 vehicles a day. Then, in 1986, it went back up to the pre-1984 level. After 1987, it began a gradual upward trend, reaching a new peak of 120 000 vehicles a day in 1991. It can be seen from the above statistics that increasing

the Tunnel's toll charge will not solve its traffic congestion problem. It can at best have a temporary and slight easing effect. There are several reasons why increasing the toll charge is not an effective solution for the traffic congestion problem at the Tunnel:

(1) The rapid growth in Hong Kong's economy since 1984 has led to an increasing demand for traffic. As a result, there are more vehicles crossing back and forth between Hong Kong and Kowloon.

(2) During the past seven or eight years, the Government failed to control effectively the growth of vehicles. According to the licensing data from the Transport Department, the total number of vehicles rose from 258 000 in 1984 to 370 000 in 1991, representing an increase of 43%. Specifically, the rate of increase was 34% in the case of private cars, 88% in the case of medium and light goods vehicles and as much as 300% in the case of heavy goods vehicles.

(3) The people of Hong Kong are inured to price increases. It is very easy for them to adjust to a mere increase of a few dollars. Very quickly, they go back to using the Cross Harbour Tunnel.

The OMELCO's Standing Panel on Transport discussed the traffic congestion problem at the Cross Harbour Tunnel last year. The Panel unanimously opposed to a higher toll charge. The Panel suggested that the Government should adopt all possible measures, such as improving traffic controls at the entrances/exits at both sides of the Tunnel and reducing the toll charge during non-peak hours. The Panel also urged that incentives be used to encourage motorists to use the Eastern Harbour Crossing instead. It called on the Government to require better vehicular ferry services from the Hong Kong Yaumati Ferry Company Limited so as to divert motorists away from the Tunnel.

In March this year, the Transport Department sought the Panel's views about the proposal to raise the tunnel passage tax by 200%. Most members expressed reservation about the proposal. The Panel instead urged the authorities to take active steps for further improving traffic management measures. It also proposed a vehicular ferry service between Central and Tsuen Wan. In addition, it urged the authorities to consider alternatives to a higher passage tax as a way of reducing the volume of traffic using the Cross Harbour Tunnel.

With regard to traffic management measures, it is true that the Transport Department in the past two years accepted the Panel's recommendations and introduced many new arrangements. As a result, traffic flow at both the Eastern Harbour Crossing and the Cross Harbour Tunnel has become more smooth. I can tell from personal experience that, while traffic volume has not declined significantly, the wait-in-line time is now shorter. As a matter of fact as from February this year traffic volume at the Cross Harbour Tunnel has fallen from 123 000 vehicles a day in January to the 1991-92's average of 119 000 vehicles a day. The Panel is delighted to learn that the vehicular ferry service between Central and Tsuen Wan is expected go into operation before the end of this year. The Panel is also delighted to learn that the Eastern Harbour Crossing is ready to use additional incentives to attract users. I believe that, with the implementation of all these measures, the problem of traffic congestion at the Cross Harbour Tunnel will surely be eased, if not solved. In the long term, the complete solution of the problem will of course depend on the completion of the Western Harbour Crossing. I believe that the Government's grounds for proposing a higher tunnel passage tax at this time are insufficient. Traffic congestion at the Cross Harbour Tunnel is a problem brought about by Hong Kong's economic growth and by the fact that vehicles do need to cross the harbour. Adding eight or 10 dollars to the tunnel passage tax will not solve the problem. If the passage tax should be increased regardless, then the history of 1984 would only repeat itself. We might have to discuss here again the problem of traffic congestion at the Cross Harbour Tunnel one to two years later. The Government thinks that, now that there is the Eastern Harbour Crossing alternative, a higher passage tax will be effective for easing the problem at the Cross Harbour Tunnel and keeping it so for three or four years. I do not agree with such a view. I think that today's motorists indeed have choices. They surely would be using the Eastern Harbour Crossing if it suits their purpose. In my opinion, even if the passage tax is increased, most of the motorists who now find the Cross Harbour Tunnel more convenient will continue to use it. Those averse to using the Eastern Harbour Crossing now will still refuse to use it. Those accustomed to using the Cross Harbour Tunnel will not change their habit because of the passage tax increase. What the Government calls an alternative is not a really viable alternative. It is merely an unfair alternative forced on individuals.

Moreover, the Hong Kong Cross-Harbour Tunnel Company is strongly opposed to the proposed passage tax increase. It may seek damages from the Government for losses due to the passage tax increase. If its claim is successful, it is ultimately the taxpayers who will have to "foot the bill." I think that, instead of trying to solve

the problem at the Cross Harbour Tunnel by a method that will only be superficially effective, that is unfair and that may leave troublesome consequences, it will be better to take active steps to make a study to find out if other effective traffic management measures are available to smooth traffic flow at the Tunnel and reduce the wait-in-line time. At the same time, the Eastern Harbour Crossing should, for its part, advertise its conveniences and the fact that motorists using it need not wait in line and thus stand to gain economically. This will attract more vehicles to use the Eastern Harbour Crossing.

Furthermore, I urge the Government to begin action expeditiously to build at Hong Chong Road a flyover from Tsimshatsui East to Princess Margaret Road. This will ease the traffic jams at Tsimshatsui East caused by tunnel traffic. I think that if the Government in the end should still insist on raising the passage tax as a way of solving the traffic problem, then it must prove to the public that its purpose in raising the tax is not adding an extra \$200 million a year to the Treasury. In February 1984, when the Legislative Council debated the Government's Budget proposal, the then Financial Secretary, Sir John BREMRIDGE, made it clear that the additional revenue from the passage tax would be regarded as a special-purpose fund for improving traffic conditions. In May of that same year, when the Legislative Council debated the Cross-Harbour Tunnel (Passage Tax) Bill, the Secretary for Transport reiterated the Financial Secretary's position. Since then, however, it appears that nobody has shown an interest in how the passage tax was being used specifically for improving traffic conditions. Nor has the Government given any explanation to the public. The matter has simply been forgotten. This history must not be allowed to repeat itself. I feel that, since the Government collects the passage tax for the purpose of solving a traffic problem, it must produce evidence to show to the public's satisfaction that it is not making the present proposal for the purpose of grabbing money.

Mr Deputy President, these are my remarks.

MRS PEGGY LAM (in Cantonese): Mr Deputy President, the Government intends to increase sharply the toll charge for using the Cross Harbour Tunnel so as to ease traffic congestion there and to induce motorists to use the Eastern Harbour Crossing instead. The Co-operative Resources Centre (CRC) and I think that this definitely is not a wise move.

From the angle of economics, price is a decisive factor in the balancing of supply

and demand. In a fully competitive environment, consumers will choose a supplier who provides the same kind of service at a lower charge. Theoretically, sharply increasing the toll charge for using the Cross Harbour Tunnel will give motorists cause to ponder what value they are getting for their money, and this will induce them to use the Eastern Harbour Crossing instead. However, given the realities, I am afraid that the Government is indulging in wishful thinking.

Traffic congestion at the Cross Harbour Tunnel has been a long-standing problem. It has its geographical and structural causes. The problem will not go away with a simple toll increase. To put it simply, the mathematical explanation for traffic congestion is that too many vehicles are simultaneously using an over-burdened road. The Cross Harbour Tunnel is a main thoroughfare for vehicles crossing back and forth between Hong Kong and Kowloon. Traffic congestion at the Tunnel of course cannot be avoided.

My colleagues from the CRC are of the opinion that raising the toll charge will only have a psychological impact on motorists. In other words, the impact will be short-lived. It should be noted in particular that in a community as fast-paced as Hong Kong, where every minute and every second count and where time means money, motorists are unlikely to choose the longer route over the shorter one for the sake of saving eight or 10 dollars. In fact, there is a great distance between the Cross Harbour Tunnel entrance/exit and the Eastern Harbour Crossing entrance/exit. To motorists, the two tunnels are parts of two entirely different routes. This simply is not a case of two interchangeable facilities. It is really doubtful that a toll charge increase will accomplish anything.

The Government says that the purpose in raising the Cross Harbour Tunnel toll charge is not to increase the Treasury's revenue but to ease traffic congestion. However, regardless of the Government's motive, a toll increase will have an objectively stimulating effect on inflation. The general expectation now is that the inflation rate in Hong Kong will move upward again in the second half of this year. The Government's taking such a lead at this time will have the effect of setting an example of increasing public transport charges. This really causes concern. In fact, the public has all along been critical of the franchised public transport companies for charging excessive fare and for being without government supervision. These companies often use a higher fare policy to regulate the volume of passenger traffic. If the Government adopts a similar policy, it would give them a stronger justification for raising fare. As the saying goes, "The role model is setting a

bad example." How, then, can the Government talk about tightening supervision?

In addition, the Government's trying to solve the problem of traffic congestion by widening the gap between the toll charges of the two tunnels is in violation of the commercial principle of fair competition. In fact, because both are operating under franchises, the Government should treat the two tunnel companies on an equal footing. As a commercial institution, the Eastern Harbour Crossing Tunnel Company should review its advertising strategy, its level of toll, its management of the tunnel and the quality of its service. This would be the right way to operate a business. I remember that two years ago I already suggested that the Eastern Harbour Crossing should attract users by lowering its toll charge. For instance, people may buy 10 tickets and get one free. By adopting a policy of a greater business volume with a narrower profit margin, it can hope that some motorists will become accustomed to using the Eastern Harbour Crossing. It is a pity that this suggestion was not accepted until two or three years had passed. Letting people buy 10 tickets and get one free is much less of an attraction today. I think that it may be necessary now to let people buy 10 tickets and get two free, if users are to be attracted.

Finally, my colleagues from the CRC reiterate that raising charges cannot solve the problem of traffic congestion.

Mr Deputy President, these are my remarks.

MR MOSES CHENG (in Cantonese): Mr Deputy President, during the past few months, the Government has been holding consultations and making studies to find a solution for easing the traffic congestion at the Cross Harbour Tunnel. The Government has been responsive to the views expressed by all quarters. At many meetings of the OMELCO Transport Panel, Members have proposed sound solutions in a joint effort that, it is hoped, will solve what is a difficult problem. Some of the suggestions made by Members have been accepted by the Transport Department. One example is the suggestion of operating a vehicular ferry service between Central and Tsuen Wan. This service may be used by some of the vehicles travelling between the Western District of Hong Kong and Kwai Chung/Tsuen Wan. As a result, it will help to reduce the traffic volume at the Cross Harbour Tunnel. Another suggestion, recently accepted, is that the Eastern Harbour Crossing Company should lower its toll charge to attract more people to use its tunnel. Meanwhile, the Government has re-aligned the traffic lanes and installed traffic lights at the Kowloon exit of the Cross Harbour

Tunnel, thus reducing the congestion caused by vehicles vying for the use of the road and improving the traffic flow. In addition, the Government has announced that an automatic toll collection system will be installed at the end of this year so that vehicles may pay the toll without stopping, thus improving the traffic flow. Only time will tell if all these measures can really solve the problem of traffic congestion at the Cross Harbour Tunnel. However, some segments of the Government are already predicting with certainty that they will not completely solve the problem. Consequently, despite the Government's assertion that it does not need additional revenue, the passage tax must be increased by 200% to discourage the use of the Cross Harbour Tunnel, thus completely solving the problem of traffic congestion. The Government has told the public many times that increasing the passage tax is purely a traffic control measure and not a strategy to increase the Treasury's revenue.

During the recent meeting of the OMELCO Transport Panel, the Transport Department further proposed that a temporary flyover would be built at the intersection of the Cross Harbour Tunnel's Kowloon exit and Hong Chong Road. In this way, the vehicles moving from Tsimshatsui East towards Kowloon East and Princess Margaret Road will no longer have to vie for the use of the road with the vehicles leaving the Cross Harbour Tunnel. We can see that the authorities concerned are really initiating various measures for solving the problem of traffic congestion at the Cross Harbour Tunnel. Also, according to information from all quarters, things have improved somewhat of late.

Until we can actually see the full effects of these various measures, and until we know for sure that the Government does not need to use a higher passage tax to help in meeting its current expenses, my colleagues from the Co-operative Resources Centre and I will not support the Government's proposal to increase the passage tax by 200% as a traffic control measure. I also believe that, under present conditions, an increase of the passage tax will be very difficult for ordinary motorists to accept.

What has happened all along, as we can see, is that the Government, when dealing with this problem, merely announces the designed maximum capacity of the Cross Harbour Tunnel and the current actual rush-hour traffic figure. The Government has never tried to explain to the public the related problems of congestion that may arise in areas near the Tunnel's entrances/exits. As a result, ordinary motorists, as long as they are willing to take the time to wait before entering the Tunnel, will not elect to use the more distant Eastern Harbour Crossing or the less convenient vehicular ferry. Does the Government think that the people of Hong Kong are so

selfish and lacking in public spirit that they will not voluntarily and consciously do anything to help to solve the problem? Is this why the Government does not appeal to the general public to work together to solve the problem? Has the Government considered encouraging the Eastern Harbour Crossing Company or the ferry company to step up advertising to urge motorists to use these alternative facilities as a way of solving the problem? Also, has the Government considered encouraging those who have to drive to and from work across the harbour to try to carry some co-workers or friends who are working in the same area, or encouraging them to take turns driving to and from work, thus reducing the traffic volume at the Cross Harbour Tunnel? Some say that, because the law and order situation has recently deteriorated, the "carpool" system promoted in foreign countries may not be safe. Still, encouraging citizens to act voluntarily to reduce their use of the Cross Harbour Tunnel or to choose other means of crossing the harbour may perhaps also be a good way of helping to solve the problem.

The Government has said time and again that a higher passage tax for regulating the traffic volume at the Cross Harbour Tunnel will be tried as the last resort when nothing else works. We can understand that the most serious consequence of the congestion at the Cross Harbour Tunnel is the traffic jam caused by the long line of bumper-to-bumper traffic waiting to enter the Tunnel. So I think that the most effective solution is to let the traffic police, when traffic jam becomes intolerable as the line gets too long, direct traffic away from the area. This diverted traffic will then use the alternative harbour crossing facilities. This method may sound very high-handed. However, I feel that, after all the suggestions for improving the traffic conditions at the Cross Harbour Tunnel have been tried and found incapable of producing the desired effect, this suggestion, when tried as the last resort, will be more acceptable to the motorists and more convincing than the increase of the passage tax.

Mr Deputy President, I have all along been against the idea that money can solve every problem, even though spending money to solve a problem is often the easiest and handiest thing to do. I feel that the Transport Department has all along been doing everything possible for solving the problem. We should support the things it does. Until we have seen their effects, we absolutely should not implement a higher passage tax. In my opinion, doing so would be quite unwise. So I am not in favour of it.

DR CONRAD LAM (in Cantonese): Mr Deputy President, with regard to the traffic congestion at the Cross Harbour Tunnel, the Government has said that the problem has reached an unbearable state. The Government has proposed a higher tunnel passage tax as a way of forcing motorists to use the Eastern Harbour Crossing instead. Since the Tate's Cairn Tunnel and the Eastern Harbour Crossing were opened to traffic, traffic conditions have greatly improved on some of the roads. The most conspicuous example is the disappearance, more or less, of the long line of bumper-to-bumper traffic at the Lion Rock Tunnel. It is thus clear that an important way to solve the problem of traffic congestion is to provide more traffic lanes and widen the roads. With the opening of the Eastern Harbour Crossing, the volume of cross-harbour traffic has risen to 180 000 vehicles a day. We can see from this that the reason for the traffic congestion at the Cross Harbour Tunnel is not simply the failure of motorists to make proper use of the Eastern Harbour Crossing but the fact that the volume of cross harbour traffic has grown far beyond government's projections. Such being the case, traffic congestion at the Cross Harbour Tunnel can hardly be avoided. As some professional drivers say, they prefer to use the Cross Harbour Tunnel because they want to save some fuel money. According to a related trade union, it costs an additional \$40 of petrol for a container truck to be driven from Kwai Chung to Western District via the Eastern Harbour Crossing. The consideration of the professional drivers applies of course also to other motorists. If the Cross Harbour Tunnel passage tax is increased, this of course will artificially create a difference between the toll charges of the two tunnels, thus inducing motorists to consider using the Eastern Harbour Crossing instead. However, two problems arise from this:

Firstly, if the higher passage tax does have a discouraging effect and diverts the motorists to the Eastern Harbour Crossing, it will worsen the traffic conditions in Kowloon East. It has been estimated that a 200% increase in the passage tax will reduce the traffic volume at the Cross Harbour Tunnel to 70 000 vehicles a day. In other words, an estimated 50 000 vehicles will be diverted to the Eastern Harbour Crossing, raising the traffic volume there from the present 60 000 vehicles a day to 110 000 vehicles a day. Like the Cross Harbour Tunnel, the Eastern Harbour Crossing is also a two-tube, four-lane tunnel. The two tunnels are about the same in capacity. Should traffic congestion occur at the Eastern Harbour Crossing then, would the Government try to tackle the problem by increasing the passage tax there also? If the answer is yes and if vehicles are diverted back and forth, can this be called the doing of an effective administration?

Secondly, if the traffic volume at the Cross Harbour Tunnel reduces as a result

of an administrative action of the Government, the Cross-Harbour Tunnel Company will lose revenue and may, as when the passage tax was first imposed, seek damages from the Government. Would this not ultimately put an unnecessary burden on the public? If the Government intends to improve traffic conditions by widening the gap between the toll charges of the two tunnels, can it not consider lowering the passage tax instead of increasing it, that is, lowering the passage tax at the Eastern Harbour Crossing to make this Tunnel more attractive to motorists?

Reducing the traffic volume is not the only way to ease traffic congestion. Other ways that may be considered include inducing motorists to make fuller use of the seating capacity of their cars. For instance, the Government may consider higher toll charges for private cars with less than three passengers. The ultimate solution of course has to await the completion of the Western Harbour Crossing and to control the growth of vehicles.

Mr Deputy President, I am opposed to a higher tunnel passage tax as a way of easing the traffic congestion at the Cross Harbour Tunnel.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, the Traffic Advisory Committee towards the end of March endorsed a 200% increase in the Hunghom cross-harbour tunnel passage tax. This immediately aroused the strong opposition of the public. The press generally voiced the suspicion that the Government's purpose in increasing the passage tax was rather to grab money, that is, to increase annual revenue receipts by an extra \$400 million, than to solve the problem of traffic congestion at the Cross Harbour Tunnel. As the traffic policy spokesman of the United Democrats of Hong Kong, I feel the same way, the reason being that the Transport Branch and the Transport Department have failed to advance arguments of sufficient weight to convince us that the tax increase is the only feasible and reasonable solution for the traffic congestion problem at the Cross Harbour Tunnel. I personally think that, in any discussion of the proposed increase in the Cross Harbour Tunnel passage tax, two questions must be answered:

First, would the higher tax be effective as a way of restraining the use of the Cross Harbour Tunnel?

Second, is the problem of traffic congestion at the Cross Harbour Tunnel doing such serious damage to public interests that the Government must intervene through its

tax policy?

Using a higher tax to ease the problem of traffic congestion at the Cross Harbour Tunnel is nothing new. Many years ago, the Government began collecting a Cross Harbour Tunnel passage tax of \$5. As a result, the traffic volume of 105 000 vehicles a day was kept stable for only two years. After that, it began to rise again. In fact, there is no necessary relationship between the daily traffic volume and the traffic congestion during the rush hours. The tax very probably has reduced only the number of vehicles using the Cross Harbour Tunnel during non-rush hours. The traffic congestion during the rush hours probably is the same as it was before the tax. This experience shows that raising the Cross Harbour Tunnel passage tax not only cannot provide a basic solution for the problem but will have only a short-lived and slight effect even as a superficial solution.

Another fact is that about 120 000 vehicles a day are using the Cross Harbour Tunnel. The hourly average is over 6 000 vehicles between 8 am and 11 pm. The average wait-in-line time is between 10 and 20 minutes. Motorists are already used to, and have already accepted, this kind of traffic congestion and are willing to pay for it with time. Actually, the wait-in-line time to a certain extent regulates the use of the Cross Harbour Tunnel. If traffic congestion merely causes motorists the trouble of having to wait in line, then, since they themselves have not asked the Government to ameliorate the situation, the Government should have no sufficient cause to get involved or to intervene. However, as the Transport Branch and the Transport Department have pointed out, traffic congestion has spread to urban areas at both ends of the Cross Harbour Tunnel, including Wan Chai, Causeway Bay, Yau Ma Tei and Tsim Sha Tsui, where emergency services are seriously hampered. But then, because the problem already exists there, the Transport Branch should solve it by instituting local traffic control measures and not by raising the Cross Harbour Tunnel passage tax. Can a tax increase control the traffic volume and shorten the waiting line? I already spoke on the effect of a higher toll charge on the use of the tunnel. Now, according to information gathered by a transport group, after the tax increase the hourly traffic volume between 8 am and 11 pm will remain at about 5 000 vehicles, which in fact already greatly exceeds the tube's capacity of 2 000 vehicles per hour. In other words, the lines of bumper-to-bumper traffic and the traffic jam will remain after the tax increase. Therefore, it is doubtful how effective the tax increase will be for easing traffic jam in nearby areas. In fact, the Transport Department has several traffic control plans which are being implemented, including the installation of traffic lights on Hong Chong Road opposite the Hong Kong Polytechnic

in Hunghom. These measures will have a certain effect in the way of easing traffic jam near the tunnel's entrance/exit. I think that the Government should ameliorate local traffic congestion problems with traffic control measures specially designed for them and study the effectiveness of such measures.

Finally, I would reiterate that, on behalf of the United Democrats, I oppose the Cross Harbour Tunnel passage tax increase and support keeping the toll charge at the current level. I urge the Transport Department to adopt traffic control measures to ameliorate the chaotic traffic conditions near the tunnel's entrance/exit and to abate the trouble caused by the traffic congestion at the Cross Harbour Tunnel.

I so make my submission.

MR WONG WAI-YIN (in Cantonese): Mr Deputy President, at the mention of the traffic congestion at the Cross Harbour Tunnel, I believe that nobody will take exception if I describe it as "having reached an extremely serious and unbearable state." Those who suffer most include the motorists who are frequent users of the Cross Harbour Tunnel and the people who have to ride the tunnel bus every day. There are also those who suffer for no fault of their own, because, in addition to the traffic jam at the entrances/exits of the Tunnel, the long lines of bumper-to-bumper traffic have caused traffic jam in nearby areas in both Hong Kong and Kowloon. Passengers of other public buses are also fully victimized by such traffic jam. How they suffer! Can the drivers and passengers of air-conditioned private cars tell? Alleviating the traffic congestion at the Cross Harbour Tunnel, therefore, is a matter that requires our urgent attention.

I understand that Members in the OMELCO's Transport Panel have held much discussions and made many suggestions concerning the solutions to the problem. The Government, too, has tried to find ways to improve things, including raising the toll charge for private cars with few passengers; dividing vehicles into two groups, one to use the Cross Harbour Tunnel on odd days and the other on even days; lowering the toll charge at the Eastern Harbour Crossing to attract users; and even banning the use of the Cross Harbour Tunnel by goods vehicles during rush hours. However, after careful studies, the Government finds that all these measures will greatly inconvenience the public. It appears that increasing the passage tax is the only solution. Many people will perhaps raise strong objections at the mention of a higher tax or higher charge. Many colleagues are opposed to it. However, Meeting Point think that, where the question is one of weighing what is good and fair for a smaller

number of private car owners against a larger number of bus passengers, the balance must favour the bus passengers, who are the vast majority. Meeting Point, therefore, support an increase in the passage tax as a way of alleviating the traffic congestion at the Cross Harbour Tunnel. The grounds are mainly as follows:

Firstly, the effect of a higher tax will be instantaneous. Before the imposition of the passage tax in 1984, the traffic volume at the Cross Harbour Tunnel was 107 000 vehicles a day. It reduced sharply by 11.4% after the introducing of such tax. Conditions at the Cross Harbour Tunnel had been greatly improved for as long as three years. Now the traffic volume at the Cross Harbour Tunnel is back up to 120 000 vehicles a day. The Government at first hoped that the Eastern Harbour Crossing would provide an alternative that would ease the congestion at the Cross Harbour Tunnel. But the plan did not produce the desired effect. The Government anticipates that, if a higher passage tax is imposed, the daily traffic volume of the Cross Harbour Tunnel will be reduced by 19 000 vehicles. The present congestion will be greatly alleviated.

Secondly, mass carrier should be given priority in the using of public roads. According to a survey, 3 331 000 buses used the Cross Harbour Tunnel in 1991, but 32 223 000 private cars, almost 10 times the number of buses, used it during the same year. Private car is a mode of transport that takes up a lot of road space but is not cost-effective. On the other hand, buses are a mode of mass transit with greater passenger capacity. So buses should have the the priority and privileges where the use of the Cross Harbour Tunnel is concerned.

Thirdly, only private car owners and taxi passengers, who are in the minority, will be affected by the higher passage tax. The vast majority who ride the buses, will stand to gain. This is because the Government's proposed passage tax increase will not apply to bus passengers. They will not have to worry about higher fare due to the higher passage tax.

As I said just now, the traffic congestion at the Cross Harbour Tunnel not only victimizes tunnel users but also affects users of public transport in nearby areas; As a result, more and more people switch to the Mass Transit Railway (MTR), which provides the Mass Transit Railway Corporation (MTRC) with an excuse for imposing a peak-hour surcharge to the normal fare. Furthermore, the Government's plans to require the bus companies to operate more tunnel bus routes or express bus routes between the new towns and the Central District, which are expected to lighten the

MTR's passenger load, will be affected by the traffic congestion at the Cross Harbour Tunnel. I believe that, if an increase in the passage tax is used to cut down tunnel use by private cars and taxis, thus easing the traffic congestion at the Cross Harbour Tunnel, the vast majority of the people will suffer less from traffic problems. Of course, while the effect of a higher passage tax will be instantaneous, it must be supplemented by other improvement measures in order that the effect may be long-lasting. Many colleagues suggested various improvement measures just now. Meeting Point support all of them and I will not repeat.

Finally, if the Government decides in the end to use taxation to alleviate the traffic congestion at the Cross Harbour Tunnel, Meeting Point suggest that the Government should show that its purpose in increasing the passage tax is not to grab money. The Government should use the extra revenue to improve those services that are now under-funded. Such services include services for the mentally-retarded and the severely mentally-retarded, educational services and other measures for improving the traffic conditions.

Mr Deputy President, these are my remarks.

MISS EMILY LAU (in Cantonese): Mr Deputy President, being a victim of the traffic congestion at the Cross Harbour Tunnel, I am very angry at the Government's failure all these years to do something positive about it. Recently, the Government disclosed that a vehicular ferry service between Tsuen Wan and Central is to be introduced this year or next year. I am very delighted on hearing this. I live in Ting Kau. Every day, as I leave home, I find that many people from Kowloon West using the Cross Harbour Tunnel to go to Hong Kong. I believe that, if the Government had thought about marine transport earlier, the problem might have been solved already. I agree with the views of the Members from the Co-operative Resources Centre (CRC) and of the United Democrats of Hong Kong (UDHK). I am strongly opposed to the Government's use of a higher passage tax to solve the problem. I definitely do not feel that an increase of 10 or 20 dollars will stop private car owners from using the Cross Harbour Tunnel.

I would also like to ask the Secretary for Transport whether he is aware that 10 years ago, his predecessor had said something to the effect that the passage tax would be abolished when the second cross harbour tunnel came into operation. I believe that, in those days, the Government officials' thinking was that the opening

of the second cross harbour tunnel would solve all the problems. They little knew that, even after the second cross harbour tunnel became operational, the first cross harbour tunnel would remain as congested as before. I would like to ask the Secretary for Transport if he is aware of those words and what more he has to say to us today. I am opposed to an increase in the passage tax. I greatly support the idea of banning the use of the Cross Harbour Tunnel by goods vehicles during rush hours and hope that such measure will be introduced. The operating hours of factories in many cases need not be the same as the office hours of the white-collars, that is from 9 am to 5 pm. Also, I learn that the Government hopes that some offices would introduce staggered working hours. If goods vehicles are banned from using the Cross Harbour Tunnel from 7 am to 9 am, this may induce some factories and offices to change their working hours to other than "9 am to 5 pm". So I hope that the Government will give serious thought to this matter.

Moreover, signs should be posted at the two cross-harbour tunnels to inform motorists of the current state of traffic flow. This will give them cause to ponder over which tunnel to use.

Finally, Mr Deputy President, I am very glad tonight to hear the views of so many Members. I believe that the Secretary for Transport has heard them very clearly. With the exception of Members of Meeting Point, everybody is opposed to a higher passage tax. But I also happen to know that the Transport Advisory Committee, which is appointed by the Government, has already voiced support for a higher passage tax. I very much sympathize with the Secretary for Transport, who is caught between two fires. Actually, I would like to ask the Secretary for Transport: Now that there are directly elected Legislative Councillors, and we have our own Transport Panel, is the Transport Advisory Committee still necessary? We have so many advisory committees which duplicate the works of one another, and the Secretary for Transport is caught in-between. I wonder, which body is more representative and which body's views he should heed more. I really do not know how he is going to deal with the matter this time.

Thank you, Mr Deputy President.

10.15 pm

SECRETARY FOR TRANSPORT (in Cantonese): Mr Deputy President, I am grateful to Members

for the wide range of constructive views expressed on the problem of traffic congestion at the Cross Harbour Tunnel. I would like to say first of all that the Government has an open mind with regard to this problem and views from Members today are most welcome.

Let me now describe the background to the problem. The tunnel has a practical capacity of 100 000 vehicles a day. Actual throughput has exceeded 120 000 vehicles over the past two years. This has brought disruption to non tunnel traffic in all the approach roads. Public transport, as Mr WONG Wai-yin has observed, is increasingly delayed. A serious congestion is occurring at the portals of the tunnel on either side of the harbour. This has often affected the response times of emergency vehicles. This is a problem we cannot afford to ignore, but must address and solve. Cross harbour traffic is continuing to increase by about 4% each year. We must deal with this problem; we cannot wait until after the commissioning of the Western Harbour Crossing in 1997.

Basically, there are many ways to tackle the problem. If we do nothing, the extra cost to the travelling public in terms of travel time wasted could amount to \$1 million a day and \$350 million a year.

The first solution is to build more roads. This was done through the opening of the Eastern Harbour Crossing, the Kwun Tong Bypass and Tate's Cairn Tunnel in the past couple of years. Unfortunately, this only helped solve part of the problem. The opening of this new route simply released suppressed demand for cross harbour travel.

In addition, numerous traffic management measures have been taken in the approach roads to the Cross Harbour Tunnel. These include widening the bus bay at the Kowloon portal, diverting buses into Wan Chai north, building an additional lane along Island Eastern Corridor and installing traffic lights at the Kowloon portal. These measures have brought only marginal and temporary relief. We are also considering, subject to the availability of funds, other measures such as building flyovers in the connecting roads at either end of the tunnel. But the simple fact is that the capacity of the tunnel itself is exceeded by 20% and we cannot increase its capacity.

We have taken steps to encourage greater use of the Central to Jordan vehicular ferry. We are also planning to introduce a new service between Central and Tsuen Wan. Because of loading time constraints, the limited vehicle handling capacity of

the concourses and drivers' preference for the tunnel, vehicular ferry services can make only a limited contribution in easing the problem. Nevertheless, we would listen to Members' views and encourage the ferry company to publicize more of its services to promote usage.

In parallel, efforts to promote the use of Eastern Harbour Crossing continue. Over 170 additional directional signs have been installed in the last couple of years. Route maps have been distributed. The tunnel company has just introduced a discount ticket scheme to attract more regular users. The Eastern Crossing attracts about 65 000 vehicles per day, and its spare capacity must be better utilized. Clearly it is up to the company to promote its own business.

Another point we should have regard to is that if the situation worsens we may need to consider diverting some of the vehicles. I understand that if we divert goods vehicles it will increase their operating cost which will have an impact on the economy. Therefore we cannot ignore the objection of the drivers. Moreover, goods vehicle drivers are also saying that the Government should not give priority to private cars whilst discriminating against goods vehicles. On the other hand, if goods vehicles impede the smooth flow of traffic we may need to consider diverting them to the Eastern Harbour Crossing in certain circumstances.

There is one measure we can introduce. Goods vehicles using the Cross Harbour Tunnel are classified in such a way that it is cheaper for goods vehicles over 24 tonnes or with more than two axles to use the Cross Harbour Tunnel rather than Eastern Harbour Crossing. We intend amending the law as soon as possible to remove this difference. This could divert some 2 000 goods vehicles a day from the Cross Harbour Tunnel.

As a last resort, if all other measures have proved ineffective, we will definitely consider resorting to the taxation measure. Despite its unpopularity, the introduction of this tax in 1984 effectively reduced tunnel traffic for about three years. It could not therefore be said that this was a temporary or ineffective measure. It was effective. If the passage tax were raised from \$5 to \$10, we estimate some 19 000 vehicles per day would divert to the other tunnel.

To respond to the point raised by Mr WONG Wai-yin, we are considering removing the passage tax completely from buses and other public means of conveyance, thereby encouraging the bus companies to provide more tunnel bus services for the new towns.

Lastly, every solution must be considered in a calm and rational way where the interests of all parties concerned should be weighed and balanced and that includes the interests of the public. I am grateful to Members for their constructive and varied views offered today, all of which will be carefully considered. 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 24 June 1992.

Adjourned accordingly at twenty-three minutes past Ten o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Lingnan College Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.