

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 17 February 1993

The Council met at half-past Two o'clock

PRESENT

THE DEPUTY PRESIDENT

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

THE CHIEF SECRETARY

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

THE FINANCIAL SECRETARY

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

THE ATTORNEY GENERAL

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

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

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

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

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

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

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

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

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

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

DR THE HONOURABLE LEONG CHE-HUNG, O.B.E.

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, O.B.E., J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE VINCENT CHENG HOI-CHUEN

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 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, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

DR THE HONOURABLE TANG SIU-TONG, J.P.

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ANNA WU HUNG-YUK

ABSENT

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

THE HONOURABLE MOSES CHENG MO-CHI

IN ATTENDANCE

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

MR MICHAEL SUEN MING-YEUNG, J.P.
SECRETARY FOR HOME AFFAIRS

MR ALISTAIR PETER ASPREY, O.B.E., A.E., J.P.
SECRETARY FOR SECURITY

MR CHAU TAK-HAY, J.P.
SECRETARY FOR TRADE AND INDUSTRY

MR JAMES SO YIU-CHO, O.B.E., J.P.
SECRETARY FOR RECREATION AND CULTURE

MR ANTHONY GORDON EASON, J.P.
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

MR TAM WING-PONG
SECRETARY FOR MONETARY AFFAIRS

THE CLERK TO THE LEGISLATIVE COUNCIL
MR CLETUS LAU KWOK-HONG

Papers

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Road Traffic (Parking) (Amendment) Regulation 1993	29/93
Lifts and Escalators (Safety) (Fees) (Amendment) Regulation 1993	30/93
Merchant Shipping (Prevention of Oil Pollution) Regulations (Exemption) Notice	31/93

Oral answers to questions**Explosion at Tap Shek Kok Power Station**

1. MR LAU CHIN-SHEK asked (in Cantonese): *With regard to the explosion at the Tap Shek Kok Power Station of the China Light and Power Company Limited (CLP) in August 1992, will the Government inform this Council whether the Administration's inter-departmental investigation group has completed its report;*

(a) *if so,*

(i) *whether the investigation report will be published;*

(ii) *how the findings of the Government's investigation concur with and differ from those of the CLP report as far as the causes of the explosion are concerned;*

(iii) *according to the results of the Government's investigation, whether the causes of the explosion involve human error, and what the details are; and*

(iv) *what measures the Government will adopt to prevent the recurrence of similar incidents in future?*

(b) *if not, what the current progress of the investigation work is and when the report is expected to be completed?*

SECRETARY FOR SECURITY: Mr Deputy President, the inter-departmental investigation team, headed by the Fire Services Department, has completed its report. Its conclusion as to the cause of the explosion is similar to that reached by the China Light and Power Company. There are, however, some differences between its findings and those of the China Light and Power Company report.

A death inquest will be carried out in the second half of April to look into the causes of the deaths of the two China Light and Power Company employees killed in the explosion. In the course of this inquest, the Coroner and his jurors will consider the evidence contained in these two reports.

Until the completion of this inquest, and any other related legal proceedings that may be initiated, publication of the report of the inter-departmental group would be prejudicial to the parties involved. I am, therefore, unable at this stage to disclose any of the report's findings.

I can, however, assure Members that we will take all possible steps to ensure that a similar incident does not recur. The China Light and Power Company has not yet decided whether to rebuild the system damaged in the explosion. However, it has given an undertaking to introduce positive measures for improvement if and when it does rebuild. On receipt of an application by the company to rebuild the plant, we will, with the benefit of the two reports and the Coroner's findings, be in a position to ensure that all the necessary safety requirements are in place to prevent the recurrence of a similar incident in future.

DEPUTY PRESIDENT: Could I just for clarity ask Members, please, when they ask supplementary questions in Chinese which require simultaneous interpretation to ask their questions slowly so that the simultaneous interpreter can then convey the full meaning of the question? And, for much the same reason, will Members keep their questions to single questions and for the added reason that that will give other Members a chance to ask supplementaries as well.

MR LAU CHIN-SHEK (in Cantonese): *Mr Deputy President, I would try to ask my question very very slowly. In paragraph four of his reply, the Secretary assured us that he would take all possible steps to ensure that a similar incident would not recur. Could the Secretary inform this Council of the "possible steps" that would be taken to ensure that a similar incident would not recur?*

SECRETARY FOR SECURITY: Mr Deputy President, perhaps I could say first of all that there are no other systems in Hong Kong similar to the system at Tap Shek Kok where this explosion took place. I am told that in the other systems that operate at other power stations, because they are very different, it would be technically impossible to have an explosion caused by what happened

at Tap Shek Kok. Secondly, the China Light and Power Company has stated its intention to review its operational system at the plant and to implement improvement measures. And of course if and when it does decide to rebuild the system, then that will require to be licensed by the Director of Fire Services under the Dangerous Goods Ordinance and the Director of Fire Services will ensure that improvements are carried out and that the lessons from the explosion will be taken into account.

MR CHIM PUI-CHUNG (in Cantonese): *Mr Deputy President, could the Secretary inform this Council of the cost of the inter-departmental investigation and whether it would be recovered from the China Light and Power Company, in line with the Government's policy of cost-recovery?*

SECRETARY FOR SECURITY: Mr Deputy President, I do not know how much it cost. I will give a written answer to this question. (Annex I)

DR CONRAD LAM (in Cantonese): *Mr Deputy President, may I ask, apart from the advice received from its equipment suppliers, whether the China Light and Power Company had sought advice from other equipment suppliers on the design and safety standards of the hydrogen generation plant? If not, why not?*

SECRETARY FOR SECURITY: Mr Deputy President, I do not know who China Light and Power has received advice from. I will try and find out and answer that question in writing. (Annex II)

DR SAMUEL WONG: *Mr Deputy President, as the damaged system, that is the hydrogen system, is not yet rebuilt, would that mean the total power supply security for Kowloon and the New Territories is not as secure?*

SECRETARY FOR SECURITY: Mr Deputy President, I believe not. China Light and Power is now using a different system at Tap Shek Kok. It is a cylinder battery system which does not involve the use of hydrogen. I am told that since this system is operated at high pressure throughout, an accident could not be caused by the same circumstances as in the original installation.

MR WONG WAI-YIN (in Cantonese): *Mr Deputy President, could the Secretary inform this Council whether the inter-departmental investigation team, headed by the Fire Services Department, will only look into that part of the installation that was affected by the explosion and whether, for the sake of public safety, a thorough investigation will be carried out to look into other parts of the operation as well?*

SECRETARY FOR SECURITY: Mr Deputy President, the group was charged with looking into the causes of the accident and that is what it has done. It has not looked into other aspects of the plant's operation.

MR PETER WONG: *Mr Deputy President, the Secretary said in his reply that no publication of the findings will be made until after any related legal proceedings that may be initiated have been concluded. My question is: while recognizing the need not to prejudice any future legal proceedings, is the Secretary satisfied that he has balanced that against the right of the public to know what happened?*

SECRETARY FOR SECURITY: Mr Deputy President, I have taken legal advice and I am told that this is the position that we should adopt at the moment. Of course, we expect that the findings will become public in April during the Coroner's inquest.

Civil servants' co-operative housing schemes

2. MR JIMMY MCGREGOR asked: *Regarding the sale of flats under the civil servant co-operative housing scheme for redevelopment by private developers, will the Government inform this Council:*

- (a) of the number of applications for redevelopment that have been approved so far, as compared to the number of applications received, and the number of flats involved;*
- (b) of the average time taken for approving such applications; and*
- (c) whether it will review the existing procedures to ensure that decisions on redevelopment are made speedily?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, three applications for the redevelopment of civil servants' co-operative housing schemes have been received so far. They involve 41 flats. One application involving 19 flats has been approved and the premium is being negotiated. This case took approximately five months to process from receipt of application to offer of basic terms.

Redevelopment proposals for civil servants' co-operative housing schemes are processed in the same way as other redevelopment proposals. Our procedures aim at dealing with applications as speedily as possible while ensuring that planning, lease and building requirements are met.

MR JIMMY MCGREGOR: *Mr Deputy President, given the fact that this very large document of up to over 200 pages has been issued as a guide to developers and to owners of government co-operative housing flats, have specific complaints been made by owners and/or developers about the complexity of the procedures and the time taken to approve applications? If so, how many complaints and how many flats were involved?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I am not aware of any complaints having been made on the complexity of the proceedings and the time taken. I think the idea that civil servants' co-operative housing societies could be dissolved and divest themselves of their property was debated for many years, particularly the legal complexities which in fact prevented progress being made. These problems have after several years been resolved to the point where there are now arrangements in place for redevelopment proposals to be formulated and carried through. I might say that in addition to the three cases where applications have actually been submitted — and the fact of those indicates that they are capable of approval — another 65 societies have by the end of 1992 managed to obtain consent from their members to start the process which could, but not necessarily will, lead to redevelopment proposals.

DR TANG SIU-TONG (in Cantonese): *Mr Deputy President, will the Administration inform this Council whether or not all the applications for redevelopment of the civil servants' co-operative housing schemes by private developers will be approved and whether there are rules governing the land premium payable?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, it is only in the case of applications being forthcoming that proposals for redevelopment will be considered and if the conditions can be met the applications will be approved. So it is not possible for me to say, first of all, how many of the 238 schemes might wish to go down this road and, finally, how many of those might in the event be approved. As far as premium is concerned, this is a rather complicated subject since we are talking, first of all, about the removal of the basic restriction of the original grant which is made on a very restricted basis to civil servants and, secondly, about the possibility of further modifications to the lease conditions to allow redevelopment to a greater intensity than originally provided. I think it might be best if I were to try to provide a full explanation of these valuation and premium matters in writing and I will do so. (Annex III)

MR JIMMY MCGREGOR: *Mr Deputy President, assuming that all conditions are met in good time and in good order by the owners, could the Secretary indicate how long it should take between first application and final approval for*

the transfer of title in a flat to a civil servant in one of these schemes to enable him to sell the flat on the open market? Is there a common point of advice for civil servants to seek? This is a very heavy document indeed and it would need, I think, legal advice all the way through.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the question of transfer of title and how long that should take is rather like the question as to the length of a piece of string because it involves different parties including the civil servants and their fellow members of their own co-operative society and it involves their reaching agreement at a certain stage. So the question of how long it takes a group of civil servants to reach agreement is also rather like the piece of string question. As regards the fathoming of the document that Mr McGREGOR has been waving, I believe that questions on this document can be put either to the Civil Service Branch or to the Buildings and Lands Department and those two organizations will be ready to provide answers.

DEPUTY PRESIDENT: A follow-up, Mr McGREGOR?

MR JIMMY McGREGOR: *Yes, Mr Deputy President, as a point of clarification, I was not referring to any argument or discussion going on between civil servants in a co-operative society; what I was asking was this: at the point of application when these owners had agreed to make an application to the Government for transfer of title how long would it take on average between that time and the time of approval? Can the Secretary give some indication? Is it less than a year, for example?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I am afraid that that is a question to which I cannot provide an answer. I have been concentrating, in considering the question, on answering as to how long it takes to approve an application to redevelop. I think as regards the question of transfer of title, I should have to refer to the Secretary for the Civil Service and the Director of Buildings and Lands to try and define that period and I will do so and offer a reply in writing. (Annex IV)

MR ERIC LI: *Mr Deputy President, in view of the fact that Hong Kong has very scarce resource in land and this obviously is a good source of land for redevelopment, can the Secretary account for the very limited interest expressed in this form of redevelopment and, in particular, account for the missing two applications made, and also advise whether they have been abandoned and, if so, why?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I think part of one of my supplementary answers indicated that perhaps interest in it is not as limited as is suggested by the question in that, out of the 238 societies, 65 in fact have, as I put it, started on the track which may at some later stage involve an application for redevelopment. So I think the indications are that there is a good deal of interest. Exactly how one measures that I am not sure, but I do not think it is as limited as suggested by the question.

Positive non-interventionism

3. MR NGAI SHIU-KIT asked (in Cantonese): *Will the Government advise this Council of its present economic policy, having regard to the statement made by the Financial Secretary, when he wrote for a local English newspaper in February 1992, that the phrase "positive non-interventionism" had outlived its usefulness years ago?*

FINANCIAL SECRETARY: Mr Deputy President, our broad economic policy is remarkably consistent, though no doubt the precise formulation has varied over the years. I described it in this Chamber in my last Budget speech, and will not attempt to repeat it here, except perhaps for convenience to restate one sentence — Hong Kong's economic philosophy "is a commitment to enterprise, a commitment to low taxation and a commitment to free markets and free trade."

More recently, the Governor in his October speech opening this Session referred to the principle of "minimum interference and maximum support".

My comments about the phrase "positive non-interventionism" were intended to discourage its use in discussions of economic or industrial policy because it is so widely misused. I have the very greatest respect for Sir Philip HADDON-CAVE, for whom I worked, and who originated the phrase. He himself complained back in 1980 of the misuse of the phrase — "Not surprisingly, perhaps, some have claimed that this is really just a fancy term for *laissez faire* or, less kindly, that it covers up a "do-nothing" approach". Since it has continued to be so misused, it seemed — and still seems — to me that it would be better not to use it. Clearly our policy is in fact far from "do nothing".

MR NGAI SHIU-KIT (in Cantonese): *Mr Deputy President, in the passage that he quoted, the Financial Secretary used the property market and the Stock Exchange of Hong Kong as examples to illustrate that the Administration will not, even under a free trade system, go to the extreme of "just monitoring but not interfering" or, in the Secretary's words, adopting a "do-nothing" approach. Then, will the Administration inform this Council whether on the basis of the spirit in the Secretary's reply the Administration thinks that the policy of*

positive non-intervention is no longer suitable for Hong Kong's industrial development under our present transforming economy? If so and in order to prevent the misuse of positive non-intervention, is it not necessary to explain more clearly the advantages and disadvantages of this policy so that foreign investors and local entrepreneurs are better prepared and can plan their investments?

FINANCIAL SECRETARY: Mr Deputy President, of course I cannot exactly answer the question because it uses the phrase which I am arguing is not a helpful one to use. I guess one could elaborate on that and say that one does not think compressing a policy into one sentence would be terribly helpful if one was trying to communicate with inward investors or others. So, of course, we do approach such people with a much longer explanation of our policy. But to attempt the impossible, we look very carefully at when it seems that intervention is really necessary, and I think, as has been commented, if one looks at our record over the last few years, for example, one will find that a considerable number of new measures have been introduced which directly benefit industry. I have a long list here; I do not think I will use it, but I will mention the most recent schemes, for example, the Applied Research and Development Scheme which was introduced fairly recently. There is a new industrial technology centre which is in the process of being built. There is a new industrial estate which is being built. So, yes, we intervene when it is necessary.

MR ROGER LUK: *Mr Deputy President, could the Financial Secretary further explain the role of the Government in the context of the economic policy as stated in his answer?*

FINANCIAL SECRETARY: Mr Deputy President, I believe I have already stated our economic policy insofar as it can be stated in a few words.

MR MARTIN LEE: *Mr Deputy President, if the expression "positive non-intervention" has been misused, will the Financial Secretary please explain to this Council what the correct use of it is and what its true meaning is?*

FINANCIAL SECRETARY: Mr Deputy President, the correct use is set out at some length running to some pages, by Sir Philip HADDON-CAVE in a speech to the Federation of Hong Kong Industries on 2 December 1980. I would be very pleased to make available to Members, any Members who want it, the six pages which summarize his interpretation of this phrase.

DR HUANG CHEN-YA (in Cantonese): *Mr Deputy President, I am very pleased to hear that the Administration's economic policy is not one of passivity and indifference. May I ask the Administration what training or retraining plans there are to improve the qualities and adaptability of our labour force?*

FINANCIAL SECRETARY: Mr Deputy President, I think I am expected here to answer a question on the economic policy, but the manpower training policy I am not actually responsible for.

MR CHIM PUI-CHUNG (in Cantonese): *Mr Deputy President, does the third paragraph of the Secretary's reply conflict with the fifth paragraph of the Governor's policy address on 7 October last year which says, "businessmen not politicians or officials make the best commercial decisions"?*

FINANCIAL SECRETARY: Mr Deputy President, I certainly agree with the statement that the best business decisions are made by businessmen. I do not think there is anything in the third paragraph of my answer which conflicts with that.

DR LAM KUI-CHUN: *Mr Deputy President, in the change of government policy from non-intervention to minimum interference, what is the limit of government interference in free market affairs?*

FINANCIAL SECRETARY: Mr Deputy President, there is no magic formula. That should be evident, I hope, from my previous replies. We are pragmatic. We are very happy to look at whatever case that can be made for intervention. We ourselves institute regular surveys of the main sectors of industry, for example, to see whether anything has to be done. But there is no way I can define where the balance gets tipped in favour of intervention beyond that sort of general description.

MR HENRY TANG: *Mr Deputy President, I will attempt what Mr Martin LEE and Mr Roger LUK have failed. Without wishing to sound pedantic, could I ask the Financial Secretary to please clarify whether his explanation of "positive non-intervention" in the third paragraph of the main reply — where the Financial Secretary said the Government's policy is not to do nothing — would imply then that the Government's policy is simply positive intervention?*

FINANCIAL SECRETARY: Mr Deputy President, I am sorry that it is not by now evident that I do not believe a very short catch phrase of that sort is particularly helpful because it is quite difficult to find one which does not

immediately get used in a completely different way. And I have been at many meetings where we have been attacked for our policy of "positive non-interventionism" which has been interpreted precisely in the way which is set out in the third paragraph of my reply, which does not bear any resemblance to what it originally meant. And I suspect if I coin a new catch phrase it will suffer the same fate.

MRS SELINA CHOW: *Mr Deputy President, in spite of the reluctance of the Financial Secretary to use the phrase "positive non-intervention", it does imply restraint on the Government's part to intrude by way of regulation or legislation on the spirit of free economy which has served Hong Kong well. Will the Financial Secretary assure this Council that the same restraint will be exercised in the Government's present and future economic policy?*

FINANCIAL SECRETARY: Mr Deputy President, I believe that in the first paragraph of my answer, I have already restated, through quoting myself, a commitment to free markets and free trade, in other words, a belief in the market mechanism and a belief that we only intervene when the market mechanism is not working properly.

MR FRED LI (in Cantonese): *Mr Deputy President, have the advisory boards of the Administration, like the economic advisory board under the Financial Secretary, conducted any studies or made any recommendations on the overall economic development of Hong Kong?*

FINANCIAL SECRETARY: Mr Deputy President, we have of course many studies no matter whether one is looking at particular sectors of the economy or the economy as a whole, and indeed we publish — I think every six months — a pretty comprehensive survey of our economy. I cannot attempt to summarize all those studies here but I will certainly confirm that we have in a number of fora looked at the economy both in the broad and in the sectoral.

MR PETER WONG: *Mr Deputy President, based on today's catch phrase of the principle of minimum interference and maximum support, would the Financial Secretary please set out performance measures which he proposes to introduce to let us know what are the acceptable minimum interference and the ideal level of maximum support?*

FINANCIAL SECRETARY: Mr Deputy President, I believe I have been asked a similar question only a few moments ago when I said that of course there is no formula whereby we can define when to intervene and when not.

Safety standards of guesthouse buildings

4. MR MARTIN BARROW asked: *Would the Government inform this Council what steps it has taken and is planning to take to improve safety standards in all commercial outlets and common areas within guesthouse buildings?*

SECRETARY FOR SECURITY: Mr Deputy President, guesthouses are usually found in buildings of mixed commercial and residential use. These buildings, like all others, must comply with fire safety requirements imposed under the Fire Services Ordinance. They must be provided with fire safety installations in accordance with standards prescribed in the Code of Practice for Minimum Fire Service Installations and Equipment.

The most common commercial outlets with potential fire risks in mixed user buildings are restaurants, clubs and guesthouses.

Restaurants are licensed by the Urban Services and the Regional Services Department under the Public Health and Municipal Services Ordinance. Fire safety and electrical safety requirements are imposed as part of the licensing conditions.

Since the enactment of the Hotel and Guesthouse Accommodation Ordinance in May 1991 and the Clubs (Safety of Premises) Ordinance in June 1991, guesthouses and clubs have also been subject to a licensing system. Specialist teams, including staff from the Fire Services Department, ensure compliance with the licensing requirements. In particular, they monitor the fire safety standards in guesthouses and clubs to ensure public safety. Electrical safety is regulated by the Director of Electrical and Mechanical Services under the Electricity Ordinance.

The two problems most frequently found in the common areas of mixed user buildings are obstruction to means of escape and ageing electrical systems and wiring.

As regards obstructions, in addition to inspections made in response to complaints, regular inspections are carried out by the Fire Services Department in these premises. Fire hazard abatement action or prosecution action is taken, as appropriate, against offences under the Fire Services Ordinance, to ensure that the common areas are free from obstruction and that the fire services installations are in proper working order.

Owners of fixed electrical installations in the common areas of buildings are required to employ registered electrical contractors to carry out maintenance work on electric wiring, under the Electricity Ordinance. The Electrical and Mechanical Services Department carries out checks in these premises.

The most effective way of ensuring safety in these buildings is to persuade owners and commercial operators to accept responsibility themselves for managing their own buildings properly. Public education is, therefore, important. Messages on fire prevention and good building management have been disseminated through local publicity campaigns, public announcements on television and radio and information leaflets. In addition, staff from the Fire Services Department make regular visits to these premises to drive home these messages and to give the owners and commercial operators advice on ways of improving safety in their buildings.

MR MARTIN BARROW: *Mr Deputy President, is the Secretary aware that neighbours adjacent to Chungking Mansions, the most notorious guesthouse building, believe that its overall condition has further deteriorated in the last two years, including the dangerous accumulation of garbage from the building which lies about in adjacent areas, and will the Secretary advise whether or not he will accept overall responsibility for entering into a dialogue with the owners and occupiers to improve the profile and safety of that particular building?*

SECRETARY FOR SECURITY: Mr Deputy President, I am certainly aware that Chungking Mansions, which probably has more guesthouses than any other building in Hong Kong, gives particular cause for concern. There are very regular inspections of that building by the Fire Services Department and the statistics that I have in respect of that building in recent years do not indicate a deteriorating position; they indicate an improving position. But nevertheless I would not be complacent about that. I think that if the owners and operators in that building wish to discuss fire safety, I will be happy to make arrangements for them to do so with the Fire Services Department.

MR GILBERT LEUNG (in Cantonese): *Mr Deputy President, since the enactment of the Hotel and Guesthouse Accommodation Ordinance and the Clubs (Safety of Premises) Ordinance in May 1991, they have been under severe criticism by people in the trade, because the measures introduced are said to be a nuisance to the public and, in fact, impracticable. Will the Administration inform this Council what steps will be taken to seriously consider the views of people in the trade?*

SECRETARY FOR SECURITY: Mr Deputy President, the Secretary for Home Affairs, I think, is responsible for the licensing of these two types of premises. Could I defer to him please?

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, I have not heard of any complaints against the provisions of the Clubs (Safety of Premises) Ordinance and so I am not in a position to answer that part of the question. But

in respect of the Hotel and Guesthouse Accommodation Ordinance, we have some difference of views with the hotel operators and we are now in the middle of a dialogue with the trade. We have had a number of meetings with them, discussing in all seriousness the various provisions under the Ordinance. There are complaints about the harsh conditions imposed under the Ordinance and there is also complaint about the rather inflexible approach which is provided for under the Ordinance. These various problems are recognized. I would be the first one to accept that some sort of flexibility would be required in order to bring out the effects of these Ordinances. And so, with that in mind, I have appointed a working group to look into the various problems and to work in conjunction with the industry. And, as I have said, we are making good progress with the working group. We have so far had three meetings and I believe that we are close to a compromise being worked out to the satisfaction of both the trade and ourselves, without at any stage minimizing the high safety standard we demand of these buildings. And so I hope that within about a month I would be able to announce the results of the deliberations, hopefully to the satisfaction of all.

MR EDWARD HO: *Mr Deputy President, will the Secretary inform this Council how many licences have been issued to guesthouses since the enactment of the Hotel and Guesthouse Accommodation Ordinance in May 1991? If none has been given, will he please inform us by when will all the guesthouses be regulated?*

DEPUTY PRESIDENT: Secretary for Security or Home Affairs?

SECRETARY FOR HOME AFFAIRS: Yes, Mr Deputy President, if I may take on this question. Since the enactment of the Ordinance we have inspected all guesthouses. So far we have covered about 2 000 of them but there are different types of guesthouses. They are broken down into a few categories, firstly, those catering for tourists, secondly, those catering for local people, and then there are the motels and also holiday bungalows in the outlying districts. So they are of varying types and I think because of the large number involved, we have got to give priority to certain types and so we have concentrated on the guesthouses in highrise buildings catering for tourists. There are 615 of them and we have registered them all. We have paid visits to all these establishments and at the moment they are not given licences but they have already taken out Certificates of Exemption, exempting them from the provisions of the Ordinance. This is a temporary device to buy us time so that we can fully inspect these premises and lay down what improvement works are to be carried out by them. It gives them a grace period for them to catch up with the remedial works. The period allowed started from 1 September 1991. It is a two-year period and it will end on 31 August this year. And so by the end of August this year we expect these 615 guesthouses to fully comply with our

requirements and to take out a licence from that day. If they do not comply with the requirements, then they will have to cease operation.

MR TAM YIU-CHUNG (in Cantonese): *Mr Deputy President, before the enactment of the Clubs (Safety of Premises) Ordinance, Mr Peter TSAO, the former Secretary for Home Affairs, stated clearly that the Ordinance was not meant to be against trade unions. However, after it had been passed into law, I received many complaints from trade unions, saying that the whole exercise, and that included the inspections, was a great nuisance to them. They also complained that they were charged \$500 all the same for a Certificate of Exemption even though the inspection proved to be futile. Will the Secretary for Home Affairs make any improvement in this respect?*

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, can I seek a ruling from you that the question goes well beyond the ambit of the original question?

DEPUTY PRESIDENT: Well, the supplementary must relate to the original question or answer — I am quoting from Standing Order 19 — and the licensing of clubs was brought in as part of the main answer. So I think the supplementary does relate to the main answer but any supplementaries to follow that supplementary will be out of order.

SECRETARY FOR HOME AFFAIRS: Thank you, Mr Deputy President. I am afraid I have no ready answer to that question. Can I suggest that I provide a written reply to that? (Annex V)

MR HOWARD YOUNG: *Mr Deputy President, in relation to the point made by the Honourable Martin Barrow on complaints regarding the notorious Chungking Mansions, I believe not all of these complaints are related to safety but really to the unsightliness. Can the Government assure us that even though they do not come within the Buildings Ordinance Office or the Fire Services Department as mentioned in the reply such complaints will be taken up by some department and not just left unattended to?*

SECRETARY FOR SECURITY: Mr Deputy President, I was dealing in my reply with fire safety. Certainly in so far as there are obstructions which may well be unsightly in these buildings which interfere with the means of fire escape, then those of course will be dealt with by the Fire Services Department. But the Fire Services Department is restricted by the Fire Services Ordinance to dealing with matters relating to fire safety. I think that if the question is referring to other matters such as protuberances on the outside of buildings, that

goes well beyond the original question and well beyond the competence of the Fire Services Department.

MRS PEGGY LAM (in Cantonese): *Mr Deputy President, according to the Secretary's reply, prosecution action will be taken against any offences under the Fire Services Ordinance. Will the Secretary inform this Council of the number of guesthouses prosecuted and of the maximum penalty meted out since the enactment of the Ordinance?*

SECRETARY FOR SECURITY: Mr Deputy President, I do have some statistics here relating to prosecutions of the establishments that I mentioned in my answer. In 1992 there were a total number of almost 4 000 prosecutions against unlicensed restaurants and there were also many prosecutions by the Urban Services Department relating to the breach of the licensing conditions; I believe in 1992 just over 500. I understand that there have not, to date, been any prosecutions in respect of unlicensed clubs and guesthouses because, as the Secretary for Home Affairs has explained, there is still a grace period in operation for those establishments.

Media coverage on purportedly supernatural phenomena

5. MR LEE WING-TAT asked (in Cantonese): *Regarding recent media coverage on matters about fortune telling, supernaturalism, spiritualism, evil spirits and weird phenomena, will the Government inform this Council:*

- (a) *of its policy on press reports and television programmes of this nature;*
- (b) *whether it is aware of the undesirable psychological effect of such reports and programmes on the public, particularly the children; and*
- (c) *whether it will adopt any measures to ensure that the general public have a thorough understanding of such matters?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, the Government's policy on press reports and television programmes on fortune telling, supernaturalism, spiritualism, evil spirits and weird phenomena is no different from its general policy on media coverage on other subjects. The media enjoy freedom of expression and have editorial freedom to give treatment to any subject in a way they consider appropriate, having regard to the laws of Hong Kong on such matters as official secrets, libel, security and emergency, contempt of court and indecency, and so on.

The Government's attention has been drawn to the undesirable psychological effect which inappropriate coverage of such matters may have on the public, particularly on children, by complaints made to the Broadcasting Authority. Whilst there are no controls imposed on the printed media, there are specific provisions in the television codes of practice governing the timing, form and nature under which such matters may be covered on TV programmes. The aim is to protect children from anxiety or fear caused by such subjects. For example, no such subjects are allowed to be covered in programmes broadcast during family viewing hours, and advertisements on fortune tellers and the like are prohibited. In addition, there are also provisions in the codes of practice restricting material likely to mislead, alarm, frighten or be injurious to community well-being, with particular restrictions on material likely to upset children.

Any TV station found to have breached these codes is liable to sanctions by the Broadcasting Authority.

The TV codes of practice are public knowledge and are published as part of the annual report of the Broadcasting Authority which is tabled in this Council.

The Government does not intend taking additional measures, besides those I have described, to advise the public further on the matters raised. However, I hope that any publicity given to this question and my answer to it will serve to remind those in the media to act responsibly and have regard to public sensitivity and feelings. Hopefully, this will also serve to remind parents and teachers of their own particular responsibilities in educating children and young people to adopt the right attitude in dealing with such matters.

MR LEE WING-TAT (in Cantonese): *Mr Deputy President, personally I support freedom of press and freedom of expression. There was however a KCRC commercial last year in which a group of cheerful kids played an imitation game of train. The commercial was a good one and very interesting indeed but a man who called himself Master said on television and in newspapers that those kids were dead and in fact were zombies. According to him, they had bleeding mouths and their feet were above ground. Has the Administration received any complaints on what this so-called Master said; and are there any complaints on this in newspapers? If so, what action has been taken by the Administration?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, the Broadcasting Authority has received a number of complaints concerning the particular programme that Mr LEE has referred to and, having examined and investigated those complaints, the Broadcasting Authority has given suitable advice to the TV station concerned requesting the station to exercise greater care in the selection of material and to observe more closely the codes of

practice, particularly those governing the showing of programmes for children's viewing.

MR MICHAEL HO (in Cantonese): *Mr Deputy President, I would like to follow up the reply of Mr James SO. He said the Administration had given advice to the TV station on receipt of complaints. May I ask whether advice should be given to the TV station concerned, or it is the advertisement or the discussion following it that is called into question?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, I think the complaints refer to the programme where a fortune teller was invited to appear on a live discussion programme to discuss the particular advertisement. There has never been any complaint that the advertisement itself has a problem or is unacceptable. So the complaints refer to the programme which commented on the advertisement and therefore the Broadcasting Authority examined those complaints in the light of the programme rather than in the context of the advertisement itself.

MRS ELSIE TU: *Mr Deputy President, I do not know these advertisements that have been referred to, but it has occurred to me that the Government does have API which is flashed on to drive home the message that smoking is hazardous to health. I see no reason why they cannot have an API which will warn the public against such practices and stress the fact that they are not real but all in the imagination and harmful.*

DEPUTY PRESIDENT: Is there a question mark at the end?

MRS ELSIE TU: *I am sorry, Mr Deputy President. Would the Administration consider this?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, I will certainly pass this comment to the Government Information Services for consideration.

REV FUNG CHI-WOOD (in Cantonese): *Mr Deputy President, would the Administration consider requesting TV stations to show words of warning on screen to advise parents not to leave their children unaccompanied in discussion programmes that touch on supernatural subjects?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, the codes of practice governing the contents and nature of television programmes are very clear with regard to what types of programmes are suitable for viewing at what sort of hours and what types of programmes must carry certain warnings if they are shown in family viewing hours and so on. At the present moment, according to information given to me by the Broadcasting Authority, the number of complaints they have received relating to violence and indecency far exceed those complaints that relate to this particular subject matter and in the view of the Broadcasting Authority it appears that the main public concern does not warrant introducing such a measure.

MR TIK CHI-YUEN (in Cantonese): *Mr Deputy President, the recent coverage on supernatural matters in fact will have undesirable psychological effect on children and my daughter is one of the victims. What actions have been taken by the Administration and the Education Department to assist teachers and parents to educate children so that they will have a proper understanding on supernaturalism and fortune telling?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, I am afraid I do not know what measures the Director of Education has taken with regard to introducing such subjects in the teaching material. I can approach him and ask for a written reply from him.

MRS PEGGY LAM (in Cantonese): *Mr Deputy President, will the Administration inform this Council whether the broadcasts of programmes on fortune telling, supernaturalism, spiritualism, evil spirits and weird phenomena will lead to superstition? If so, will consideration be given to prohibiting this kind of programmes on televisions and radios?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, I think in my main answer I have already covered this point. The Government as a matter of policy does not wish to impose any restrictions on the freedom of the media in presenting any subject matters. I think it is not the intention of the Government to introduce such restrictive measures.

Explosives used in film shooting

6. MR MAN SAI-CHEONG asked (in Cantonese): *Since the inclusion of fireworks under the ambit of the Dangerous Goods Ordinance following the riot in 1967, it appears that licences have only been granted for its use for the purpose of Lunar New Year firework displays. Will the Government inform this Council:*

- (a) *of its policy regarding the use, conveyance and storage of explosives for pyrotechnic effects by the film and television industries;*
- (b) *whether there have been any applications for licences to use explosives in film shooting since 1967, and if so, what the total number of applications received is and how many licences have so far been granted for this purpose;*
- (c) *whether it is aware of any illegal use of explosives in film shooting by the film and television industries and the reasons for it; and*
- (d) *if so, what measures it will take to remedy the situation to ensure the safety of the public and the filming making crews and to meet the needs of the film and television industries?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, as in the case of other industries, the use, conveyance and storage of explosives by the film and TV industries for pyrotechnic effects are governed by the Dangerous Goods Ordinance (Chapter 295) and its Regulations. In essence, in the case of storage and conveyance, they are subject to licence by the Commissioner of Mines, whilst their use is subject to permit by the Director of Marine if it is on water, and the Secretary for Recreation and Culture if on land.

However, since 1967, the Government has, as a matter of policy, imposed a general ban on fireworks which include pyrotechnics. This ban is still in force. Notwithstanding this ban, permits to discharge fireworks have been granted from time to time for special occasions and celebrations such as the Lunar New Year fireworks display.

According to our records, no applications for permits for the use of pyrotechnics in film and TV productions have been received by any of the relevant authorities since 1967. Thus no permits have been granted for such purposes.

It would appear that pyrotechnics has only been used in film and TV productions in recent years. We do not know why the film and TV industries have not applied for permits. This could be due to a number of reasons including ignorance, fear of not obtaining the necessary permit in time, or fear of not being granted a permit at all.

We are in the process of drawing up procedural guidelines to facilitate the granting of permits for the controlled use of pyrotechnics in theatrical, film and TV productions. The relevant industries have been consulted on these procedural guidelines.

In addition to safeguarding public safety, including that of the film crew and production team, these guidelines are also designed to meet the special needs of the industries. We hope to promulgate these guidelines soon, possibly within the next couple of months.

MR MAN SAI-CHEONG (in Cantonese): *Mr Deputy President, scenes of explosion which involve pyrotechnic effects are common in action and war films and cop-and-gangster movies produced by local TV and film industries. According to the Secretary's answer, the TV and film industries have never submitted any application for permit for the use of pyrotechnics in the last 25 years. Why has the Administration not taken any action, especially legal action, against this situation of non-compliance or a situation, we may say, where there is a complete lack of guidelines? May I ask which department should be responsible for this? We do not know that the Administration is drawing up procedural guidelines until now. How will the Administration ensure that these guidelines can meet the needs of these industries in their productions on the one hand and can safeguard public safety and safety of the film crew on the other?*

DEPUTY PRESIDENT: Those are two long questions, Mr MAN. Could you keep it to one question?

MR MAN SAI-CHEONG (in Cantonese): *Mr Deputy President, perhaps I will just confine to one area, that is, since the Administration has not received any application for permits for the use of pyrotechnics from producers in the past twenty years or so while we always see the use of pyrotechnics in films, may I ask why the Administration has turned a blind eye to this situation and which department should be responsible for this situation of non-compliance or a situation, we may say, where there is a complete lack of guidelines?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, until the film and TV industries make application for permits, it is sometimes very difficult for the authorities to know when the industries use pyrotechnics because quite often a lot of these scenes which involve some pyrotechnic effects are not necessarily shot locally in Hong Kong. On many occasions they are shot outside of Hong Kong. So until we receive complaints it would be very difficult for the authorities concerned to act on those complaints.

MR MICHAEL HO (in Cantonese): *Mr Deputy President, I have a follow-up question to ask. Given that for more than 20 years, no applications have been received, does it mean that the Administration is completely unaware of the illegal use of explosives locally? And will investigation be made?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, the relevant authorities did receive complaints from time to time and these have been investigated and acted on.

MR FREDERICK FUNG (in Cantonese): *Mr Deputy President, in the penultimate paragraph of his answer, the Secretary mentioned that procedural guidelines are being drawn up to facilitate the granting of permits in future. I believe that many of the explosion scenes on TV or in films are shot locally because from the background we can see that they are local places. Meanwhile, how is the Administration going to draw the attention of TV and film producers to such provisions? What action will the Administration take if they are in possession of explosives or intend to use them in their productions?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, as I mentioned in the main answer, these guidelines are being drawn up in close consultation with the film and TV industries. In the consultation process we have already advised the industries to refrain from the illegal use of pyrotechnics in the course of their production and no doubt we shall be monitoring this situation. But we hope that with the promulgation of the guidelines the industries will be able to apply for proper permits for the use of such pyrotechnic effects.

DEPUTY PRESIDENT: Mr Michael HO, do you have a follow-up question?

MR MICHAEL HO (in Cantonese): *Mr Deputy President, I would like to follow up my previous question. We learnt from the Administration's reply that investigations had been carried out and actions taken. What are the results and what specific actions have been taken?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, I do not think my answer has referred to any survey being taken by the authorities concerned. I think in my answer I referred to the consultation process being taken in the drawing up of the guidelines and I also referred to the fact that we have not received any application. There is no record of applications received from the industries for permits. So I am at a loss as to the nature of the question.

MR MICHAEL HO: *Mr Deputy President, can I have a follow-up, please?*

DEPUTY PRESIDENT: As long as it is a real follow-up, Mr HO, yes.

MR MICHAEL HO: *Mr Deputy President, my question has been asking whether the Administration has carried out any investigations, not consultations. Can the Government answer the question please?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, as there have been no permit applications submitted, clearly there has been no investigation on applications. But as I mentioned in answer to one of the earlier supplementaries, the police did receive a number of complaints in the past and these have been duly investigated and, where appropriate, prosecution action has been taken.

DR CONRAD LAM (in Cantonese): *Mr Deputy President, may I ask the Secretary whether over the years the Administration has ever written to the film and TV companies to draw their attention to the provisions of the Dangerous Goods Ordinance (Cap 295) governing the use of pyrotechnics? If not, is this in line with the spirit of "positive non-interventionism"?*

DEPUTY PRESIDENT: Just the first part of the question, Secretary.

SECRETARY FOR RECREATION AND CULTURE: Yes, Mr Deputy President. As far as our records show, we have not specifically written any letters or communication to the TV and film industries to remind them of the provisions of the Dangerous Goods Ordinance. But I think when the Ordinance was enacted and at the time when the ban on fireworks and pyrotechnic effects was introduced there was considerable publicity and I would think that the general public as a whole are well aware of these provisions.

MRS SELINA CHOW: *Mr Deputy President, first I would like to declare interest as a director of a TV company. Can the Secretary for Recreation and Culture confirm that the guidelines referred to in the penultimate paragraph of his answer refer to explosives and use of bullets as well as pyrotechnics, because normally pyrotechnics would mean fireworks display? And would the Secretary also advise what steps the Government will take to ensure that the practical implementation of the procedures will not cause unnecessary bureaucratic delay to the efficient conduct of film and television productions?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, I am afraid I do not have the exact definition of pyrotechnics in front of me and therefore cannot advise Mrs CHOW whether it includes bullets. But I can say that pyrotechnics includes every means that involves the use of explosive. I will give Mrs CHOW a written reply on this. (Annex VI) As regards the second part of the question, the guidelines, as I said in the main answer, are drawn up after

extensive consultation with the industries and are specifically designed to facilitate acceptance and application by the industries. The industries generally have expressed satisfaction that the procedures that are now laid out in the guidelines are acceptable to them.

Written answers to questions

Linked exchange rate system

7. DR PHILIP WONG asked (in Chinese): *Will the Government inform this Council under what circumstances the linkage of the exchange rate between the local currency and the US dollar will be discontinued before the transfer of sovereignty?*

FINANCIAL SECRETARY: Mr Deputy President, exchange rate stability is a crucial element for the stability and prosperity of Hong Kong. The maintenance of the present linked exchange rate system is therefore firm government policy. We have no intention of changing this policy.

Conventions on biological diversity and climate change

8. MR DAVID LI asked: *In the light of the motion carried by this Council on 2 December 1992 urging the Administration, among other things, to adopt the two Conventions endorsed in the Earth Summit 1992, will the Administration inform this Council what measures the Hong Kong Government will take to communicate Hong Kong's commitment to the United Nation's Conventions on Biological Diversity and Climate Change?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the Government's commitment to the United Nation's Conventions on Biological Diversity and Climate Change was clearly expressed when this Council debated the issue on 2 December 1992. The environmental objectives of the Earth Summit are worthy of our support and we intend to do our best to fulfill them.

The Second Review of the 1989 White Paper on the Environment, which is due to be published later this year, will provide us with another opportunity to demonstrate our commitment to the Conventions. We are now assessing the overall implications. This is not a simple task as some of the issues relate to areas which have traditionally been considered as falling outside the environmental sphere. It is therefore necessary to consult widely within the Administration on how we can achieve a more comprehensive yet integrated approach to environmental protection.

In the meantime, we will continue the actions which we have already started. For instance, we are actively considering the establishment of marine parks and marine reserves and, in conjunction with the World Wide Fund for the Nature (HK), the establishment of a comprehensive environmental profile for the territory.

Air passenger departure tax

9. MR TAM YIU-CHUNG asked (in Chinese): *In the light of the views expressed by some airline staff that the existing arrangement of requiring airline companies to collect departure tax on behalf of the Government has increased their workload and sometimes even caused the staff financial losses (for example, through discrepancies in accounting), will the Government inform this Council whether the existing arrangement will be reviewed by the relevant authorities?*

SECRETARY FOR ECONOMIC SERVICES: Mr Deputy President, section 4 of the Air Passenger Departure Tax Ordinance, Cap. 140, provides for the airline operators to be responsible for the collection of the Air Passenger Departure Tax (APDT). This has been the arrangement since the introduction of the tax in 1983.

A fee is paid to the airline operators by the Government to cover staff and other costs incurred in connection with collection, accounting, security and administration of the tax. The approved estimate for the collection fee in the financial year 1992-93 is \$19 million.

The present system of APDT collection has generally worked well both in terms of passengers' convenience and security of revenue collection. The Government is nevertheless always prepared to consider suggestions for improving the system further.

Timber storage

10. MR ALBERT CHAN asked (in Chinese): *The Government has recently terminated the short-term tenancy of Yam O Log Pond. The timber industry claimed that this has led to a drop in the stock of timber in Hong Kong and a rise in price of about 30%. Will the Government inform this Council:*

- (a) *of the quantity, volume and value of timber imported over each of the last five years;*
- (b) *of the total area of land used for the storage of timber in Hong Kong at present;*

- (c) *of the criteria adopted in the allocation of land for the storage of timber; and*
- (d) *whether it is aware of the situation claimed by the timber industry and what measures are in hand to deal with the problem?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President,

- (a) There are different kinds of timber with different units of measurement. Annex A provides a breakdown of the import figures from 1988 to 1992.
- (b) There are no readily available figures on the total area of land used for the storage of timber. This is because timber may be stored on land designated for timber storage as well as on general storage and other sites. However, Annex B shows the areas specifically designated for log pond, timber storage and sawmill purposes known to the Buildings and Lands Department.
- (c) A number of factors are taken into account in allocating land for timber storage, for example, site availability, competing demands from different end-users, compatibility with the surrounding environment and the circumstances of the individual case.
- (d) The Industry Department is currently conducting a survey on the timber industry. This includes the importation, storage and sawing of logs as well as the use of sawn logs in the construction industry. The study will be completed shortly and if there is evidence that storage sites are insufficient, the Planning Department will initiate a site search for more.

Annex A

Import of Timbers

		1988	
		Quantity	Value (HKD)
Wood in rough or roughly squared (mainly logs)			
SITC 247100	Logs of coniferous species	14 776 (cu.m.)	12,199,163
SITC 247204	Teakwood	18 634 (cu.m.)	64,646,512
SITC 247205	Sandalwood	440 467 *(kg)	10,584,296
SITC 247206	Decorative wood	7 603 (cu.m.)	33,169,331
SITC 247209	Logs of non-coniferous species	593 351 (cu.m.)	379,254,781
Sub-total		-	499,854,083

Import of Timbers

		<i>1988</i>	
		<i>Quantity</i>	<i>Value (HKD)</i>
Wood simply worked			
SITC 248200	Lumber of coniferous species	14 034 (cu.m.)	17,133,597
SITC 248304	Teakwood	17 074 (cu.m.)	69,262,699
SITC 248305	Sandalwood, simply worked	25 961 *(kg)	2,076,228
SITC 248306	Decorative wood	533 (cu.m.)	3,065,560
SITC 248309	Lumber of non-coniferous species	236 032 (cu.m.)	291,124,405
Sub-total		-	382,662,489
Plywood, veneer, improved or reconstituted wood			
SITC 634100	Wood sawn and veneer sheet	9 027 555 (sq.m.)	33,607,973
SITC 634200	Plywood	66 395 499 (sq.m.)	1,315,328,963
SITC 634310	Improved wood	343 (sq.m.)	70,859
SITC 634320	Reconstituted wood	1 006 049 (sq.m.)	19,829,538
SITC 634410	Blockboard etc.	31 684 776 (sq.m.)	563,632,934
SITC 634910	Hoopwood etc.	-	3,488,594
SITC 634920	Wood beadings and mouldings	-	14,072,478
SITC 634939	Wood simply shaped or worked	-	35,633,059
Sub-total		-	1,985,664,398
Overall total		-	2,868,180,970

Note: *To obtain a crude estimate of the quantity in cu.m., a conversion factor 1kg=0.00141585 cu.m. may be used.

Import of Timbers

		<i>1989</i>	
		<i>Quantity</i>	<i>Value (HKD)</i>
Wood in rough or roughly squared (mainly logs)			
SITC 247100	Logs of coniferous species	2 592 (cu.m.)	2,174,234
SITC 247204	Teakwood	26 915 (cu.m.)	88,893,565
SITC 247205	Sandalwood	259 512 *(kg)	11,346,397
SITC 247206	Decorative wood	14 391 (cu.m.)	64,001,324
SITC 247209	Logs of non-coniferous species	517 140 (cu.m.)	296,684,858
Sub-total		-	463,100,378
Wood simply worked			
SITC 248200	Lumber of coniferous species	10 169 (cu.m.)	14,303,346
SITC 248304	Teakwood	22 204 (cu.m.)	101,085,891
SITC 248305	Sandalwood, simply worked	41 980 *(kg)	1,545,277
SITC 248306	Decorative wood	980 (cu.m.)	3,712,837
SITC 248309	Lumber of non-coniferous species	222 269 (cu.m.)	301,231,931
Sub-total		-	421,879,282

Import of Timbers

		<i>1989</i>	
		<i>Quantity</i>	<i>Value (HKD)</i>
Plywood, veneer, improved or reconstituted wood			
SITC 634100	Wood sawn and veneer sheet	7 488 520 (sq.m.)	33,333,531
SITC 634200	Plywood	78 929 702 (sq.m.)	1,351,868,756
SITC 634310	Improved wood	0 (sq.m.)	0
SITC 634320	Reconstituted wood	789 057 (sq.m.)	16,697,335
SITC 634410	Blockboard etc.	34 750 240 (sq.m.)	628,754,267
SITC 634910	Hoopwood etc.	-	6,494,318
SITC 634920	Wood beadings and mouldings	-	38,777,000
SITC 634939	Wood simply shaped or worked	-	68,980,558
Sub-total		-	2,144,905,795
Overall total		-	3,029,885,455

Note: *To obtain a crude estimate of the quantity in cu.m., a conversion factor 1kg=0.00141585 cu.m. may be used.

Import of Timbers

		<i>1990</i>	
		<i>Quantity</i>	<i>Value (HKD)</i>
Wood in rough or roughly squared (mainly logs)			
SITC 247100	Logs of coniferous species	7 758 (cu.m.)	12,325,925
SITC 247204	Teakwood	20 842 (cu.m.)	78,151,859
SITC 247205	Sandalwood	322 577 *(kg)	7,634,415
SITC 247206	Decorative wood	24 586 (cu.m.)	75,936,615
SITC 247209	Logs of non-coniferous species	526 566 (cu.m.)	293,664,438
Sub-total		-	467,713,252
Wood simply worked			
SITC 248200	Lumber of coniferous species	12 386 (cu.m.)	17,940,050
SITC 248304	Teakwood	20 609 (cu.m.)	86,315,860
SITC 248305	Sandalwood, simply worked	6 100 *(kg)	465,500
SITC 248306	Decorative wood	2 286 (cu.m.)	8,623,544
SITC 248309	Lumber of non-coniferous species	206 802 (cu.m.)	297,576,912
Sub-total		-	410,921,866
Plywood, veneer, improved or reconstituted wood			
SITC 634100	Wood sawn and veneer sheet	2 774 908 (sq.m.)	21,204,100
SITC 634200	Plywood	123 129 540 (sq.m.)	1,843,844,772
SITC 634310	Improved wood	182 (sq.m.)	41,808
SITC 634320	Reconstituted wood	1 639 785 (sq.m.)	31,230,682
SITC 634410	Blockboard etc.	40 759 698 (sq.m.)	601,586,642
SITC 634910	Hoopwood etc.	-	13,209,878

Import of Timbers

		<i>1990</i>	
		<i>Quantity</i>	<i>Value (HKD)</i>
SITC 634920	Wood beadings and mouldings	-	31,242,102
SITC 634939	Wood simply shaped or worked	-	194,995,828
Sub-total		-	2,937,355,812
Overall total		-	3,815,990,930

Note: *To obtain a crude estimate of the quantity in cu.m., a conversion factor 1kg=0.00141585 cu.m. may be used.

Import of Timbers

		<i>1991</i>	
		<i>Quantity</i>	<i>Value (HKD)</i>
Wood in rough or roughly squared (mainly logs)			
SITC 247100	Logs of coniferous species	8 278 (cu.m.)	11,785,395
SITC 247204	Teakwood	17 188 (cu.m.)	64,978,291
SITC 247205	Sandalwood	279 817 *(kg)	10,904,863
SITC 247206	Decorative wood	33 218 (cu.m.)	97,683,529
SITC 247209	Logs of non-coniferous species	505 040 (cu.m.)	340,344,706
Sub-total		-	525,696,784
Wood simply worked			
SITC 248200	Lumber of coniferous species	15 236 (cu.m.)	21,902,144
SITC 248304	Teakwood	33 517 (cu.m.)	131,722,073
SITC 248305	Sandalwood, simply worked	9 370 *(kg)	250,194
SITC 248306	Decorative wood	3 015 (cu.m.)	9,716,548
SITC 248309	Lumber of non-coniferous species	260 419 (cu.m.)	394,585,287
Sub-total		-	558,166,246
Plywood, veneer, improved or reconstituted wood			
SITC 634100	Wood sawn and veneer sheet	4 093 290 (sq.m.)	25,339,609
SITC 634200	Plywood	148 916 225 (sq.m.)	1,790,219,428
SITC 634310	Improved wood	0 (sq.m.)	0
SITC 634320	Reconstituted wood	1 729 122 (sq.m.)	31,723,961
SITC 634410	Blockboard etc.	28 300 542 (sq.m.)	528,527,731
SITC 634910	Hoopwood etc.	-	6,092,878
SITC 634920	Wood beadings and mouldings	-	55,419,821
SITC 634939	Wood simply shaped or worked	-	218,609,430
Sub-total		-	2,655,932,858
Overall total		-	3,739,795,888

Note: *To obtain a crude estimate of the quantity in cu.m., a conversion factor 1kg=0.00141585 cu.m. may be used.

Import of Timbers

		<i>1992</i>	
		<i>Quantity</i>	<i>Value (HKD)</i>
Wood in rough or roughly squared (mainly logs)			
SITC 24730	Wood in rough	0 (cu.m.)	0
SITC 24740	Wood of coniferous species	16 009 (cu.m.)	13,604,000
SITC 24751	Tropical, wood of non-coniferous species	68 601 (cu.m.)	130,702,000
SITC 24751	Wood, of other non-coniferous species	462 830 (cu.m.)	383,653,000
Sub-total		547 440 (cu.m.)	527,941,000
Wood simply worked			
SITC 24820	Wood of coniferous species, sawn	23 230 (cu.m.)	42,680,000
SITC 24830	Wood of coniferous species, other	-	3,292,000
SITC 24840	Wood of non-coniferous species, sawn	247 268 (cu.m.)	517,386,000
SITC 24850	Wood of non-coniferous species, other	-	246,896,000
Sub-total		-	810,254,000
Plywood, veneer, improved or reconstituted wood			
SITC 63411	Veneer & plywood, coniferous sheet	292 892 (sq.m.)	3,760,000
SITC 63412	Veneer & plywood, non-coniferous sheet	8 099 879 (sq.m.)	46,265,000
SITC 63421	Densified wood	9 691 (sq.m.)	294,000
SITC 63422	Particle board	3 695 672 (sq.m.)	61,825,000
SITC 63431	Plywood, with outer ply of non-coniferous wood	114 601 864 (sq.m.)	1,786,766,000
SITC 63439	Plywood, solely of sheets of wood	760 211 (sq.m.)	23,529,000
SITC 63441	Plywood, laminated with outer ply of non-coniferous wood	16 729 392 (sq.m.)	401,960,000
SITC 63449	Plywood, laminated n.e.s	1 561 702 (sq.m.)	29,186,000
SITC 63491	Hoopwood	-	938,000
Sub-total			2,354,523,000
Overall total		-	3,692,718,000

Figures for 1992 are in terms of the Standard International Trade Classification (SITC) Rev. 3 whereas figures for earlier years are in terms of SITC Rev. 2

Timber Storage

<i>Uses</i>	<i>Hectares</i>
Log Ponds	10.0
Timber Storage	20.5
Sawmill	8.6

Textbooks of secondary and primary schools

11. MR JAMES TO asked (in Chinese): *Will the Government inform this Council:*

- (a) *how many complaint cases relating to errors in the textbooks of secondary and primary schools have been reported over the past three years and what the main issues under complaint are;*
- (b) *what procedures are being adopted to scrutinize secondary and primary school textbooks;*
- (c) *whether consideration will be given to reviewing the existing procedures; if so, what the specific plans for such review are; if not, what the reasons for not doing so are?*

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

- (a) Over the past three years, two cases have been reported to the Education Department of alleged errors in the textbooks of secondary and primary schools, namely:
 - (i) a complaint in March 1990, which turned out to be unsubstantiated, concerning the wrong use of a Chinese character in a Primary V Social Studies textbook;
 - (ii) a complaint in August 1992 citing incorrect grammar, usage, style and examples in a set of English textbooks for secondary schools. This was found to be partially substantiated.
- (b) The review of textbooks is undertaken by a Textbooks Committee of the Education Department and its Textbooks Reviewing Panels, which comprise Education Department (ED) officers, heads and teachers of schools, and lecturers of colleges of education and tertiary institutions. Each textbook submitted for review is assessed

by at least two reviewers, according to whether it follows the syllabuses prepared by the Curriculum Development Council or the Hong Kong Examination Authority and attains acceptable standards in terms of content, sequence, exercises, language, illustration and format. The textbook is then graded either A, B or C by the co-ordinator of the relevant subject reviewing panel, taking into account the assessments of the reviewers. The grade given is considered by the Chairman of the Textbooks Committee and if endorsed, the publisher is notified accordingly. All textbooks graded "A" are included in the "List of Textbooks Recommended by the Textbooks Committee". The List is issued to schools on a quarterly basis. Textbooks graded "B" are excluded from the list and are neither recommended nor prohibited from being used in schools. A textbook which is found to be totally unsuitable is graded "C" and prohibited from being used in schools.

- (c) The existing procedures have evolved over a long period of time and are reviewed regularly, in consultation with the three local publisher's associations. No separate review outside this on-going process is considered necessary. However, following receipt of the complaint in August 1992, the ED reviewed its procedures and issued instructions to its reviewers to take greater care to check for grammar, usage, style and the appropriateness of examples used in the text.

Car theft

12. MR CHIM PUI-CHUNG asked (in Chinese): *As car theft in Hong Kong is still a serious problem in the recent months, will the Government inform this Council:*

- (a) *apart from introducing legislative amendments to impose heavier penalties on taking conveyance with authority, what further plans are in place to combat car theft activities;*
- (b) *whether consideration will be given to establishing a special joint committee comprising representatives from relevant Government departments and private organizations to tackle the problem of car theft; if not, what the reasons are; and*
- (c) *how it would strengthen liaison with relevant institutions in China on matters concerning the smuggling of stolen vehicles from Hong Kong?*

SECRETARY FOR SECURITY: Mr Deputy President, many unrecovered stolen vehicles are smuggled out of Hong Kong. Therefore, in addition to introducing heavier penalties for vehicle theft, we are planning to bring forward legislation to impose higher maximum penalties for smuggling generally, and more effective control on certain types of boats which are commonly used in the smuggling of vehicles. The police and other law enforcement agencies are continuing their efforts to tackle the related problems of vehicle theft and smuggling. Operational tactics are regularly reviewed to take account of the increasing sophistication of vehicle theft and smuggling syndicates, and very considerable resources are devoted to this task. The police will continue to use publicity to emphasize to vehicle owners, car-park operators and the security staff of private residential buildings the importance of security.

The prevention and detection of car theft is a matter for the police. The police have held meetings with an ad hoc group for the Reduction of the Incidence of Vehicle Crime on a quarterly basis since 1990. The group comprises representatives from the General Insurance Council, the Accident Insurers Association, the Motor Traders Association, the Finance House Association and a number of car-park operators. Representatives from Transport Department, Customs and Excise Department and Trade Department have also attended these meetings. The group is a useful forum for the exchange and development of ideas and we believe it should continue. The police will consider adding to this group other relevant bodies as necessary. We believe the establishment of a new committee would be a duplication, and is not necessary.

There is close and regular liaison with the Chinese authorities on the smuggling of stolen vehicles from Hong Kong into China. This problem is high on the agenda of every discussion which we have with the Chinese authorities on law enforcement matter, at both the political and operational level. The Commissioner of Police has personally raised the matter on several occasions with the Chinese law enforcement authorities. He has also recently written to the heads of the law enforcement agencies of neighbouring countries and to the Interpol Secretariat to request their assistance in tackling the problem of vehicle theft in Hong Kong. We believe that the Chinese Police Liaison Officers who have recently arrived in Hong Kong will strengthen our liaison with the mainland law enforcement agencies.

Vacant units in public housing estates

13. MR WONG WAI-YIN asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the number of vacant units in each of the public housing estates as at the end of December 1992;*

- (b) *of the number of units that have been left vacant for more than one year and the longest period of such vacancy; and*
- (c) *of the reasons for leaving the public housing units vacant; and what action will be taken to expedite the allocation of vacant units to applicants on the waiting list?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, as at 31 December 1992, there were 16 900 vacant flats in public housing estates. Within the time available, it has not been possible to work out the vacancy position for each estate as at 31 December 1992. However, a detailed breakdown of the vacancy position as at 11 February 1993 is at the Annex. The number has gone down to 15 900.

Of the 16 900 flats vacant by the end of 1992, 1 650 had been vacant for over a year. Nine of them have been vacant for 29 months despite repeated attempts to offer them to the committed categories. This is the longest period of vacancy.

A majority of the vacant flats were not ready for immediate allocation. Some 36% of the 16 900 were reserved to meet planned redevelopment, clearance and major repairs programme requirements and 47% were under refurbishment. The remainder (17%) were either not taken over by the estate management or were already being offered to eligible applicants.

The Housing Authority's policy is to allocate flats as soon as they are completed or recovered. The Authority has taken the following measures to ensure that more flats can be let out to waiting list applicants:

- (a) to release flats reserved for committed categories in line with programme adjustments and take-up rate;
- (b) to expedite the refurbishment programme by appointing regional consultants and redeploying internal maintenance resources; and
- (c) to streamline procedures for the hand-over of newly completed flats from contractors.

As a result of these measures, the number of vacant flats has been reduced by 53% in the past two years.

Hong Kong Housing Authority
vacancy position of existing rental estate
(position as at 11.2.93)

<i>District</i>	<i>Estate</i>	<i>Stock</i>	<i>No. of vacant flats</i>		<i>% of vacancy</i>
Fanling	Cheung Wah	5 094	72	(69)	1.4
	Cho Yuen	5 077	153	(151)	3.0
	Tai Ping	1 429	8	(5)	0.6
	Tin Ping	5 698	41	(7)	0.7
	Wah Ming	5 868	39	(1)	0.7
Hong Kong East	Chai Wan	3 497	50	(39)	1.4
	Fung Wah	1 218	325	(1)	26.7
	Hing Man	1 999	13	(9)	0.7
	Hing Wah II	3 578	80	(70)	2.2
	Model Housing	629	1	(1)	0.2
	North Point	1 956	19	(17)	1.0
	Siu Sai Wan	4 011	227	(1)	5.7
	Tsui Wan	2 340	3	(2)	0.1
	Wan Tsui	3 940	18	(17)	0.5
	Yue Wan	2 177	23	(16)	1.1
Hong Kong West	Ap Lei Chau	4 455	42	(25)	0.9
	Lei Tung	7 536	39	(39)	0.5
	Sai Wan	638	13	(13)	2.0
	Shek Pai Wan	4 611	120	(120)	2.6
	Wah Fu I	4 876	141	(137)	2.9
	Wah Fu II	4 378	97	(93)	2.2
	Wong Chuk Hang	5 480	290	(253)	5.3
	Wah Kwai	3 389	316	-	9.3
Islands	Cheung Kwai	472	2	(2)	0.4
	Lung Tin	184	26	(26)	14.1
	Ngan Wan	466	34	(20)	7.3
Kowloon Central	Chuk Yuen North	6 736	15	(1)	0.2
	Chuk Yuen South	6 655	96	(79)	1.4
	Fung Tak	5 224	601	-	11.5
	Ho Man Tin	3 972	48	(41)	1.2
	Hung Hom	1 171	18	(18)	1.5
	Lok Fu	2 360	6	-	0.3
	Wong Tai Sin I	5 111	85	(5)	1.7
	Wong Tai Sin II	3 261	22	(4)	0.7
Ma Tau Wai	2 075	72	(60)	3.5	

<i>District</i>	<i>Estate</i>	<i>Stock</i>	<i>No. of vacant flats</i>		<i>% of vacancy</i>
Kowloon Central	Mei Tung	661	9	(3)	1.4
	Oi Man	6 287	87	(87)	1.4
	Shatin Pass	1 278	34	(25)	2.7
	Tsz Man	1 536	1	(1)	0.1
	Tung Tau	8 181	100	(58)	1.2
	Upper Wong Tai Sin	6 325	1	-	0.0
	Valley Road	3 299	54	(54)	1.6
	Wang Tau Hom	4 132	18	-	0.4
Kowloon East	Choi Ha	2 330	77	-	3.3
	Choi Hung	7 475	254	(233)	3.4
	Choi Wan I	5 922	102	(102)	1.7
	Choi Wan II	2 967	127	(120)	4.3
	Fu Shan	1 580	23	(12)	1.5
	Hing Tin	2 448	7	(2)	0.3
	Kai Yip	4 300	85	(85)	2.0
	Kwong Tin	442	156	-	35.3
	Kwun Tong (LYMR)	1 248	30	(30)	2.4
	Lam Tin I	7 986	206	(100)	2.6
	Lam Tin III	2 316	26	(9)	1.1
	Lok Wah North	2 977	6	(6)	0.2
	Lok Wah South	7 008	185	(170)	2.6
	Ngau Tau Kok I	5 178	211	(148)	4.1
	Ngau Tau Kok II	5 410	54	(26)	1.0
	Ping Shek	4 573	43	(43)	0.9
	Sau Mau Ping I	5 803	163	(135)	2.8
	Sau Mau Ping II	7 748	134	(125)	1.7
	Sau Mau Ping III	6 295	84	(76)	1.3
	Shun Lee	4 450	147	(147)	3.3
	Shun On	3 001	49	(28)	1.6
	Shun Tin	7 025	127	(108)	1.8
	Tak Tin	5 342	1 323	-	24.8
	Tsui Ping	7 873	394	(85)	5.0
	Upper Ngau Tau Kok	5 932	81	(68)	1.4
	Wo Lok	1 947	103	(86)	5.3
	Yau Tong	5 357	152	(152)	2.8
Kowloon West	Chak On	1 905	51	(14)	2.7
	Cheung Sha Wan	2 736	84	(23)	3.1
	Lai Kok	3 068	59	(16)	1.9
	Lei Cheng Uk	4 832	22	(10)	0.5
	Nam Cheong	1 897	6	(2)	0.3
	Nam Shan/Tai Hang Tung	5 223	73	(57)	1.4

<i>District</i>	<i>Estate</i>	<i>Stock</i>	<i>No. of vacant flats</i>		<i>% of vacancy</i>
Kowloon West	Pak Tin	6 276	119	(98)	1.9
	Shek Kip Mei	8 268	181	(171)	2.2
	So Uk	5 314	102	(60)	1.9
	Un Chau Street	4 980	22	(22)	0.4
Sha Tin	Chun Shek	2 191	45	(38)	2.1
	Heng On	6 076	23	(5)	0.4
	Hin Keng	5 876	5	-	0.1
	Kwong Yuen	4 660	209	(2)	4.5
	Lek Yuen	3 210	86	(86)	2.7
	Lung Heng	4 384	75	(74)	1.7
	Mei Lam	4 162	29	(29)	0.7
	Pok Hong	5 447	54	(50)	1.0
	Sha Kok	6 425	137	(127)	2.1
	Sun Chui	6 691	76	(51)	1.1
	Sun Tin Wai	3 432	108	(108)	3.1
	Wo Che	6 071	167	(148)	2.8
	Yiu On	4 794	10	(5)	0.2
Tai Po	Fu Heng	5 858	45	(6)	0.8
	Fu Shin	5 498	42	(34)	0.8
	Kwong Fuk	6 183	82	(76)	1.3
	Tai Wo	7 173	60	(1)	0.8
	Tai Yuen	4 867	108	(107)	2.2
	Wan Tau Tong	1 859	684	-	36.8
Tin Shui Wai	Tin Yiu	3 308	42	-	1.3
Tsuen Wan	Cheung Ching	4 904	140	(139)	2.9
	Cheung Fat	2 618	57	-	2.2
	Cheung Hang	3 288	81	-	2.5
	Cheung Hong	8 594	130	(66)	1.5
	Cheung On	7 338	58	(15)	0.8
	Cheung Shan	1 620	24	(24)	1.5
	Fuk Loi	3 129	31	(26)	1.0
	Kwai Chung	8 850	349	(326)	3.9
	Kwai Fong	4 263	422	(275)	9.9
	Kwai Hing	763	636	-	86.0
	Kwai Shing East	5 590	-	-	-
	Kwai Shing West	5 255	141	(120)	2.7
	Lai King	4 208	61	(61)	1.4
	Lai Yiu	2 403	33	(16)	1.4
	Lei Muk Shui	8 723	148	(86)	1.7
	Shek Lei I	5 928	52	(31)	0.9
Shek Lei II	8 435	87	(46)	1.0	

<i>District</i>	<i>Estate</i>	<i>Stock</i>	<i>No. of vacant flats</i>		<i>% of vacancy</i>
Tsuen Wan	Shek Wai Kok	6 502	100	(77)	1.5
	Shek Yam	4 287	18	(17)	0.4
	Tak Wo Hau	6 594	223	(180)	3.4
	Tsing Yi	3 230	139	(9)	4.3
Tseung Kwan O	Po Lam	5 007	12	(8)	0.2
	King Lam	5 235	859	(1)	16.4
	Tsui Lam	4 932	26	(4)	0.5
Tuen Mun	Butterfly	5 405	196	(195)	3.6
	Kin Sang	2 652	2	(1)	0.1
	Leung King	6 852	26	(11)	0.4
	On Ting	5 049	107	(98)	2.1
	Sam Shing	1 833	29	(29)	1.6
	San Fat	2 131	21	(21)	1.0
	Shan King	8 644	320	(320)	3.7
	Tai Hing	8 595	212	(211)	2.5
	Tin King	3 298	2	(2)	0.1
	Wu King	4 386	66	(66)	1.5
	Yau Oi	9 156	236	(236)	2.6
Yuen Long	Long Ping	8 483	35	(8)	0.4
	Shui Pin Wai	2 135	96	(95)	4.5
	Yuen Long	3 507	78	(61)	2.2
Total		614 679 ⁽¹⁾	15 887	(7 967) ⁽²⁾	2.6

Notes

(1) Estates due for redevelopment within 36 months are not included.

(2) Figures in brackets denote no. of flats under refurbishment.

Baggage check-in at the Kai Tak airport terminal

14. MR HOWARD YOUNG asked: *Regarding the check-in of baggage at the Kai Tak airport terminal, will the Government inform this Council of:*

- (a) *the reasons for prohibiting baggage not readily identifiable as personal effects from being checked in as passenger baggage; and*
- (b) *the guidelines for determining whether certain baggage should be checked in at the cargo terminal, bearing in mind the difficulties in ascertaining whether the items are indeed personal effects?*

SECRETARY FOR ECONOMIC SERVICES: Mr Deputy President, under an order made by the Airport General Manager under the provisions of the Hong Kong Airport (Regulations) Ordinance (Cap. 292) in 1989, only passenger baggage containing personal effects may be checked in at the Passenger Terminal. Consignments readily identifiable as commercial goods, including courier consignments, must be handled through the cargo terminal. The purpose of this order was to alleviate the congestion within the Airport Passenger Terminal Building, and the overloading of the Baggage Handling System caused by the processing of commercial and other unauthorized goods and articles through check-in for transportation as passenger baggage.

The need for this restriction is due to the recent growth in the number of passengers attempting to check in commercial goods as personal baggage. In one case, a passenger attempted to check in no less than 75 items.

Apart from causing delay and inconvenience to other departing passengers, commercial goods are often packed in containers which are too large to pass through X-ray screening equipment. As a result time-consuming hand searches are necessary. Unloading of consignments from trucks has also caused traffic congestion at the departure level kerbside.

According to the International Association of Air Transport, baggage means such articles, effects and other personal property of a passenger as are necessary or appropriate for wear, use, comfort or convenience in connection with his trip. This is obviously a fairly narrow definition and the ultimate decision as to whether an item presented for check-in should be accepted as baggage rests with the airline. Generally speaking passengers are given the benefit of the doubt, and only items that are readily identifiable as commercial consignments (for example large quantities of the same items, packaged and labelled for sale and so on) are likely to be referred to the cargo terminal.

Homework and tests for primary pupils

15. MR ERIC LI asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the criteria used by the Education Department in determining the volume of homework and the frequencies of tests and examinations for primary school pupils;*
- (b) *whether the Department will consider conducting regular surveys amongst the parents of these pupils to find out the average time spent daily or weekly by their children on doing homework and preparing for tests and examinations, and*

- (c) *whether the Department will consult the parents on the appropriate volume of their children's homework; and whether it will take into account the parents' views in drawing up its regular issues of the General Schools Curriculum Circulars on "Homework in Schools"?*

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

- (a) The Education Department does not itself determine the volume of homework or the frequency of tests and examinations for primary school pupils. These should be, and are, decided by the schools themselves to meet the needs of their pupils and operational requirements. However, the Department issues annual guidelines to help schools determine the type, frequency and amount of homework at all levels. Schools are advised to balance the demands of the curriculum with the pupils' abilities, their home environment and the need for play time. They are specifically asked to allow ample time for social events, extra-curricular activities and rest, which are essential to the physical, emotional and social development of young people.
- (b) Given that, ultimately, it is the responsibility of schools to decide on an appropriate amount of homework, taking into account various factors and parental wishes, the Department has no plans to conduct regular surveys amongst parents to find out the average time spent by pupils doing homework or preparing for examinations. However, officers of the Education Department visit schools regularly to monitor the situation regarding homework, tests and examinations in order to ensure that there are no excesses.
- (c) The Education Department maintains an extensive network of ad hoc or standing committees through which parental views on homework and other issues are solicited and taken into account. Its guidelines on homework reflect parental views on the subject. The Department recognizes that more direct parental involvement will help schools decide on the most appropriate balance between work and play in different circumstances. To this end, the Home-School Co-operation Committee was established recently, following a recommendation in Education Commission Report No. 5, to promote more interaction between parents and schools.

Option to Rent or Buy Scheme

16. MR GILBERT LEUNG asked (in Chinese): *Since the Housing Authority only received about 1 300 applications for the some 1 200 Home Ownership Scheme (HOS) flats recently on offer in phase 14D under the "Option to Rent or Buy Scheme", will the Government inform this Council whether it is aware of:*

- (a) *the total number of letters issued by the Housing Authority to invite applications from eligible candidates, and what data are available in respect of these applications (that is, the number of applicants from the waiting list for rental public housing estates in Tin Shui Wai/Tseung Kwan O/other areas and the respective family sizes of these applicants, the number of applicants from redevelopment clearance programmes and the number of applicants from the civil service);*
- (b) *how the Housing Authority assess the response to the scheme; and*
- (c) *any plan by the Housing Authority to modify the price of the flats to be offered in future under this Scheme, by pegging it to the replacement costs (this is, the proposed price level for the planned remarketing of flats under the "Sale of Flats to Sitting Tenants Scheme"), so as to achieve the objective of attracting prospective public housing tenants to buy their own flats?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the aim of the rent or buy scheme is to give those whose turn for rehousing is due the option of either renting a flat or buying an HOS flat in the same district. Flats not taken up will be offered to applicants drawn by ballot for HOS/PSPS flats on sale at the time. Prices are set at a level similar to current HOS/PSPS prices.

The scheme was launched on 2 January 1993 involving two rental blocks, one in Tin Shui Wai and the other in Tseung Kwan O, and a total of 1 216 flats. The Housing Authority issued 23 600 invitation letters: 14 700 to tenants affected by redevelopment and 8 900 to applicants due to be allocated rental flats in the two districts. Applicants awaiting flats in other districts could also have applied in response to a press release issued on 30 December 1992.

By the end of the application period on 29 January 1993, a total of 1 543 applications were received, broken down as follows:

<i>Category</i>	<i>No. of applications</i>	<i>Housing size</i>		
		<i>2p*</i>	<i>3p/4p</i>	<i>5p+</i>
a) redevelopment	10	6	-	4
b) THA/squatter clearerees	8	1	4	3
c) civil servants	50	7	33	10
d) waiting list	1 475	316	910	249
Total:	<u>1 543</u>	<u>330</u>	<u>947</u>	<u>266</u>

* person

The response exceeded the Housing Authority's expectations. Present indications are that most of the 608 flats in Tin Shui Wai and 40 in Tseung Kwan O will be sold.

The scheme is experimental and its basis, including flats prices, will be reviewed regularly. At present there is no intention to adopt a replacement cost pricing formula.

Sexual offence involving oral sex

17. MRS PEGGY LAM asked (in Chinese): *As the psychological damage done to a victim forced to perform oral sex for another person is no less than that done by rape and buggery, will the Government inform this Council whether consideration will be given to making the act of forcing another person to perform oral sex a separate offence under Part XII of the Crimes Ordinance (Cap 200) and making the offence punishable by life imprisonment, so as to deter potential offenders?*

SECRETARY FOR SECURITY: Mr Deputy President, I am advised that, as with rape and buggery, the extent and severity of psychological damage done to a victim forced to perform oral sex depends on a wide range of factors, such as the violence used, and other circumstances of the case. Generally speaking, the psychological damage done to victims forced to perform oral sex is less than that experienced by victims of rape and buggery.

At present, a person who forces another person to perform oral sex, but commits no other violence, is charged with indecent assault under the Crimes Ordinance. The maximum penalty for this offence is 10 years' imprisonment. This penalty was increased from five years in 1991.

However, an analysis of prosecutions involving this offence shows that it is often accompanied by other sexual offences, such as rape or attempted rape. In sentencing offenders who force others to perform oral sex, the court is bound to take into account all of the actions of the offender.

We do not consider that a separate offence of forcing another to perform oral sex is necessary. The existing penalty for the offence of indecent assault is adequate to tackle this type of crime. The present law has not caused difficulties in relation to the charging or sentencing of such offenders; nor is there any indication that sexual offences of this sort are increasing.

Heroin trafficking and abuse by young people

18. MR CHEUNG MAN-KWONG asked (in Chinese): *In view of concerns expressed by the public about young people engaging in heroin trafficking and abuse, will the Government inform this Council of the following:*

- (a) *the number of heroin-related cases involving young people in the past 12 months; the types of crimes involved, the prosecution figures and the sentences passed upon conviction of such cases; and what the changes are in comparison with statistics of each of the two previous years; and*
- (b) *whether there are plans to tackle the problem of young people being involved in heroin cases; and the measures that will be taken to effectively implement these plans?*

SECRETARY FOR SECURITY: My Deputy President, the statistics for prosecutions and sentencing for the past 12 months on drug offences are not yet available. Instead, I can quote from the statistics for the first nine months of 1992 and compare them with the trends in 1991 and 1990.

- (a) The number of young persons aged under 21 who were prosecuted for heroin offences increased from 285 in 1990 to 332 in 1991 and to 303 in the first nine months of 1992. The proportion of these offenders prosecuted for minor drug offences, which include simple possession or smoking/consumption of the drug, has increased from 40.4% in 1990 to 61.7% in 1991 and to 79.2% in the first nine months of 1992. But these figures need to be treated with caution. The increase in the proportion of prosecutions for minor drug offences is, in part, a result of the repeal, in September 1991, of presumptions concerning possession of dangerous drugs for trafficking, in the Dangerous Drugs Ordinance. These statistics are set out in Table 1.

The majority of those convicted were sentenced to a period of detention in a Drug Addiction Treatment Centre or to probation. The proportion sentenced increased from 46.6% in 1990 to 55.2% in 1991 and to 69.4% in the first nine months of 1992. This is consistent with the increase in the proportion convicted of minor drug offences over the same period.

The remainder of those convicted were sentenced to imprisonment or a fine; the level of fine and length of imprisonment were in general similar throughout the three years. These statistics are set out in Table 2.

- (b) We recognize that young people are a high risk group in so far as drug problems are concerned. They are the main target of the Government's anti-drug education and publicity programmes. A major element of these programmes is the drug education school talks conducted by the Narcotics Division in all secondary schools, boys and girls homes and youth organizations. Information on the harmful effects of drug abuse is disseminated, and the legal consequences and dangers of involvement in drug offences are clearly pointed out. These talks also aim to develop correct, healthy attitudes to life, and skills to resist peer pressure to experiment with drugs. It is planned to extend these school talks to all Primary VI students in September 1993.

Apart from targetting young people in school, we aim to disseminate the anti-drug message to the community as a whole and to parents in particular. A pilot scheme to introduce drug education talks to parents has been introduced. Workshops and seminars are also arranged for student teachers and social workers. Anti-drug activities are organized jointly with District Boards and voluntary agencies. An annual "Drug Wise Camp" organized by the Police Public Relations Bureau, the Society for the Aid and Rehabilitation of Drug Abusers, and Lions Club also promotes drug awareness among Junior Police Call leaders and members, who in turn assist other youngsters.

In addition to preventive education and publicity, law enforcement is essential to deter young people from drug abuses and trafficking. The Police Force and Customs and Excise Department take vigorous action to counter drug trafficking both at the regional and district level, and have achieved positive results in apprehending and prosecuting more drug offenders. We hope that the increase in the maximum penalties for the offence of possession of dangerous drugs, introduced last June, will have a deterrent effect on young people.

For those young people who unfortunately become victims of heroin, the Government encourages them to participate in the voluntary drug treatment programmes, like the Methadone Treatment Programme or the in-patient treatment programme operated by the Society for the Aid and Rehabilitation of Drug Abusers. Information on these services is freely and easily available from publications distributed by Narcotics Division, or by dialling the Drug Abuse Telephone Enquiries Hotline on 366 8822.

Table 1: Number of young persons (under age 21) prosecuted for heroin offences

	1990		1991		% change	Jan-Sep 1991		Jan-Sep 1992		% change
Number prosecuted for										
Major offences	170	(59.6)	127	(38.2)	-25.3	94	(40.7)	63	(20.8)	-33.0
Manufacturing	-	(-)	2	(0.6)	N.A.	1	(0.4)	2	(0.7)	+100.0
Trafficking	4	(1.4)	6	(1.8)	+50.0	3	(1.3)	7	(2.3)	+133.3
Possession for trafficking	166	(58.2)	119	(35.8)	-28.3	90	(39.0)	54	(17.8)	-40.0
Minor offences	115	(40.4)	205	(61.7)	+78.3	137	(59.3)	240	(79.2)	+75.2
All offences	285	(100.0)	332	(100.0)	+16.5	231	(100.0)	303	(100.0)	+31.2

Source: Integrated Law and Order Statistical System, Security Branch

Note: Figures in brackets represent percentage of total.

Table 2: Young persons (under age 21) convicted of heroin offences

	1990		1991		% change	Jan-Sep 1991		Jan-Sep 1992		% change
Number convicted of										
Major offences	66		55		-16.7	45		29		-35.6
Minor offences	159		222		+39.6	152		262		+72.4
All offence	225		277		+23.1	197		291		+47.7
	1990	%	1991	%		Jan-Sep 1991	%	Jan-Sep 1992	%	
Outcome of conviction										
Total number convicted of which	225	100.0	277	100.0		197	100.0	291	100.0	
DATC	57	25.3	82	29.6		54	27.4	101	34.7	
Probation order	48	21.3	71	25.6		46	23.4	101	34.7	
Fine	34	15.1	46	16.6		37	18.8	39	13.4	
below \$2,000	32	(94.1)	41	(89.1)		33	(89.2)	30	(76.9)	
\$2,000-\$3,000	2	(5.9)	5	(10.9)		4	(10.8)	6	(15.4)	
over \$3,000	-	(-)	-	(-)		-	(-)	3	(7.7)	

	1990	%	1991	%	Jan-Sep 1991	%	Jan-Sep 1992	%
Imprisonment	36	16.0	28	10.1	23	11.7	17	58
less than 6 months	5	(13.9)	6	(21.4)	4	(17.4)	4	(23.5)
6 months –								
less than 3 years	13	(36.1)	13	(46.4)	10	(43.5)	9	(52.9)
3 years –								
less than 5 years	7	(19.4)	5	(17.9)	5	(21.7)	3	(17.6)
5 years and over	11	(30.6)	4	(14.3)	4	(17.4)	1	(5.9)
Others	50	22.2	50	18.1	37	18.8	33	11.3

Source: Integrated Law and Order Statistical System, Security Branch

Notes: DATC — Drug Addiction Treatment Centres operated by the Correctional Services Department.

Figures in brackets represent the percentage of the respective total number of persons convicted to fines and imprisonment.

Others — include suspended sentence, conditional discharge, caution, absolute discharge, etc.

Policy proposals made in motion debates

19. MR HENRY TANG asked: *Given that this Council, comprising 18 Members returned by geographical constituencies through direct elections and 21 Members returned by functional constituencies, is broadly representative of the people in Hong Kong, will the Government inform this Council whether it will respect the views of the public and accept policy proposals which are made and supported in motion debates by a clear majority of this Council; and when the Government considers such proposals not to be in the public interest will it so advise, with reasons?*

CHIEF SECRETARY: Mr Deputy President, the Government has always attached great importance to the views of Members of the Legislative Council expressed in debates of the Council. Their views on government policies are taken into consideration in the formulation or development of such policies. Where it is not possible, for policy or resource reasons, to agree to proposals supported by Members in debates, the Government will state clearly the reasons.

Density criteria as to overcrowding in public housing units

20. DR CONRAD LAM asked (in Chinese): *Will the Government inform this Council of the density criteria used by the Housing Authority to define overcrowded families in the public housing estates for the purpose of allocating additional accommodation or effecting transfer; if the criteria are not the same as the minimum space allocation standard for new public housing tenants, what is the reason for the difference and will consideration be given to bringing parity?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the current criterion for the relief of overcrowding is the same as the Housing Authority's minimum allocation standard for new tenants, that is, 5.5m² per person. Public housing tenants living in units providing less than 5.5m² per person may apply to transfer to larger units. A tighter criterion of 4.5m² per person is used for tenants wishing to transfer to new flats in the urban and sub-urban areas however. This is because the supply of new flats in these areas is tight due to redevelopment and clearance commitments.

First Reading of Bill

COMPANIES (AMENDMENT) (NO. 2) BILL 1993

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

Second Reading of Bill

COMPANIES (AMENDMENT) (NO. 2) BILL 1993

THE SECRETARY FOR MONETARY AFFAIRS moved the Second Reading of: "A Bill to amend the Companies Ordinance."

He said: Mr Deputy President, I move that the Companies (Amendment) (No. 2) Bill 1993 be read a Second time.

This Bill is a composite Bill which addresses several different issues. The principal provisions aim to ensure a more even flow of submissions of annual returns for filing in the Companies Registry; to introduce a degree of flexibility for companies limited by guarantee; to provide for a comprehensive index of the directorships held by directors of listed companies; and to strengthen the special procedures for the voluntary winding-up of companies. The opportunity is also taken to update certain other provisions of the Companies Ordinance.

Under section 109(1) of the Companies Ordinance, a company is required to file a copy of its annual return with the Registrar of Companies within 42 days of its annual general meeting. Since most companies hold their AGMs around the end of the calendar year, compliance with this section usually leads to a sudden and heavy influx of annual returns during January and February. This results in increased queuing times and general inconvenience for the public, and imposes unnecessarily onerous duties on the Companies Registry at this time of year. We propose therefore to rationalize the timetable for filing of annual returns by private companies, which make up the majority of companies registered in the Companies Registry. Under the provisions of the Bill, they will be required to file their annual returns within 28 days of the anniversary of

the date of their incorporation. These anniversaries are, in general, more evenly spread throughout the year.

At present, by virtue of section 114C of the Ordinance, any member of a company is entitled to appoint another person, whether a member or not, as his proxy. The proxy will have the right to attend, speak and vote at the meeting. Whereas under section 157A of the Ordinance, at a general meeting of a company, other than a private company, a motion for the appointment of two or more directors by a single resolution is prohibited. These two sections of the Ordinance have caused some concern for companies limited by guarantee especially those companies which are private clubs; they find it unpalatable that non-members are allowed to vote at meetings, as proxies, but members have at all times to vote individually in person on committee memberships. We propose therefore to relax these requirements in relation to companies limited by guarantee. However, these companies will be able to continue to apply such requirements if they so wish under the terms of their memoranda and articles of association.

The said area of concern is in section 158C of the Ordinance which requires the Registrar of Companies to keep and maintain a comprehensive index of all company directors for public inspection from a date to be appointed. This provision has not yet been brought into effect due to resource problems. We now propose that, as an interim measure, a comprehensive index be created to cover the particulars of all the directorships held by directors of listed companies. This information will therefore need to be kept on the register of directors and secretaries that companies are required to keep under section 158. The bill provides for this. The index will initially be open for searches by certain regulatory agencies. But it may be made accessible to the public in due course if resources permit.

The Bill also introduces further safeguards in relation to the conduct of voluntary windings-up under special procedures provided for in section 228A of the Ordinance. The changes include specifying who may qualify for appointment as provisional liquidator, limiting the powers of the appointee and strengthening certain notification requirements in order to enhance the protection of creditors.

The opportunity has also been taken in the Bill to update one or two outdated fees and penalties, including the fee for obtaining a copy of the register of members from a company and the penalty for a director or secretary failing to give a company the information about himself or herself required under section 158.

The present proposals have been recommended by the Standing Committee on Company Law Reform after consultation with the relevant professional bodies.

Bill referred to the House Committee pursuant to Standing Order 42(3A).

FORESTS AND COUNTRYSIDE (AMENDMENT) BILL 1992**Resumption of debate on Second Reading which was moved on 4 November 1992**

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

Bill read the Second time.

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

Committee stage of Bill

Council went into Committee.

FORESTS AND COUNTRYSIDE (AMENDMENT) BILL 1992

Clauses 1 to 15 were agreed to.

Council then resumed.

Third Reading of Bill

THE ATTORNEY GENERAL reported that the

FORESTS AND COUNTRYSIDE (AMENDMENT) BILL 1992

had passed through Committee without amendment. He moved the Third Reading of the Bill.

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

Bill read the Third time and passed.

Members' motions

DEPUTY PRESIDENT: I have accepted the recommendations of the House Committee as to time limits on speeches and Members were informed by circular yesterday. The mover of the motion will have 15 minutes for his speech including his reply and other Members will have seven minutes. Under Standing Order 27A, I am required to direct any Member speaking in excess of the specified time to discontinue his speech.

FAIR TRADE POLICY

MR FRED LI moved the following motion:

"That this Council urges the Government to formulate a fair trade policy promptly and to introduce legislation to establish a fair trading commission for the implementation of the policy, so as to rectify any phenomenon of unreasonable market dominance, safeguard fair competition and protect the consumers' interests."

MR FRED LI (in Cantonese): Mr Deputy President, I move the motion standing in my name on the Order Paper, which reads, "That this Council urges the Government to formulate a fair trade policy promptly and to introduce legislation to establish a fair trading commission for the implementation of the policy, so as to rectify any phenomenon of unreasonable market dominance, safeguard fair competition and protect consumers' interests."

What I mean by a fair trade policy is referred to in overseas countries either as anti-trust policy or a competitive policy. The reason why I prefer to call it a fair trade policy is that it has a more positive connotation and better reflects the goal which my motion is designed to achieve.

The formulation of a fair trade policy is aimed at the maintenance, by means of legislative and other measures, of a fair and healthy environment which is conducive to competition so that the consumer may be protected and be able to enjoy the benefits of competition.

A fair trade policy is formulated to combat the attempt, for all sorts of reasons, by business concerns to take advantage of their monopoly of the market, their vast capital, and their control of not only the means of production but also the product distribution network at the same time for the furtherance of unfair ends. These business concerns may actually set up market barriers making it impossible for their competitors to survive whilst scaring off any would-be competitor who may wish to enter the market. They may seek to distort the market mechanism and raise prices artificially. They may restrict production and dictate unfair retailing terms. All of these practices are detrimental to the interests of the consumer.

There is a general feeling of unease with regard to a fair trade policy. That feeling is particularly prevalent in the business community. The reason for this is that they tend to associate a fair trade policy with negative government intervention in the context of a market economy. They fear that it will deal a blow to the spirit of free enterprise, and big business as a whole, and will effectively prevent the growth of private enterprise.

Contrary to popular misconception, the whole idea of having a fair trade policy is in order to protect our market economy. In the present state of development of capitalism, even people who have the greatest faith in market

economy would also have to admit that there is no way a market economy can function properly at all times. The fact is that it often happens that the market is distorted and it is for a fair trade policy to rectify such distortions, when they occur, so that the positive forces of the market may be able to function properly.

However, advocates of fair trade policy are no less concerned than the faithful followers of market economy about the importance of healthy market competition as a means to promote productivity, product innovation and quality generally so that investors as well as consumers will be able to more equitably share the fruits of economic success.

Meanwhile, we fully understand also that heavy investment is needed in certain trades. It may take a long time to turn a profit. Efficient operation may only be achieved if economy of scale is achieved. The general practice is for a fair trade policy to treat these trades as exceptional and actually allow a degree of market monopoly to occur. Instead, other means of control is usually adopted. For example, insofar as public utilities are concerned, which is incidentally the subject of another motion debate scheduled later on, either profit control or price control may be used as a means to protect the rights and interests of consumers.

Fair trade policy has a long history in Europe and America. In recent years, Asian countries such as South Korea and Taiwan have also introduced fair trade policies and legislation.

Some people may ask why we need a fair trade policy after all. Has Hong Kong been faced with the problem of unfair trade practice?

I would like to stress at this point that while I am advocating the adoption of a fair trade policy it does not mean that I am doing so on the assumption that we are faced with an acute problem of unfair trade practice or indeed any real crisis. The reason is that a fair trade policy has the advantage of providing a channel through which unfair competition can be rectified, and more importantly, it lays down the guidelines regarding which kinds of trade practice are acceptable and which ones are not so that investors will be able to use them for reference.

In Hong Kong it is very difficult for us to obtain data regarding trade practice of individual business organizations. There is no way we can accuse, certain in the belief that we have the required evidence, a given trade, or any organization at all, of engaging in unfair competition; there is no way we can make any assessment of the harm which unfair competition brings. However, I can refer to certain phenomena which are happening around us in Hong Kong. These phenomena would call for investigation if they should occur in countries which have adopted fair trade policies.

1. The first phenomenon is one of market monopoly. It is estimated that the two large supermarket chains in Hong Kong take up between them about 70% of the gross supermarket business. Similarly, the four largest banks in Hong Kong have between them cornered over half of the local currency deposits market. The gas supply and the container terminal business are effectively controlled by a cartel of companies. These are the facts of life in Hong Kong. In the absence of any fair trade policy, these companies are quite free to engage in activities which are contrary to the spirit of competition and detrimental to the interests of consumers if they so wish, and I would like to stress the word "if" here. But if that should happen, there is no way their victims can seek effective redress.

Indeed, the two supermarket chains have resorted to making wholesalers and vendors pay them exorbitant display charges. They in turn charge the shoppers higher prices for certain categories of merchandise than smaller provision stores. Hong Kong banks have a larger differential between deposit interest rate and the lending interest rate than banks overseas. Retail price of petrol is quite uniform, irrespective of supplier. The charges of container terminals are way too high. All of these have been subjects of public complaint.

2. The second problem relates to collaborative price fixing. Obvious examples of this include the practice of members of the Association of Banks to enforce a fixed interest rate for the whole industry and the "proposals" made by the Hong Kong Accidents Insurers Association to its members; these "proposals" are actually used as a basis for price fixing for most companies in the insurance industry.
3. The third problem relates to control of resale price. For example, the petrol companies resort to obliging the petrol refill stations and petrol retailers to sell petrol products at the same price level. This results in different retailers actually selling the petrol products at almost the same price level. In overseas countries, the wholesaling and retailing of petroleum are managed by different companies and the result is that there is a price differential resulting from competition between different retailers.
4. There is also the phenomenon of the carving up of the market. For example, the Cathay Pacific is able to monopolize the Hong Kong aviation industry through its acquisition of Dragonair. The two companies carved up the market between themselves. For example, Dragonair will concentrate on the China market instead of competing with Cathay Pacific.

5. There is the problem of misleading information on merchandise. Information provided for certain kinds of merchandise is misleading and incomplete to the extent that the consumer is not given the full picture. Whereas the Consumer Council has made a point of exposing such cases following its investigative studies, it is not in a position to bring offenders to justice because there is no legislation whereon to base a charge.

The examples which I have quoted represent only the tip of the iceberg. A fair trade policy will be able to rectify unreasonable market dominance. There are three ways in which the problems may be solved. We need a policy which will address the behavioral, structural and performance aspects of unfair trade practice.

1. A fair trade policy will address the behavioral aspect of the problem in the following manner. It will regulate and penalize any trader who behaves unfairly in their trading practice such as engaging in collaborative price fixing, restricting production, carving up the market, erecting market barriers, restricting resale price, and controlling distribution network. Generally speaking, the enforcement department will, in applying this policy to individual cases, regard as a very important factor of consideration whether or not the behaviour in question is reasonable in the light of circumstances.
2. The structural aspect may be addressed in the following manner. A fair trade policy will be targeted at corporate takeover, merger and other forms of integration in order to forestall the scenario of the market becoming too centralized to the detriment of competition. Not a few countries have used market share as a preliminary basis of assessment. Other factors are also taken into consideration, such as the availability of and demand for a possible substitute for the goods in question, the geographical market factor as well as the time factor. It is not until all these factors have been taken into account that a decision will be taken with regard to whether or not permission should be granted to the various forms of integration, or for that matter, whether or not to order a monopoly to demonopolize.
3. The performance aspect may be tackled in the following manner. The Government may directly intervene in terms of rectifying the production volume and pricing of the business concern which engages in dominating the market, in order to safeguard the interests of the consumer. Such intervention is not commonly practised in many countries; it is not commonly practised even in western countries. The reason why I mention this is merely in order to show that it is one of the many things we can do within the scope of a fair trade policy. But essentially speaking, it is not

commonly practised, and if it is used at all, it is mainly for dealing with monopolies which have a bearing on people's livelihood.

Mr Jimmy McGREGOR has proposed an amendment to my motion. His amendment motion is based on the assumption that a fair trade policy already exists and the Government is only required to make improvement to the situation. I believe that this is a far cry from reality and his amendment motion is not in keeping with the principle of my original motion.

Does Hong Kong have a fair trade policy? Even the Government's answer to this question is no. The Governor said in his policy address to this Council in October last year that there was a need for Hong Kong to formulate a comprehensive competition policy. And the whole purpose of the recent government decision to allocate \$800,000 to the Consumer Council for commissioning a study of a number of trades in Hong Kong is to collect data which will help in the formulation of such a policy. It is hard to see in the light of this that we do in fact have a fair trade policy; is it not so, Mr Jimmy McGREGOR?

The Governor has also mentioned that the formulation of a competition policy will be left to the Business Council. I would like to stress at this point that the competitive policy should not be a matter exclusively for the Business Council to address; rather, it should be a matter for wide public consultation. In any case, given the fact that most members of the Business Council are themselves owners of large corporations, a competitive policy which they put together will have a problem of public credibility.

It goes without saying that we are not suggesting that the Government is not doing its part in terms of enforcing fair trade practice at all. For example, the Government has earlier on, in the granting of the franchise for Container Terminal No. 9, seen fit to introduce an element of competition. Two berthing spaces have been allocated to a new consortium. Meanwhile, the Government is planning to deregulate the telecommunications industry by giving permission to the setting up of a second network. Insofar as the broadcasting industry is concerned, the Government has decided to introduce cable television to increase the element of competition.

However, these are separate and unco-ordinated moves which are hardly enough to solve the problem. In the absence of a comprehensive competitive policy which has full legislative backing, it is all too easy for one to be sceptical about the fairness of these separate measures and the chance of successful implementation of any such policies regarding individual cases.

The Government does not have yet either a policy branch or a department which is responsible for either co-ordinating the effort to formulate a competitive policy or enforcing any such policy. As a result, the Economic Services Branch has decided to allow a new player to join in the franchised operation of Container Terminal No. 9 while the Banking Commission has used

its own set of criteria to come to its decision about the agreement to maintain interest rates.

Given the complexity of the issues involved in the implementation of a fair trade policy, given the extent of knowledge required in respect of business operation and law, given the need for experience to be accumulated in terms of dealing with individual cases, given also the need for the enforcement department to have the power of investigation, I would consider that we shall need an enforcement department and a mechanism in place when a fair trade policy is to be implemented. We would do well to refer to the ways in which the policy has been implemented in overseas countries. We may consider the setting up of different kinds of mechanism, for example, the setting up of a fair trading commission in some countries, to effectively implement the fair trade policy. Later on, Dr LEONG Che-hung of Meeting Point will elaborate on the advisability of government intervention in the market; and Mr WONG Wai-yin, also of Meeting Point, will provide us with some examples of how people's livelihood has been affected adversely in the absence of a fair trade policy.

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

Question on Mr Fred LI's motion proposed.

DEPUTY PRESIDENT: Mr Jimmy McGREGOR 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 JIMMY McGREGOR moved the following amendment to Mr Fred LI's motion:

"To delete all the words after "That this Council urges the Government to" and insert the following:

"improve its present fair trade policy, to encourage and support the application of this policy through existing institutions and to take such action as may be necessary to prevent unreasonable market dominance, to safeguard the principle of fair competition and to protect consumers' interest."."

MR JIMMY McGREGOR: Mr Deputy President, I moved that Mr Fred LI's motion be amended as set out in the Order Paper. I have amended this motion because I think that the Council should have an alternative to the proposal by Mr Fred LI which I regard as potentially damaging to the economy. I do not think it is enough that Mr LI's proposal should be voted down but that an alternative positive and helpful replacement should be passed by the Council to

provide a strong message that we support free and fair trade without unnecessary government regulation of our economy.

The underlying concern expressed by Mr LI that Hong Kong should always follow a fair trade policy is of course both legitimate and supportable. His feeling that we may have come to a situation which requires a comprehensive review of fair trade practices, and presumably malpractices, with the intention that some sort of formal body should be set up to ensure that fair trade is practised in Hong Kong is, to my mind, both unnecessary and unwise. The suggestion raises the spectre of bureaucratic interference and intervention in the marketplace to a degree which could substantially alter the way business is done in Hong Kong now and in the future.

I have personally been associated widely with trade and industrial development in Hong Kong for many, many years and have had deep personal experience of the thousand and one problems faced by business and industry in their struggle for an economic place in the sun, both here and overseas. Our business people have had to make their way in a totally unprotected market environment with no government subsidies of any kind and with the sure and certain knowledge that, if they failed to be, or to remain, competitive in this and other markets, they would pass into corporate history. Their demise would hardly be noticed and more competitive businesses would take their places. This is a devil take the hindmost economy.

It is also one of the most efficient, open and fair trading economies in the world. The free trade philosophy and policies followed by the Government throughout its existence have ensured that only the fit, capable, and competitive survive. The Government has never changed this basic philosophy although it has recognized that from time to time the market does not always function perfectly. With that recognition the Government has instituted a fabric of checks and balances designed to ensure that the private citizen is properly and reasonably protected and that the economy is allowed to move positively, openly and efficiently in response to personal and corporate initiative. These checks and balances include the means by which companies which benefit from government franchises and monopolies are kept efficient and accountable in the public interest. I believe these arrangements by and large work well and that the Hong Kong economy and society benefit greatly from the light bureaucratic touch. I will speak in a later motion today on this specific subject.

I repeat that Hong Kong is probably the most open, competitive and fair trading territory in the world. Our unparalleled economic growth, strength, and potential and the very large international contribution to our business sector are ample testimony to fair trade. Our retail industry has a remarkably high element of foreign participation. So does our trading community and our real estate industry. Yet locally developed companies are also notable for their size, success and status. This is the most international marketplace in the world and the reason, at least in part, is that our marketplace is free and fair to all comers.

I will go further. The reason that China has been prepared to introduce the "one country, two systems" policy is that this particular system is hugely economically successful and supportive of China. That success, I believe, is largely due to the free and fair market that operates here. As far as we possibly can, we should leave the market alone and with the least possible bureaucratic regulation and supervision, not to mention control.

I mentioned the policy of the Government towards franchises and monopolies and also the need to protect consumers against corporate and individual fraud and misrepresentation. Many organizations exist to ensure free and fair trade. The Banking Commission, the Securities and Futures Commission, the Insurance Commission, the Trade Advisory Board, the Free Trade Committee, the Industrial Development Board, many Chambers of Commerce and industrial associations, quite apart from this Council, are dedicated to free and fair trade. They have been very successful in their work.

We have built up the 10th largest external trading record in the world. We have the highest *per capita* income in all of Asia after Japan. We finance large elements of productive investments in almost all Asian countries. Our contribution to China cannot be measured. We did none of these remarkable things through government regulation. We did them through free and fair trade. The Consumer Council was set up to protect consumers against unfair trading practices and it has done a good job over the years. It has often been suggested that the Council should be given greater investigatory authority and perhaps legal powers to prosecute serious offenders. I would support such improvements in the authority of the Consumer Council but not to the extent that the Council could become yet another bureaucratic institution dedicated to investigation and intervention.

A paper issued yesterday by the Consumer Council suggested that there could be a real danger of this happening if the Government and the Legislative Council agree with the general statement made in the Consumer Council paper.

The concern of some Councillors with fair trade would seem to result from worries about government licensed monopolies, duopolies, and service operations. I have taken part in many debates and discussions in this Council on the alleged failures of the government schemes of control and other systems designed to ensure that the public interest is fully served. From these discussions and from examination of the operational records and the services provided by these companies, I still have a strong impression of general competence and a high quality of public service at reasonable cost. Our public services are efficient and cost effective given the huge strains upon them. Where they cannot operate in free market environment they are subject to government and public scrutiny, also to the sometimes withering criticism of this Council.

We hear complaints about privileged pricing by government sponsored organizations such as the Trade Development Council and Radio Television Hong Kong. These organizations are said to compete unfairly with the private

sector for advertising revenue. Such complaints can and should be dealt with by existing systems of monitoring and correction and by public disclosure.

Where market dominance is achieved through fair trading practices, as is clearly the case in Hong Kong, I think the companies concerned deserve their success. If they stay competitive they will keep their share of the market. But their competitors will not let them rest and they will face continual competitive pressures. The consumers and the economy benefit from the open and fair market that operates in Hong Kong.

Finally, I would ask Councillors and the Hong Kong public to compare our trade practices and prices with those of other countries. Many countries need fair trade institutions because their trade is not free nor fair. They are beset with import and export controls, duties, punitive taxes, restrictive trade union practices and many other impediments to trade. They need fair trade reviews and tribunals. We do not.

I ask Councillors to support my amended motion.

Question on Mr Jimmy McGREGOR's amendment proposed.

MR MARTIN LEE (in Cantonese): Mr Deputy President, the maintenance of the existing life style is the wish of every Hong Kong believer as well as a very essential part of the concept of allowing two systems to coexist within one country. A very important feature of Hong Kong society is the operation of a free market economy. According to the rules of a free market economy, theoretically speaking, the investor is quite free to engage in production and transaction on the basis of his or her own assessment of market demand and supply. The role of the Government is limited to the maintenance of a set of rules governing fair play and the maintenance of a fair environment which is conducive to investment. The Government should play a strictly neutral role in the formulation of its economic policy.

In the run-up to 1997, the investment of Chinese corporations in Hong Kong has become a matter of increasing public concern. Recently, a corporation which goes by the name of New China Hong Kong (Hong Kong) Limited has been in process of being set up as a new joint venture between Chinese and Hong Kong business groups. If we look at the list of shareholders which was disclosed by the corporation yesterday, we will find that all of our top league businessmen in town are shareholders holding between them a 55% stake in the corporation. Of the remaining 45% stake, with the exception of a small percentage which is held by Singaporean institutions, 32.5% is held by 13 enterprises in China. These Chinese enterprises include one company subsidiary to the Hong Kong and Macau Affairs Office of the State Council of China, and three institutions subsidiary to the Chinese Ministry of Transport. This newly formed group which represents Chinese and Hong Kong interests will use Hong Kong as an operational base. With a startup capital of

\$400 million, it will engage in trading and investment. Its investment portfolios will include real estate, manufacturing, infrastructure and communications in Hong Kong as well as in other countries.

This kind of involvement by the Chinese Government through the setting up of private companies in the economic activities of Hong Kong has been totally unprecedented. One is prone to ask in the light of this development whether a new breed of pro-China privileged class will be created as a result of such involvement of Chinese official interests. More importantly, one is also wary of the implication this development will have on the economic rules by which Hong Kong society has consistently abided. One wonders what will happen to the promise of "one country, two systems", whether it will materialize or degenerate instead into the eventuality of "one country, one system".

It is quite true that the economic achievement of China over the past 10 years or so is worth commending. However, there are fundamental differences in the ways in which economic activities are conducted. In Mainland China, it is very commonplace for a state agency to engage in economic activities. The principle which says that each department has to achieve self-sufficiency means that it is even possible for the People's Liberation Army to run hotels and other entertainment establishments in the new economic zones. Nobody in China has ever raised the issue of possible conflict of interests which such practice may entail. However, in the context of Hong Kong, such a scenario is never allowed to happen. One can hardly imagine the Royal Hong Kong Police Force engaging in the nightclub business. Neither is it possible that the economic departments of the Hong Kong Government will actually set up companies and engage in investment activities.

Let me go on with another example. In Hong Kong we get our jobs on the merit of our academic achievement and talent. But in Mainland China, jobs are often available to those who have the connections, who know how to use those connections, and one has to be rightly connected in order to be an achiever.

The reason why I have given these two examples is that I wish to make it abundantly clear that there are many fundamental differences in terms of economic operation and social culture between China and Hong Kong. If we are really serious about the implementation of the concept of "one country, two systems", it is up to us to protect the economic system which has led to the success of Hong Kong. We should never seek to transplant the commercial practice of China to Hong Kong. To do so will only baffle local and overseas investors and make them lose confidence in Hong Kong.

I would like to examine closely the case involving the New China Hong Kong Group. It is very easy indeed for an investment group with representation of official Chinese institutions to make money in Hong Kong. It may not be true that the company is able to call the shots all of the time.

However, given the fact that it has access to more inside information than any other company, it is certainly not fair to the other investors who do not have the same advantage. The fact is that at this point in time the view has been expressed by many businessmen, and the media for that matter, that although there is certainly nothing wrong with the company in question from the legal point of view, one should be justifiably concerned about the advantage which it enjoys, not through its efficiency, but rather through its political clout, as it were. Let us look at the following scenario. Let us suppose the company which is connected to the Hong Kong and Macau Affairs Office sells heavily on the Hong Kong index futures market. But instead of the market experiencing a sharp fall, it is actually rising. Will they, in order to achieve the result of a sharp fall, resort to making statements which are detrimental to the economy of Hong Kong? If that is what they want to do, it is plain from experience that they can easily get what they want. Did we not see that, earlier on, the stock market shedded more than 400 points in one day following the statement by the Hong Kong and Macau Affairs Office that all contracts which did not have the endorsement of the Chinese Government would not be recognized as valid after 1997? It is true that, according to information released by the New China Hong Kong Group yesterday, the 10-plus Chinese shareholders are involved in the capacity as corporate investors. It would appear that they would be free from the allegation of conflict of interests. But I hope that the whole community will continue to keep a close eye on the activities of this company, particularly how it is going to deal with cases where there might be a conflict of interests.

Mr Deputy President, Hong Kong needs to continue to maintain and promote an investment environment which is conducive to fair competition. We shall not condone the infiltration into Hong Kong of the trade practice of China. For otherwise this will lead to the creation of a privileged class and the undermining of the interests of investors and the confidence of overseas investors in terms of investing in Hong Kong. This will be most detrimental to the economy of Hong Kong in the long term.

Mr Deputy President, Members from the United Democrats will in a moment speak on a variety of issues pertinent to today's debate. Dr HUANG Chen-ya will speak generally on trade practice legislation; Mr James TO will discuss merger and restrictive trade practice; Mr Albert CHAN will discuss monopoly over Container Terminal No. 9. Mr LEE Wing-tat will request the Government to investigate whether there is monopoly of the real estate market; and last but not least, Mr MAN Sai-cheong will speak on cartels.

I so make my submission. The United Democrats support Mr Fred LI's original motion and oppose Mr Jimmy McGREGOR's amendment

MR NGAI SHIU-KIT (in Cantonese): Mr Deputy President, one would quite naturally think of freedom and fairness when one talks about standards in trade practice. Free trade is what Hong Kong has always practised. It has become a

very important and integral part of the market economy of Hong Kong. But fair trade relates to the relationship or bargaining position of one party, the vendor, *vis-a-vis* the other party, the purchaser. Whether the trade or deal is fair or not is a matter which can be quite controversial and one on which no definitive conclusion can be reached.

It is up to any administration which is entrusted with governing Hong Kong to do its utmost to ensure that social equity is defended. But it should also be most cautious in doing so lest it be accused of being too interventionist and overplaying its role. The result of excessive intervention is the creation of unnecessary barriers to social and economic development.

Mr Deputy President, whereas the United States Congress has come up with a lot of complicated regulatory legislation to ensure that transactions can be carried on in a fair manner, studies conducted by the noted economists of American society have pointed to the inevitable conclusion of "what can regulators regulate?" Generally speaking, their studies point to the observation that, other than protecting the interests of the trades and institutions which have become government regulated, and other than expanding the bureaucratic establishment responsible for regulation, there is little real benefit which the consumer can get out of this. The question therefore is whether we are quite prepared to repeat the same American experience.

A fair trading commission proposed in the original motion will be one which is likely to give rise to numerous controversies. We can foresee the proposed commission developing into a vetting authority in disguise. The reason is that it will become necessary for each and every transaction to meet the requirements of a legally defined concept of fair trade practice and the commission will become the first testing point of fair trade practice *per se*. Given the great number and variety of transactions which are taking place in Hong Kong, it is going to be difficult enough just to achieve a good grasp of all relevant information. It is perfectly justifiable therefore to question how such a commission is able to function effectively. It is also likely that the commission might even develop into some sort of arbitration authority. Given that in every transaction there are bound to be more than one potential buyer and seller, one result of this is that the party who is unable to complete the deal will feel that he or she has been victimized by unfair trade practice. When the case is brought before the commission, it will set the precedent of an endless succession of disputes going to that commission, disputes in which only personal interests are at stake and which have little to do with fair trade. Such disputes will inevitably cause confusion and jeopardize transactions which are both legitimate and free. If this is allowed to continue, the moral climate of our society will also suffer.

Mr Deputy President, most consumers will tend to judge the fairness of a transaction by the price level. If the proposed commission is set up to enforce fair trade according to this perception of consumers, then it is likely that it will, instead of remaining a fair trading commission, degenerate into a price control commission. Truly fair and free trading practices may no longer be determined

by the free market mechanism but may become a misused tool in the hands of bureaucrats to control the market. In this regard, I would oppose any effort made to introduce legislation for the setting up of such a commission. I think that such a commission is both unfair and gets in the way of free transactions. It would not be beneficial to the economy of Hong Kong.

As a matter of fact, Hong Kong society already has legislation which will ascertain the legitimacy of transactions. I would consider any effort to arbitrarily increase the level of government intervention to be superfluous and totally uncalled for, particularly bearing in mind the principle of free trade and what we have been able to achieve by adhering to it. Given that free trade has effectively made the most flexible use of the limited room for manoeuvre as far as trade is concerned, it is not necessary to formulate another set of so-called "fair principles", on which it is unlikely to obtain public consensus. To do so would only hinder free trade and run counter to the trade policy of the Hong Kong Government, a policy which has been consistently pursued and which has brought great benefits to the society and economy of Hong Kong. It would be tantamount to casting a vote of no confidence in Hong Kong's market mechanism for self adjustment.

I am sure that over the next four years, in the latter half of the transition period, we will be faced with totally unpredictable variables in our economic, political and social arenas. In this regard, the last thing we would want is the drafting of a fair trade Bill which is not only controversial but also difficult to implement effectively; neither would we want to see the setting up of an equally controversial fair trading commission.

I support the amendment motion of Mr Jimmy McGREGOR. The reason is that it provides, in keeping with the present arrangements, suitable room for manoeuvre on the one hand, and also defends the spirit of fair competition and the interests of consumers, on the other.

Mr Deputy President, with these remarks, I support the amendment motion of Mr Jimmy McGREGOR. But since I have still one minute left, I would like to respond to the issue of "one country, two systems" which has been raised by Mr Martin LEE just now. He expressed the fear that involvement of Chinese capital in the local investment scene would in some way stifle or jeopardize Hong Kong business or the practice of fair trade. I would like to inform Mr LEE that he is completely mistaken on the point of "one country, two systems." The concept of "one country, two systems" means that Hong Kong will continue to enjoy its own system. We have our own laws and our own conditions, and our own trade environment; I do not believe that the involvement of state capital will..... (I am responding to your point

At this point Mr Martin LEE indicated a wish to intervene

DEPUTY PRESIDENT: It is up to you, Mr NGAI. Do you want to give way or do you not want to give way? It is up to you.

MR NGAI SHIU-KIT: Mr Deputy President, I want to finish first and then if Mr LEE wants to clarify, he may go ahead.

DEPUTY PRESIDENT: Mr LEE, are you content to raise your point after Mr NGAI has finished?

MR MARTIN LEE: As you please, Mr Deputy President.

DEPUTY PRESIDENT: Mr NGAI, please continue.

MR NGAI SHIU-KIT (in Cantonese): I was trying to say that the involvement of state capital in commercial activities is no big deal at all. For example, the Singapore Government is equally involved in corporate or trade activities. I believe that other countries may also have state capital similarly committed. It is just another form of trade or transaction. I believe that neither the principle of free competition nor free enterprise, which we all abide by, is in any way compromised. I have no malice towards anybody. I only want to say that his view differs from mine.

DEPUTY PRESIDENT: Elucidation, Mr LEE?

MR MARTIN LEE: Mr Deputy President, when I sought to intervene I thought Mr NGAI had misunderstood me. But he then clarified the matter. So I do not intend to ask for elucidation. I do not agree with him, but that is a separate point.

MR MARTIN BARROW: Mr Deputy President, while I understand the sincerity of the Honourable Fred LI's argument in favour of free trade, I believe the result of setting up a Free Trade Commission would be the arrival of a massive bureaucracy and red tape which would stifle the very enterprise that has created Hong Kong and brought so much benefit to our people. A complex regulatory environment can only discourage investment, retard economic growth and deprive us of funds for improving social services. Minimum interference has served Hong Kong well and must continue to do so. Once we start down a

slippery slope towards a complex regulatory environment, where do we stop? Surely what Hong Kong needs is simple and straightforward laws which are applied fairly, quickly and effectively — clearly we all support action against real abuse and fraud.

Let me turn to the specifics of the competitive environment. It is wrong to say Hong Kong has no fair trade policy. The Hong Kong Government has reiterated a number of times that a level playing field must and does exist in Hong Kong. To imply that Hong Kong is full of anti-competition abuses is to disregard the reality of what has been achieved in the standard of services being provided and what has been built up over many generations. Have prices in all these sectors moved up more than inflation? I think not in many cases. Look at our power companies as an example.

How would the proposed Fair Trade Commission work in practice? It seems to me it would be another layer of government that would start involving itself in all manner of issues. For example, look at franchise awards. These are already subject to the most detailed scrutiny by the policy branch concerned and by the Executive Council. Nothing would do more to scare off local and overseas investors if they thought Hong Kong is going to be subjected to the bureaucratic steeplechases and delays which exist in some other economies.

We must avoid advocating the application of an old and flawed solution to what is a new business world.

It must not be thought that our economy is a separate, self-sufficient entity not open to world competition. Hong Kong must be placed in a regional and world context.

What most promotes local competition and protects local consumers is Hong Kong's openness to the world market. There is nothing to stop new entrants in most markets except perhaps their own measurement of risk and return.

Do we really think that banking and financial services is not competitive in Hong Kong? While it is true one entity has a high market share, it has plenty of competition in both retail and wholesale banking. The so-called interest rate "cartel", it is worth remembering, was brought in to protect smaller banks and their depositors from interest rate competition, not to protect the bigger banks.

What keeps the local market fair and competitive is not rules and regulations (except under schemes of control) but the lack of them. Hong Kong's businesses are not just territory-wide businesses, they are competitive regionally and internationally. This means that Hong Kong gains from the competitive restraints of a far wider market than Hong Kong itself.

It is by not putting the argument in a world or regional context of competition that advocates of a complex bureaucratic control are living in the past.

Introducing the policies proposed is the opposite of fair, competitive trade. It is asking the Government — that is ultimately politicians and bureaucrats — to step in and determine what is fair when it can really be left to the market — in Hong Kong's case the competitive international market.

In conclusion, as a member of the business community, I am happy to declare an interest. As I said at the beginning, I do not agree with Mr LI's proposal to set up a Fair Trade Commission but support Mr McGREGOR's amended motion that the Government should strengthen the Consumer Council and other such institutions. I would hope that any reviews that they carry out will include those professions which maintain a closed shop as well as taking a serious look at the recent allegations of the Coalition for Free Enterprise. Thank you.

DR LEONG CHE-HUNG (in Cantonese): Mr Deputy President, government officials have always been very proud of their positive non-interventionist policy which Hong Kong has practised over the years. Indeed, that policy has frequently been cited as a reason for the Government not to intervene in the provision of certain public services. Whereas it is a policy which certainly appeals to the private investors on our markets, there is no way the Government can refrain from "intervening" in the provision of those public services which are closely related to the livelihood of Hong Kong people. As a matter of fact, the practice of granting the permission to run a certain public service to a private company by way of a franchise is already a form of intervention in itself. Also, the setting up by the Government of schemes of control with respect to the profit level of private companies running the franchised services is an example of substantial monitoring. Meanwhile, the Government, which wholly owns the Mass Transit Railway Corporation as well as the Kowloon-Canton Railway Corporation, should have the responsibility of making sure that these two companies are able to deliver a quality service.

I have given the above examples in order to make the point that government intervention in the market is as inevitable as it is a positive thing to do. The Government should not regard it as some kind of unmentionable taboo or dreaded monster.

The issue at stake is really that government intervention should be in keeping with a sound principle, which is to say that it should do so to protect and promote the overall interests of society. It should not intervene for the sake of intervention.

As a matter of fact, one precondition which has to be met in terms of government intervention in the market is that we need to create an investment environment which is conducive to fair competition so that social resources will be effectively utilized. With regard to particular trades in which either monopoly or oligopoly is the order of the day, the Government should play an active monitoring role in order to ensure that the rights and interests of consumers are duly protected as they deserve to be.

It is regrettable that the Government does not have a principle which will ensure fair trade. Insofar as the monitoring of the various public and franchised services is concerned, it does not have a uniform mechanism either. One has the impression that its monitoring measures are not well co-ordinated and are devised in a haphazard manner to solve problems only after they have arisen.

With regard to the profit control scheme with which the Government uses to monitor a number of private companies, it would appear that over the past few years it has become rather messy and a far cry from what it originally was. Profit control has become price control for the Hong Kong Telephone Company. The profit control scheme applicable to the China Motor Bus Company has been abandoned with the result that 26 CMB routes are now taken over by the Citybus Company. However, no government control scheme applies to the Citybus Company; nothing is done to monitor the quality of the service provided on these 26 routes. Although the profit control scheme which applies to the Kowloon Motor Bus Company will come to an end within this year, the Government has yet to inform this Council how it proposes to deal with the issue of a future profit control scheme for KMB.

The Government has never seriously explained to this Council, or the public at large for that matter, according to what standards and principles the above mentioned profit control schemes are set up. Meeting Point legislators have in the past on numerous occasions made enquiries with the Government on this issue, but to no avail. The government reply has always been that profit control schemes vary according to the trade in question and also to the circumstances of each operator. Whereas on the one hand, the Government keeps reiterating its non-interventionist policy, it has also indicated that specific circumstances will be taken into account, on the other. One has the impression that the Government is applying double standards, or if one wishes to put it more bluntly, the Government has no policy at all.

The government policy in respect of fair trade is hardly satisfactory. When my colleague Mr Fred LI asked in this Council on 13 May last year whether we were faced with a monopoly situation in respect of petroleum supply, container terminal, banking and supermarket trades, the answer of the Secretary for Trade and Industry to his question at the time was that these trades were competitive and did not fall into the category of trades which would warrant government monitoring. Hardly had we digested her words of wisdom than we heard, in the Governor's policy address last October, that the

Government would formulate a competitive policy, that the Government would provide the funding for the Consumer Council to engage in investigative studies of five trades, including banking, supermarket and energy supply. It is such inconsistency and incompatibility as exemplified in this case which reveals to us that the Government has a lot of internal problems. Immediate actions should be taken to rectify these problems.

It is for this reason that I lend my full support to the suggestion that it is now time the Government formulated a policy on fair trade practice. Continued inaction will perpetuate the wavering of the government position. The consumers will be left with no protection with regard to their rights and interests.

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

MR ALBERT CHAN (in Cantonese): Mr Deputy President, Hong Kong has the busiest container terminal port in the world. It also has the largest privately run container terminal port in the world. In order to cope with the building of the new airport and the development of the future container terminal port, the Hong Kong Government has plans for the development of a Container Terminal No. 10 in the northeast of Lantau Island. The development of a container terminal port will be a vital force behind the economic development of Hong Kong and neighbouring areas in China. However, the monopoly of the container terminal trade has always been a matter of complaint by the community of Hong Kong. The reason why we have ended up with a monopoly situation is chiefly that Hong Kong does not have an effective anti-monopoly policy which will forestall the monopoly of container facilities by operators of the trade.

The present situation is that the container terminal business is basically split, to the exclusion of other companies, between the Hong Kong International Terminals Limited and the Modern Terminals Limited. Of the existing eight container terminals, numbers 1, 2 and 5 are operated by the Modern Terminals Limited and numbers 4, 6 and 7 are operated by the Hong Kong International Terminals Limited. Container Terminal No. 8 is operated jointly by these two companies as well as the China Ocean Shipping Company. The only container terminal which does not have the involvement of these companies is Container Terminal No. 3. It is operated by its successful bidder, the Sea Land Orient Terminals Limited. It is apparent that the container terminal trade in Hong Kong is effectively monopolized by two companies.

Container terminal charges are rapidly rising in Hong Kong. We have become the second most expensive port in terms of cargo handling charges, surpassed only by Japan. We are 30% more expensive than Singapore, 20% more expensive than even Kaohsiung of Taiwan. Over the past three years, on the pretext of inflation, both the Hong Kong International Terminals Limited and the Modern Terminals Limited have put up prices by as much as

10% each year. It must be noted that over the same period the container cargo handling charges have only gone up by 3% annually in the rest of the world. It is evident then that the increase in Hong Kong is much higher than the increase elsewhere. We understand from the information provided by shipping companies that there are shipping companies which are reluctant to renew their contracts with the Hong Kong International Terminals Limited when they discovered in the process of renegotiating a new contract following the expiry of their old contracts that the charges are not quite reasonable. However, when these shipping companies go instead to the Modern Terminals Limited to ask for a quotation of charges, they invariably find that it refuses to provide them with the information. It is not until they have made the point of pursuing their case that they are finally given a price quotation which is more than 40% higher than that of the Hong Kong International Terminals Limited. It is clear that the monopoly situation is already a very serious problem for our container terminal trade.

It may be true that the high container cargo handling charges in Hong Kong may not be entirely attributable to the monopoly situation mentioned above. However, if the Government can introduce some competition into the container terminal trade, then it will lead to improved efficiency of the operators, and reduced cost to them. This will not only improve the competitiveness of Hong Kong in the container terminal trade in comparison with other countries; this will also be beneficial to our own container terminal trade. It is for this reason that the United Democrats of Hong Kong would like to take a positive role in terms of proposing to the Government that a selective tender system be adopted in the granting of the franchise for Container Terminal No. 9. Put simply, the Government should take the initiative to invite all consortiums which meet the tender requirements to bid for Container Terminal No. 9, with the exception of the two existing operators which are effectively controlling the trade. This is in order to make sure that new operators will be able to increase beneficial competition.

However, in announcing the result of the tender for Container Terminal No. 9, the Government has actually decided that Container Terminal No. 9 will be split in two such that both the Hong Kong International Terminals Limited and the Modern Terminals Limited will each be able to operate one berth, with the other two berths going to the Tsing Yi Container Terminal Limited headed by the Jardine Group. The government decision to grant under franchise only two of the four berths of Container Terminal No. 9 to a new operator will only have a minimal impact in terms of resolving the problem of monopoly. It can be foreseen that the future container terminal trade will still be monopolized by the Hong Kong International Terminals Limited and the Modern Terminals Limited and the result of this will be ever increasing cargo handling charges and no improvement to the efficiency of the operation of the container terminals. The government policy with regard to this is one of carving up the business to let vested interests "share the booty". It will only accelerate the speed of monopoly. It is a policy which we find difficult to accept.

Meanwhile, the Government has failed to make full use of mid-stream cargo handling in the container terminal trade in order to avert the scenario of the trade being effectively monopolized by the container terminal companies. It is up to the Government to come up with a clear land allocation policy in order to promote the development of mid-stream cargo handling operations.

Monopoly of the container terminal trade by its existing operators has been the result of the lack of a clear government policy on fair trade practice. It is for this reason that the formulation of a policy which will promote fair trade practice is a matter of top priority for the Government.

Since I have one minute left to the allotted time for my speech, I would like to respond to a point made by Mr NGAI Shiu-kit. It is unfortunate, however, that he is not in this Chamber now. Mr NGAI was earlier on interpreting the spirit of the concept of "one country, two systems" in his speech, particularly with regard to how it applies to the sphere of economic activities. I must confess that I feel all the more jittery after listening to his interpretation. I am very glad to see the investment of state capital by China in Hong Kong. However, such investment activities should be conducted in a completely fair and rational manner. I am wary of the many problems which will arise as a result of the involvement of the departments of the Chinese Government in the economic activities of Hong Kong. For example, one wonders whether the Chinese Government officials would engage in transactions with the aid of insider information, whether they would influence investment decisions with the use of the clout which they enjoy through engaging in political activities, whether they would use government resources in aid of corporate development, whether they would seek to have a more favourable investment return through their political connections and privileges. All of these unanswered questions would make us feel that we have all the more reason for setting up a fair trading commission. I have to say that after listening to Mr NGAI Shiu-kit's explanation, I am all the more convinced that Hong Kong should set up a fair trading commission, particularly in the run-up to 1997.

MR VINCENT CHENG: Mr Deputy President, if I have a minute left I would offer it to my colleagues rather than using it myself. Mr Fred LI may be surprised to hear that I actually fully support the spirit of his motion. After all, we are all consumers ourselves; so why should we argue against protection of our own self from unscrupulous business practices? But I disagree with Mr LI's proposal to set up a fair trade commission or create a comprehensive fair trade policy. It is, in my view, a totally wrong approach. There are thousands of industries, millions of goods and services. Each has its own particular market which sets equilibrium prices through a complex process involving millions of decisions made by consumers and producers voluntarily. How could any single commission, even heavily staffed, undertake such wide ranging watchdog duties and determine whether fair trade prevails?

Given the heterogeneous nature of consumer interest, it is hard to imagine how a comprehensive fair trade policy can meet conflicting demands and at the same time, provide sufficient incentive to suppliers to supply.

We have to bear in mind that prices of goods or services are not the only consideration for consumers; benefits such as convenience, variety and quality are just as important. A comprehensive fair trade policy which cannot take into account all these dimensions is likely to create problems, thus defeating the original purposes of its enforcement.

There are three areas which have been regarded as unfair trade practices: entry barrier, industry agreements and large market share. I would like to deal with these one by one.

Hong Kong has a very competitive economic environment. There are no barriers to entry in most economic sectors. Indeed compared with the rest of the world, Hong Kong is probably the easiest place to set up business provided the investor has sufficient capital to meet the need of competition. The only areas where artificial barriers exist are those heavily regulated by the Hong Kong Government, or requiring huge amount of capital and, in the case of services, requiring professional qualifications to meet the standard of that profession, such as doctors and lawyers. Refinements may perhaps be needed in some areas. But I do not see the need for a major revamping of existing regulations.

The second area is industry agreements. Not infrequently, industry arrangements are interpreted as collusions. This is wrong. The existence of industry arrangements among suppliers tends to be the result of a dilemma which each society has to face when there is competition. The dilemma is the destructive effect of competition which is a process of creative destruction. Creative because strong players emerge and grow bigger, destruction because the weak ones will be eliminated which may create disturbances and shocks to society. Therefore sometimes arrangements have to be made to reduce disruptions and ensure stability in the market, where stability is important, such as banking and finance, in order to protect consumers. The banking industry is a prime example. It has been argued that the deposit interest rate rule is a cartel to protect big banks. This is wrong. It is there to allow smaller banks to compete on quality of services rather than just savings deposit pricing. It also helps smaller savings depositors who are equally, if not more, expensive to serve than large depositors to continue to receive subsidized services. If the agreement is scrapped, I am sure that these depositors would no longer be subsidized and more fees and charges would be imposed by banks on the small savers. There are 161 banks in Hong Kong. So certainly there is no shortage of competition in this area.

The third issue is market share and monopolistic practices. Evidence shows that there is no clear direct relationship between large market shares in the hands of a few firms and low degree of competition. One example perhaps

is provided by the supermarket sector which has been dominated by two large supermarket chains; yet many small stores continue to co-exist.

In a competitive environment, firms which provide better services naturally grow and subsequently command larger market shares. If the increase in market share is largely the result of efficient operations on the part of the firm, subsequent increase in shares should not be regarded as unfair. Indeed it should be regarded as a reward for success. It therefore should not be a reason for government interference or legislation. We should not punish success.

Legislation cannot guarantee fair trade. There are ample examples in other societies to support this argument. If we take the United States experience as reference, after about 100 years of anti-trust experience, it is still unclear whether anti-trust enforcement significantly contributes to consumer welfare. For one thing, when competitive and monopolistic behaviours are not distinguishable, anti-trust may result in restraining competition, to the detriment of consumers.

The need to minimize government intervention in the economy is well known and will not be reiterated here. Our minimum interference policy has served both investors and customers in Hong Kong well. There is no need to form a fair trade commission.

That does not mean consumer complaints should be treated lightly. We must ensure that consumers are getting what they have paid for, and ensure that the quality of the product matches what a consumer has been promised before the transaction. Deceit by dishonest merchants who cannot face competition must be dealt with sternly and vigorously.

In this regard, there are sufficient checks and balances in the system. There is absolutely no need to set up another quango and bureaucracy to assume a duty which at best could only be ill defined. It would be a misallocation of resources and send wrong signals to investors. We need more players, not referees.

Mr Deputy President, I support the amendment.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, Mr Martin LEE has made a complaint on behalf of the United Democrats of Hong Kong against the setting up of a Chinese funded company in Hong Kong. All of us are of course entitled to our own opinion as legislators. However, bearing in mind that this sort of criticism will have a certain impact on members of the public, I am obliged to express my own opinion on this issue as well.

Hong Kong is a place of freedom. Representatives of the United Democrats have no understanding of business. Many businesses are in fact run by the state in many places and countries. And such state business ventures have

fundamentally a bearing on the economy and the power of the state. Will this give rise to problems in the countries concerned? The Kuomintang of Taiwan has until recently a newspaper in Hong Kong; it folded up only as a result of business failure. The United Democrats of Hong Kong used to have a gifts shop of its own; it too has folded up for similar reason. In this regard, it is unfair that Mr Martin LEE should criticize the companies, as he has done just now, which have no representatives on this Council. Meanwhile, the sweeping criticisms which he has made against the Chinese Government is also nothing more than cheap political tactics aimed at inciting members of the public. I strongly object to the use of such tactics.

As a matter of fact, the Hong Kong Government has never practised fair play; it is not playing fair even now. Why am I saying this? Other than favouring the franchised companies, the Hong Kong Government has always been taking care of the interests of the British hongks and big foreign firms, including their political interests. One can see for evidence of this the appointment of representatives of many large corporations as Members of the Legislative and Executive Councils. It is very difficult indeed to find fair play in this whole wide world. The Israelis have evicted more than four hundred Palestinians from their homes. What is the international reaction to this? It is for this reason that I say that when we talk about fair play it means in reality nothing more than allowing people who have the power and influence to make their own assessment. Thanks to the *laissez faire* policy which the Hong Kong Government has persistently been pursuing in the area of economic development, Hong Kong has been able to enjoy a very important role on the global economic scene. It is the driving force which has inspired a fighting spirit in everyone participating in the economic function of our society, irrespective of their occupation and walk of life. One of the wealthiest Chinese businessmen in the world who is based in Hong Kong had personal assets amounting to no more than some tens of million dollars about a little over a decade ago; indeed, he could have been penniless some 30 years ago. The non-interventionist policy of the Government has enabled all social classes in Hong Kong to work towards the fulfilment of their goals by emulating their chosen role models.

The costs of clothing, food, shelter, transportation and electricity have a bearing on inflation. Previously, only the first four mentioned items were relevant. Now electricity has become also vitally important, and its costs also include costs of telecommunications and of obtaining other electrical conveniences. In order to combat inflation, the Government has the responsibility and obligation to strike a balance in terms of the costs of clothing, food, shelter, transportation and electricity so that members of the public will be able to afford expenses on these items. It is fortunate that in terms of clothing and food, one has the luxury of choice to the extent that there is something to suit every budget. With regard to shelter, the Government has already done its best to help though, admittedly, the problem of housing has not been completely solved. With regard to transportation and electricity, it is up to the Government to formulate a policy which will address the problem of

inflation. And this policy will be one which will not guarantee that the franchised companies would be able to reap their assured 12% to 15% profit. The issue of people's livelihood has to be addressed. It is for this reason that the yearly tariff increase should be less than the rate of inflation. The Government should formulate a policy in this respect.

The existence of a uniform price within a certain trade, or the agreement of a uniform price as a result of self-regulation for that matter, does not mean automatically that we have a case of monopoly. The more important issue here is whether the price has been set at a reasonable level. That after all is the most important factor. For example, insofar as rice is concerned, as a result of government regulation, the price of rice has remained very stable for the past 40 years. Consequently, Hong Kong people do not have to worry about the price of rice shooting beyond their reach. In any case, another reason for the stability of the price of rice may also be less reliance on rice as Hong Kong society becomes more affluent. However, it is praiseworthy that the Government has fulfilled its obligations in respect of protecting people's livelihood. Insofar as private enterprise is concerned, it is doubtless true that some members of the public have been encouraged by the performance of the Consumer Council. However, the Consumer Council's rash but strong criticisms of trades which it does not have a good understanding of have not been entirely conducive to the operation of our free enterprise economy. Meanwhile, I would also like to urge the Government to review its policy with regard to the monitoring of the charges of medical practitioners and lawyers. For example, the hourly rate of a lawyer should be specified clearly, and the same goes for the consultation fee of doctors. Only then will people's livelihood not be directly affected. In this connection, Mr Deputy President, I would consider that there are many issues on which amendments to government policies are called for and there are many issues which require attention. However, I would consider unnecessary any attempt to control through legislative means the economic operation of Hong Kong.

Mr Deputy President, I was originally quite neutral on the issue we are discussing today. But now I have changed my position and would instead like to support the amendment motion.

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, Honourable Members, one very important factor which accounts for the success of Hong Kong is our adoption of a system which promotes free enterprise and in order for free enterprise to function effectively it is important we have in place an environment which is conducive to competition. It is through the competition of the various enterprises that we will be able to achieve the greatest social and economic benefits and that the rights and interests of consumers will be guaranteed. However, in Hong Kong, we have ample evidence which points to the fact that the large enterprises are able to influence and control government policies to such an extent that the interests of consumers are jeopardized. In addition to monopoly practised by the large enterprises to

the detriment of consumer interests, there are also corporate and trade practices which tend to erode consumer interests. In order to rectify such practices which have been in existence for long and which have been unfavourable to the public, many developed countries including, for example, the United States of America, the United Kingdom, Germany and Japan, and many developing countries as well, for example, Taiwan and India, have each in their turn introduced anti-monopoly legislation which will help to promote fair trade practice. What Hong Kong has been doing in this respect has been rather piecemeal and inadequate. Admittedly, the western nations have their unique historical background and quite different judicial mechanism in terms of evolving their policies to oppose monopoly, in favour of fair trade practice. However, they all share the same common concern about the incidence of commercial activities which are detrimental to the interests of consumers. In this regard, it is also up to Hong Kong to introduce the relevant legislation and policies in order to rectify the following trade practices.

1. Agreement to restrict free trading

There are many trades in Hong Kong which determine the pricing of their products and services by means of agreements reached by trade associations. For example, the Hong Kong Association of Banks determines the interest rates on deposits and charges for other services. The Law Society sets the minimum fees chargeable for certain services. The Newspapers Association also sets the retail price for newspapers. In certain trades in which there is only a limited number of operators, for example, when it comes to the supply of petroleum, the petroleum

2. Monopoly of public utility services

Hong Kong has a large number of public service providers which are not always subject to the monitoring of the Government. For example, corporations in the businesses of gas supply, aviation and container terminal operation are not subject to direct government supervision at all. Their operations have become more and more diversified and working in co-operation with groups (which are connected to China as well as foreign countries), they have been able to diversify into other fields. This phenomenon, and its development, is not favourable to the consumers. It is up to the Government to conduct a systematic study under the auspices of a comprehensive anti-monopoly policy in order to formulate an

3. Agreement on sale of related products

There are many companies in Hong Kong which in the process of selling related products will also require that the buyer also purchase on their terms some other additional products and services. For example, there are banks which require their mortgage loan customers to also patronize their lawyers and insurance companies. Another example is that some telecommunications companies actually require the households who buy

their satellite television antennae to sign a long-term maintenance contract with them. Such trade practice is in serious breach of the right of the consumer to choose.

4. Merger of large enterprises

Hong Kong has seen in recent years mergers or other kinds of collaborative arrangements between enterprises in various trades. One wonders whether such commercial practice is detrimental to the interests of the consumers. It is a matter which the Government should attend to.

It is on the basis of the above evidence that I would like to suggest that the Government should carefully study the Fair Trading Act 1973 and the Consumer Protection Act 1987 of the United Kingdom. It is up to the Government to introduce legislation which would suit the circumstances of Hong Kong as soon as possible in order to promote fair competition, protect the interests and rights of the consumers, and consolidate our democratic political system.

Bearing in mind that Mr Fred LI's motion calls for the introduction of legislation in this respect and the setting up of a fair trading commission, and that it is more specific and more effective than the amendment motion of Mr Jimmy MCGREGOR, I would lend my support to Mr LI's original motion.

DR HUANG CHEN-YA (in Cantonese): Mr Deputy President, the vitality of a free market economy comes from free competition. It is only through competition that innovations and improvements will continuously be made. In a market which does not have competition, enterprises tend to be complacent with the *status quo* because they do not have to face the challenge of competition. They will not seek to lower production cost and improve product quality. Consequently, prices will be kept up to the disadvantage of the consumers. Meanwhile, from a macroscopic point of view, an economic and market analyst called PORTER has observed that the international competitive edge is closely related to the level of competition which prevails in the domestic market. Intense competition within the domestic market will enable businesses to be on their fullest alert in terms of making constant improvement. Businesses which are accustomed to domestic competition will have the capability of competing internationally. Conversely, monopolistic enterprises or businesses are likely to push up the costs to other enterprises or businesses, through their attempt to maintain their high profit level. This will erode their international competitiveness. The container terminal and telecommunications operators in Hong Kong are good examples of such enterprises or businesses. In this regard, the United Democrats of Hong Kong take the view that the Hong Kong Government has the responsibility of encouraging and ensuring that our economy stays healthy and adequately competitive. This will in turn motivate the enterprises to seek innovation and improvement on the one hand and improve the competitive edge of Hong Kong internationally, on the other. It is

on this basis that the United Democrats of Hong Kong feel that the Government should set up a fair trading commission which will be charged with receiving all sorts of complaints and which will be empowered to investigate all sorts of cases involving breach of fair trade practice. The commission should also study the monopolistic situation which prevails in individual sectors with a view to making recommendations regarding the rules and regulations of fair trade practice. It is also up to the Government to formulate fair trade practice laws so as to maintain the rights and interests of consumers and to ensure fair competition.

The present situation is that Hong Kong does not have an integrated and comprehensive competitive policy, that no government department is charged with attending to the issue of competition, and that there is no legislation which regulates unfair trade practice. For example, there is no legislative control over sales agreements concerning inter-related products, price fixing and franchise arrangements. Indeed, many of the problems involving monopoly have been the making of the Government itself. We can see, for example, unfair trade practice in the operation of our container terminal, civil aviation, and recently our telecommunications industries.

The Governor admitted in his policy address last October that the Government should formulate a competitive policy. It is unfortunate that he has entrusted the formulation of such a policy to his Business Council, which is purely made up of the heads of large corporate groups. One is justifiably sceptical about the effectiveness of such a Business Council. Recently, the Government has allocated to the Consumer Council \$800,000 to study the monopoly situation in Hong Kong. It goes without saying that the allocation has my support. The Consumer Council does not have adequate powers to play the role of a fair trading commission. However, if new legislation is passed to give the Consumer Council new investigative and vetting powers, then its original operation may be significantly expanded to cope with the problem.

Some people are wary that legislation governing fair trade practice, and the setting up of a fair trading commission for that matter, will at the same time put economic activities in jeopardy. But we can see that the advantages of so doing far outweigh the disadvantages, if the experience of Europe, the United States, Australia and Japan is anything to go by. We can draw on their experience and learn from their mistakes so that we will be able to have in place a legislative framework and a system which are compatible with the circumstances of Hong Kong.

There is a view that fair trade practice will be a blow to the big corporations. But that is a misconception.

I am very glad that Mr Fred LI has rephrased his own original motion, changing the wording from "rectify any phenomenon of market dominance" to "rectify any phenomenon of unreasonable market dominance". While we may have difficulty supporting the former, we will definitely support the latter, that

is to say, his motion in its present form. We understand very well that the large market share enjoyed by an enterprise may not necessarily be harmful to the economy as a whole. It may simply be the result of the enterprise being more efficiently run than its competitors. We also take the view that not all kinds of mergers are harmful to the economy either. For example, a merger may actually achieve economy of scale and bring about economic benefits. However, power corrupts and absolute power tends to corrupt absolutely. When the enterprise is in a position to dominate the market, it is very easy for it to exercise unreasonable control over it. In this regard, there is a need for the Government to pay particular attention to monopoly and mergers to make sure that competition will not be pre-empted as a result. The principle of fair trade practice is not to stifle all attempts to merge or enlarge one's market share. However, unreasonable domination of the market will mean that no new competitor will be able to join in or that the new players will in any case have a hard time surviving. This will mean that the economy will lose its innovative drive and dynamic efficiency, and consumer interests will suffer. We think that this should not be allowed to continue.

As a matter of fact, we should not be dogmatic about the whole issue; we should not look at it through colour spectacles. To say categorically that big is beautiful, or big is evil for that matter, is a radical, and rash, thing to do. But we have to take note of the fact that over the past 10 years or so more and larger scale mergers of corporate groups have taken place both in Hong Kong and around the world. We should not practise the same old philosophy without any flexibility; we should not believe that just because Hong Kong has not had a fair trade policy all along, or just because we have been able to apparently stay out of trouble by giving a degree of protection to consumers and ensuring our market stays competitive, there is no need for us to make changes to our system to cope with new circumstances. I would like to identify two problems at this point.

First of all, as a result of the service sector becoming more and more internationalized, and given that the Hong Kong market has always been open to foreign investors, and that China is in the process of opening up its tertiary sector, it is possible for some super international groups to enter Hong Kong and Mainland China and actually, through their vast capital resources and sinister price cutting tactics, get rid of smaller operators. And after they have established their monopoly of the market, they will then take the advantage to push up prices to the detriment of the defenceless consumers who have already fallen into their grip.

Secondly, normal competition on the market will be put in jeopardy if an unfair advantage is obtained by a government enterprise or a semi-government enterprise through receiving subsidy or exercising political clout. As a matter of fact, complaints have been received by the Trade Development Council and investigation is called for in respect of such incidents. Indeed, recently, there have been cases involving state agencies collaborating with commercial groups in business ventures. In view of the smallness of the Hong Kong market, and its

susceptibility to political influence, in the absence of fair trade legislation, it is very easy indeed for power to be abused by either the Hong Kong Government or the Chinese Government, by the government and semi-government enterprises. The result of such abuse of power will be the demise of our free market economy.

I hope that Members will on the basis of the two points which I have made reconsider the necessity for fair trade practice legislation and the setting up of a fair trading commission.

Mr Deputy President, I am pleased to see that Mr Jimmy McGREGOR is supportive of the cause of fair competition. However, given that the Government does not have a policy and relevant legislative and executive backing to implement it, I fail to see how making improvement to the existing policy and relying on existing departments to implement that policy can do anything about the situation. That is why the United Democrats of Hong Kong cannot support Mr McGREGOR's amendment motion. With regard to the view taken by some colleagues that fair trade is a horrific monster and that it will lead to price control and so on, I think that this view is a far cry from reality, and I would urge people who think like that to pay more attention to the systems and experiences of other countries in the world.

The buzzer sounded a continuous beep.

DEPUTY PRESIDENT: Dr HUANG, you must stop.

DR HUANG CHEN-YA (in Cantonese): Mr Deputy President, with these remarks, I support the motion.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, fair trade is only possible in the context of a free market. There is no question of a free market or fair trade in the event of the market becoming monopolized or otherwise controlled by structural or artificial factors.

The Hong Kong real estate market is not a free market. From a structural point of view, the provision of land and flats is restricted as a result of Hong Kong's limited land supply and the provision in the Sino-British Joint Declaration that no more than 50 hectares of land should be sold each year. Given the fact that the provision of land and flats cannot be significantly increased in response to demand, and that the building time lag is two to three years, it is very easy for the real estate market to be monopolized and manipulated by the large land developers.

The Hong Kong real estate market is a market which is showing the signs of monopoly. In 1991, the five largest developers were responsible for the

provision of over 60% of the new residential flats. Meanwhile, over 80% of private flats or premises are provided by the ten largest developers. The Cheung Kong Holdings Limited alone accounts for 25% of the domestic market share.

The land reserve of the four largest developers, namely, Cheung Kong Holdings, Sun Hung Kai, New World and Henderson, is enough to provide in one go, close to 120 000 residential flats, each measuring 60 sq m. This volume of provision is four times the annual provision of private residential flats.

Given their monopoly of land and their control of real estate production, the land developers are able to control the upward and downward movements of property prices. Despite the fact that property prices are already at a level which is way beyond the means of the man in the street, and which indeed is even beyond the reach of the middle class, we have been seeing only a minimal price adjustment of between 5% to 10% so far. The reduced flat prices are still not affordable by the middle class. Although we cannot ascertain how the developers are able to collectively control the prices on the property market, we are quite sure that, being shrewd businessmen, they are quite capable of striking bargains regarding when to launch a sale and how to fix the sale prices and so on through meetings and informal contacts, at a cocktail party or over dinner.

Many developers have in many instances resorted to artificially reducing the supply on the market, and hence fuelling speculation, by setting aside 50% of the flats for internal subscription. It is obvious that there are unscrupulous developers who would collaborate with the speculators by turning over to them the flats marked for internal subscription. Meanwhile, the speculators will also send their men to queue up at the venue where the sale takes place to create a speculative mood. I take the view that the Government should review the rules governing internal subscription so that the consumer will not be subjected to exploitation by both sides.

The present situation is not only that flat prices are high but also that the lawyer fees for conveyancing of real estate are very expensive. For a flat priced at \$2 million, the buyer is required to pay up to \$30,000 in the way of lawyer fees for the sale and purchase agreement, the assignment deed and the mortgage deed. On top of this is the stamp duty which comes to another \$55,000. The buyer will at the end of the day incur the payment of anywhere between \$80,000 and \$90,000. In order to alleviate the unnecessary costs to the consumers, the Government should on the one hand expedite the legislative work involved in the setting up of a system of property ownership registration, and review the question of whether the conveyancing fees are reasonable on the other.

Recently, the Land Developers Association and some individual developers and property trading companies have unanimously called for the

raising of the mortgage lending limit by the Government. They consider that the flat prices have already been adjusted downwards by over 10%, and that the present 70% mortgage limit has brought great hardship to the first-time home buyers.

Mr Deputy President, I am rather baffled by this line of argument. Since when have our developers, property trading companies and speculators generally shown such concern for the rights and interests of our prospective home buyers and poor people without a roof over their head? Back in 1991 and 1992, when they were having a field day with their speculative sport, when they were literally raking in their huge profits, did any one of them do anything about alleviating the hardship of the home buyers? It really makes me sick to hear them talking about feeling sorry for people whose misfortune is of their own making in the first place. In the context of sufficient supply and flat prices being fixed beyond the affordability of middle class buyers, it is only natural that by virtue of the laws of economics the flat prices will have to come down. One fails to understand why the developers and speculators are making such a big fuss over this. One simple explanation for this is that they are making noises because their exorbitant profits are being jeopardized. I think that it is a good sign that the property prices are coming down. It is good that the profits of the developers and speculators are being reduced, because it means that the consumer is no longer being exploited. Why should the commonfolk, and the middle class for that matter, continue to have to work themselves so hard just to keep our developers and speculators happy?

The Government is surely to blame in terms of its policy on land provision and use of housing resources for the present monopoly situation in the real estate market. There is no way the Government can avoid blame. Given that the real estate market is not able to function effectively to meet the demands of the consumers in the way a free market should, it is up to the Government to play a more active role in terms of building more public housing so that the runaway private market flat prices can be suitably adjusted.

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

MR MAN SAI-CHEONG (in Cantonese): Mr Deputy President, if Hong Kong is to maintain its international competitive edge, it is vitally important that we have a mechanism in place which will, through fair competition, lead to the reduction of production cost as well as improve production in both qualitative and quantitative terms. If Hong Kong is to safeguard the rights and interests of consumers and small to medium sized firms, then rectification must be made to the phenomenon of unfair market domination in order that fair competition can be brought to play on the market. Hong Kong has all along been operating without a competitive policy; it does not have a set of fair trade legislation. The Government is quite content to leave it entirely to the invisible hand of the market to make its own adjustments. However, the invisible hand, as it were, is

not always able to function effectively. We can see, for example, that Hong Kong is faced with a monopoly situation in the economic sphere. Service charges have been on the increase and this does not only affect the rights and interests of the consumer but directly tarnishes the image of Hong Kong as a financial centre and entrepot. We can see many examples of unfair trade practice in the banking and the container terminal industries.

Hong Kong has a great reliance on the tertiary industry as a result of its economic transformation. And insofar as the service industries are concerned, one can see a serious tendency towards monopoly, and indeed a monopoly situation is already emerging, in the electricity, telecommunications, financial services and container terminal industries. Their ever increasing price hikes are a cause of grave concern. The formation of cartels has justified the concern of consumers that the rising prices have not led to any corresponding improvement in terms of quality of service. For example, in terms of the banking sector, one is alarmed at the large combined market share enjoyed by the four largest banks in Hong Kong. They have between them fixed the interest rates for the entire banking sector and considering also the fact that the Hong Kong and Shanghai Banking Corporation has traditionally been able to enjoy privileges given to it by the Government, the above mentioned factors have led to a lack of competition in the financial services sector. According to the complaints received by the Consumer Council last year in respect of the banking sector, there has been a noticeable upward trend in the number of complaints pertaining to banking services. One is prone to ask whether the rising number of complaints has been the result of the absence of perfect competition.

The example about banking is of course just one example among many. There are other industries which are also problematic in terms of monopoly existing to a greater or lesser extent. Indeed, many examples have already been cited by our colleagues. It is true that the Consumer Council has been allocated funds with which to conduct studies into whether the monopoly situation has given rise to unfair competition in certain industries. However, it is up to the Government to give consideration to the formulation of fair trade laws and the setting up of a fair trading commission, in order to investigate and study the monopoly situation which exists in the various trades and industries, and to probe deeply into the cases of complaint and refer them to the courts of law for adjudication. As a matter of fact, fair trade legislation is no longer a novelty in market economies, like the United Kingdom and the United States of America, which champion free competition and market mechanism. For example, the Sherman Anti-Trust Act of the United States, enacted in 1890, has already had a history of 100 years. The Federal Trade Commission was set up, following enactment of the said act, to implement fair trade laws and to make sure that the market stays free and competitive. Other economically mature countries such as the United Kingdom, Japan and Germany, have also sophisticated legislation and implementation agencies in respect of fair trade practice. There is a real need for Hong Kong to refer to the experiences of these countries. Indeed, at this point in time, even the four Asian dragons such as Taiwan and South Korea have now joined the ranks of countries with fair trade legislation. Taiwan

passed in 1991 a comprehensive set of fair trade laws and set up subsequently a fair trading commission. It is apparent that they understand that the market must stay competitive because that is a prerequisite for continued economic development and continued growth. While Hong Kong is also one of the four Asian dragons, it has been doing without any sort of anti-monopoly legislation, and indeed what laws we have are not chiefly for the purpose of increasing competition and protecting the rights and interests of consumers. For example, the law as it stands does not allow any one of the two television stations to own more than 15% of another terrestrial television station. The purpose of the rule, however, is purely to prevent the control of the television medium by one institution. The Hong Kong Government has failed to address the urgent issue of formulating a fair trade policy and necessary legislation to go with it. I am hoping that the Governor, Mr Christopher PATTEN, will be able to live up to the promise which he made in his policy address on 7 October 1992 that a reasonable competitive policy will be formulated in a fair manner and that the experience of foreign countries will be taken into consideration in terms of creating a genuinely competitive environment in Hong Kong with a view to promoting our economic development. It is for this reason that I would like to urge the Government to formulate the fair trade legislation as soon as possible and to set up a fair trading commission to conduct investigations and enforce the legislation when it becomes available. The Government should take appropriate measures in order that Hong Kong will be able to have a truly fair and competitive environment which is free from all the undesirable consequences of monopoly.

With these remarks, I support the original motion of Mr Fred LI.

MR HENRY TANG (in Cantonese): Mr Deputy President, it is a sign of social progress that the consumer is more conscious of his rights. It is a reflection that members of the public are beginning to show concern about whether they are able in their daily purchases to receive protection to which they are entitled in the practice of fair trade. With regard to the content of the motion put forward by Meeting Point today, I would like to say that while I agree with its principle, I have rather some reservations on its wording.

The reason for my reservation is very simple. The request for the setting up of a fair trading commission immediately has been made on the assumption — which assumption, however, has been arrived at without any prior thorough investigation or in-depth study — that a monopoly situation exists in the various markets of Hong Kong and this in turn has led to the undermining of consumer interests. I would in any case consider that to be a rash thing to do, and a radical position to take. I believe that any issue which bears on the development and operation of the economy of Hong Kong has to be handled with extreme care. The attempt to resort to legislative control, and the temptation to take a rash decision, may very well jeopardize the long-term interests of our economy, which will in its turn translate into more harm than good for the man in the street.

Before we introduce any new legislation which may have certain long-term social implication, before we introduce any policy reform, it is vitally important that we should first of all review whether there are loopholes in the existing measures. For example, we should rationally examine whether the big businesses have really resorted to controlling and monopolizing the market. We have to come up with substantial evidence to prove that the alleged monopoly is really harmful to the rights and interests of the consumer before we conduct public consultation with a view to soliciting recommendations in respect of improving the situation and implementing any policy objective. It would appear, if one looks at the situation rather superficially, that monopoly exists to some extent in certain trades and industries, as alleged by the Consumer Council. However, one must also examine whether the situation is really due to the special characteristics of the trades and industries in question, whether for example the practice of price fixing is in keeping with the objective circumstances, or whether indeed a monopoly situation really exists. Open accusation before the facts are clearly established by investigation will result in the public being misinformed. Given that the first impression tends to be rather long lasting, it may actually happen that even though the trades and industries which have been alleged to be monopolistic are found by the investigative studies not to be so, it would be quite difficult to correct the public misinformation. I think that the Consumer Council should be responsible enough to review its position on this matter because its public statements have been most unfair.

It is of course a matter of natural justice that consumer rights and interests should be protected. But the question is how intervention can be kept within limits in order that the investor will not be scared off the market. It is not easy at all to strike the right balance. As a matter of fact, I believe that the improvement of our competitiveness is the best way to safeguard the rights and interests of consumers. It is in this regard that I very much support the proposal in the Governor's policy address to formulate a comprehensive competitive policy. I hope that the authorities concerned will be able to follow up on this as expeditiously as possible so that a substantive proposal will be put before this Council later on for in-depth study and consultation.

Mr Deputy President, I understand that any measure which is capable of preventing a new competitor from entering the market in question may also be regarded as contributing to market monopoly or unfair trade practice. But the question remains whether we are faced with this sort of scenario in Hong Kong. It is a question which will require in-depth study by the authorities concerned, by the public utility companies and by the various professions. Given the unique economic circumstances and special constraints of Hong Kong, while it may be worthwhile for us to study the anti-trust and anti-dumping policies of western countries, it may not be entirely appropriate for us to transplant their policies for implementation in the local context.

The Consumer Council has received recently an allocation of \$800,000 by the Government to conduct in-depth study into the problems raised. Conducting

in-depth study is a right way to go and it has my full support. However, I am rather sceptical regarding the competence of the Consumer Council to engage in such studies, given its rather limited powers and professional expertise. It is for this reason that I would like to suggest that the Government should give additional resources and statutory powers to the Consumer Council so that it will have the support that it needs. With regard to the setting up of a fair trading commission, my position is that, as I was saying just now, given that now is not the best time to immediately introduce fair trade legislation, there is no need for us to set up one more commission. We should defer decision until the Consumer Council reports its findings eventually.

Mr Deputy President, with these remarks, I support the amendment motion of Mr Jimmy McGREGOR.

MR JAMES TO (in Cantonese): Mr Deputy President, one tends to associate the issue of formulating a fair trade policy with other issues such as market monopoly, how a company is able, through dominating the market for example, to raise prices for the purpose of profiteering, and how the Government should keep watch against the operation of monopolies. However, one should not in a discussion of fair trade policy limit oneself to the issue of market dominance. Other aspects should also be looked at, such as the forming of cartels to attempt to fix price or to take concerted actions; corporate mergers and other sorts of restrictive trade practice.

Mr MAN Sai-cheong has spoken on monopolies and cartels; I shall discuss the issue of corporate merger and its associated problems.

First of all, I would like to make the point that not all mergers are harmful to the public interest. It is possible for the merger of two companies engaged in similar line of business to increase their economy of scale and lower production costs. Indeed, the integration of the retailing firm with the supplier will actually result in minimizing the costs involved in the price negotiation between both parties over the commodities in transaction. However, such horizontal integration will to a certain extent increase the concentration of the market. Meanwhile, vertical integration will likewise result in the dominant forces in one market extending into another market. It is in this connection that the Government should introduce legislation and set up ad hoc committees for the purposes of investigating, monitoring and vetting any attempted mergers which have significant economic implication for the community.

I would like to cite some examples of fair trade laws of overseas countries, for Members' reference, which have specific regulations applicable to monitoring and corporate mergers. The Fair Trading Act 1973 of the United Kingdom specifies that the government is only required to take action if a merger results in the net asset worth of the company concerned exceeding £30 million, or the company consequently acquiring a share of the market in question which is in excess of 25%. The government is required to study the

case and refer it to the investigation of the Monopolies and Mergers Committee, to make sure that it will not undermine the public interest. Similarly, the fair trade law of Taiwan also provides that the companies which participate in the merger should make a report to the Fair Trading Commission or other relevant government departments if, even before the merger, their combined market share is already more than 25% and they will collectively achieve a share amounting to one third of the market as a result of the merger. The merger cannot go ahead until permission is obtained in the above scenario.

In retrospect one can see that there have been many instances of corporate mergers which have resulted in reduced competition within the trade and which are actually harmful to the public interest. For example, Hong Kong has two airlines before 1959, namely, Cathay Pacific and Hong Kong Airways Limited. However, in that year, Cathay Pacific successfully acquired Hong Kong Airways Limited and became effectively the only airline of Hong Kong. Although prior to the acquisition, Hong Kong Airways Limited was an operator of northbound air routes and Cathay Pacific was an operator of southbound routes, and there had been no direct competition between the two, the merger nevertheless eliminated for Cathay Pacific the threat of its greatest competitor and this in turn has significantly reduced the competition of our airline business.

In 1985, Dragonair started operating air routes from Hong Kong and became the second airline in the territory, and a competitor to Cathay Pacific. Following the successful bid by Cathay Pacific to acquire a 30% stake in Dragonair, the arrangement was made that all of Cathay's China routes be turned over to Dragonair for development. Admittedly, Cathay Pacific has not fully acquired Dragonair, or become a holder of over half of the stake in it. However, according to the Fair Trading Act of the United Kingdom, if following the acquisition of a substantial stake in another company one company has effectively assumed a highly influential role in the management of that other company, then that would also count as a merger. In that regard, the acquisition by Cathay Pacific of a 30% stake in Dragonair's would have been treated as a merger, not to mention the fact that the move has consequently reduced the possibility of competition which would otherwise happen between the two companies.

The bank runs of the 1960s offer us another case in point. The move by the Hong Kong and Shanghai Banking Corporation to take over Hang Seng Bank meant the further enlargement by the former of its banking market share, bearing in mind its already significant market share prior to the takeover. That is an indirect cause of the aggravating monopoly situation in the banking sector with which we are faced today.

It can be seen by examples like these that in the past some of the corporate mergers were not in keeping with the principle of competition and they have

resulted in the concentration of the market which is being dominated, if not monopolized, by some of these companies.

I would like to move on to the discussion of the supermarket business. Whereas the Wellcome chain has about 180 supermarkets, the Park'n Shop chain has about 160 supermarkets. Between them, they have over 70% of the supermarket business. We have often heard about the grievances and complaints by suppliers that the two supermarket chains have charged them unreasonable rates, but these benefits to the two supermarkets have not been passed on to the consumer. If the two supermarkets should one day merge with each other, then it would certainly have a not inconsiderable impact on, and bring a great deal of harm to, both the suppliers and consumers as a whole.

It is up to the Government to legislate to require that investigation should be conducted into important mergers. To investigate does not necessarily mean to object. Anyway, legislation to this end will ensure fair competition and the protection of the public interest.

Quite apart from mergers, there are a whole lot of other anti-competition trade practices and indeed one can come up with an endless list of examples. A case in point is the practice of the bank to require its customer seeking a mortgage loan to patronize its prescribed lawyer and insurance company and surveyor. Also, some telecommunications companies have resorted to requiring the customer to sign a long-term maintenance contract with them, while selling their satellite television receiving antennae. It is practices such as these that the Government should seek to control through legislation.

I would like to respond to Mr NGAI Shiu-kit's remarks with regard to one point. I would like to say for the record that the United Democrats of Hong Kong are not opposed to CITIC, China Resources, and China Bank Group institutions doing business in Hong Kong, purely because they are economic institutions of China. What we are opposed to is the existence of some companies which are owned and controlled by the Hong Kong and Macau Affairs Office. Given that the Hong Kong and Macau Affairs Office is the body which is responsible for the formulation, or at least the implementation, of China's policy towards Hong Kong, and also given that it has direct influence on the economic and political shape of Hong Kong, it is inevitable that clash of interests will arise even though every attempt has been made to observe the Basic Law to the letter. It is in this regard that it is a separate issue altogether and should not be regarded as just another instance of business involvement of China in Hong Kong.

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

MR WONG WAI-YIN (in Cantonese): Mr Deputy President, let me first of all make clear my position. I support the original motion of Mr Fred LI and

oppose the amendment motion of Mr Jimmy McGREGOR. Mr LI has indeed explained quite clearly in moving his motion why the Government should formulate fair trade laws and set up a fair trading commission. I fully agree with his views.

As a matter of fact, fair trade practice is not only a theoretical issue; it is also a very real issue which has a bearing on people's livelihood. When the market is being dominated by one or two firms, there is no protection at all for the man in the street in terms of his interests as a consumer; he is cattle to the slaughter under the monopoly situation. I feel very strongly about this irrational phenomenon because of my experience. I am sure Members will recall that in October last year, in Tuen Mun, a district within the New Territories West constituency which I represent, there was an explosion involving liquefied petroleum gas cylinders. It raised concern about the safety of fuel storage among members of the public, including of course Members of this Council. The public sentiment was that liquefied petroleum suppliers should improve safety measures. That common wish was very soon translated into concrete safety measures regarding the disposal and storage of liquefied petroleum, with enhanced safety measures being announced by many suppliers. I was delighted at the time at the quick response of the companies involved, in respect of the safety measures taken to improve the situation. However, my delight very soon turned into rage when in early November last year, the major suppliers raised their prices one after another. And one of the main arguments in support of their price increase was increased cost incurred as a result of adopting the enhanced safety measures. Price increase as a result of increased cost is a very difficult decision to take in the context of a truly competitive market. For it is likely that one's customers will switch to one's competitors as a result of price increase. However, the liquefied petroleum gas suppliers do not have to worry about losing customers because each price adjustment is a decision reached collectively among themselves. Meanwhile, I am also baffled by the uniform rate of price increase, particularly assuming that improved safety measures was indeed the reason for putting up the price in the first place. One would have expected that rate increase would vary from company to company given the fact that each supplier had a cost structure which was different from the others.

It is in the context of an oligopoly that the companies will not have to increase their profits through lowering costs or alternatively, improving service to attract more customers. They can simply rely on pushing up the price as the surest way to increase their profits. The consumer has to take what he is given; there is nothing he can do about the unfair trade practice.

The irony of the situation is that the liquefied petroleum gas suppliers do not consider themselves to be carving up the market among themselves. They would say that the monopoly is a privilege enjoyed by somebody else. Recently, Meeting Point received a letter from a large liquefied petroleum gas supplier which said that the policy of the Housing Authority to ban the use of the central duct system for the supply of liquefied petroleum gas was effectively an

impediment for suppliers of liquefied petroleum gas to enter the vitally important market of public housing households. This, they alleged, has in turn led to the monopoly of the market by towngas. It can be seen from this complaint that unfair trade practice is an indisputable fact of life in Hong Kong and that it is not only something which concerns the man in the street, or social workers who have been nicknamed the "free lunch campaigners", or pressure groups and political organizations. It is also a matter of grave concern for big businesses. It is not my intention to debate on this occasion whether the Housing Authority policy in question contravenes the principle of competition; suffice it to say, though, that the Hong Kong and China Gas Company has quite a large share of the fuel supply market. In terms of number of subscriber households, the market share of the said Company is 53%. The Secretary for Economic Services said, in her reply at the Legislative Council meeting on 16 December last year to a question raised by Mr LAU Chin-shek, that the Government would only consider the need to monitor or control the pricing and profit margin of the Hong Kong and China Gas Company when there is specific evidence pointing to monopoly in respect of the supply of gas fuel. The Government takes the view that there is no question of monopoly over the supply of gas fuel at this point in time. However, given the already very large market share of the Hong Kong and China Gas Company, one wonders what percentage of the market the Government has in mind that would substantiate a legitimate case against monopoly. Furthermore, the installation of ducts for the supply of towngas means that it is going to be very difficult to replace the ducts once they are installed. Meanwhile, whereas the Hong Kong and China Gas Company is quite free to raise prices as it is not subject to any scheme of control, it is going to be extremely difficult for the subscriber household to switch to another form of fuel should they wish to give up gas which they may find to be too expensive.

We understand that the energy market is also one of the five markets which the Consumer Council is engaged in investigating now. However, we feel that the investigation by the Consumer Council should by no means be taken as a substitute for a fair trade policy. What we need is a policy which will clearly define under what sort of circumstances the practice of a uniform pricing strategy would be in breach of the principle of fair competition, and what sort of market share would count as monopoly. For in the absence of such vitally important criteria, there is no way the Consumer Council can effectively assess whether the suppliers of liquefied petroleum gas and towngas are actually dominating the market.

Lastly, I would like to make one clarification. It is not my intention to accuse in my speech today any individual company of engaging in unfair trade practice. However, I do genuinely believe that there is not enough protection in respect of consumer rights and interests, and of people's livelihood generally. Supposing that we have a clear policy eventually, having done the necessary investigative groundwork, and that the energy market and other markets also have become adequately competitive, the policy would by no means be useless because it would continue to offer the most effective protection to the consumer.

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

MISS CHRISTINE LOH: Mr Deputy President, Hong Kong has traditionally favoured free and fair traded investment and has by world standards an exemplary record of openness and transparency in these areas. There is no particular prejudice in Hong Kong against a dominant market position. The presumption is that the market will sort things out and in the context of Hong Kong that presumption has indisputably been the correct one. Therefore, any consideration of trade and investment policy must start with the recognition that Hong Kong's tradition of non-interventionism, now renamed minimum interference, has worked exceptionally well.

Hong Kong's markets are probably more free and more open than those of any other economy in the world and Hong Kong has prospered as a result. To say that the system works well is not, of course, to say that it cannot be improved. If we believe free and fair trade to be inherently virtuous then there are certainly areas of restricted competition in Hong Kong which might benefit from fresh scrutiny. But we are talking here about marginal gains, not about fundamental change.

Do we have a fair trade policy? What we have is a halfway house between the Honourable Fred LI's and the Honourable Jimmy MCGREGOR's positions. The Government has a policy to regulate monopolies and an ad hoc policy on competition. I suggest that the Government spell out clearly what it considers to be its policies, or at any rate its principles, as regards competition and fair trade. This will help further examination.

The Government, as a matter of policy, invites the recognized leaders of the private sector to sit on the boards of statutory bodies and to advise on government policy via the Executive Council, this Council, various committees and, more recently, through the Governor's Business Council. Hong Kong has, and indeed actively approves, a close relationship between business and government which sometimes gives the impression that we do not generally care to ask ourselves whether such a practice has disadvantages as well as advantages. Obviously there are disadvantages, for example, where there are conflicts of interest, like the Housing Authority being packed with developers and other people who could stand to gain. The community, including the Government, should keep an open mind on how to look at fair trade. To question the basis on which the Government has made particular decisions is not marking presumptions that something is wrong, but merely to make sure that everything is all right.

In respect of both the motion and the amendment before us, we must take particular care in defining what we might consider to be unreasonable market dominance. The phrase should not be allowed to mean simply a very high

market share. It is not in the logic, the policy or the tradition of Hong Kong to penalize companies which build up a high market share through supplying a better product or a better service at reasonable price. If, and only if, unreasonable market dominance refers to a dominance achieved by erecting artificial barriers against prospective competition, then may there be a case for action.

The most obvious areas of restricted competition are those covered by government franchises and schemes of control. These relate primarily to public utilities where, to use expensive equipment and plants at a sufficiently large and efficient scale, only a single company or a small number of companies can be allowed to enter each market. Other situations may be identified in which the Government authorizes or facilitates the restraint of competition for more pragmatic reasons. First, the Interest Rate Agreement enables banks to manage their collective market more profitably. The one airline one route policy has helped Cathay Pacific gain its present stature. And certain professional bodies are allowed to promote the position of their members against entrants from overseas, for example, in the law where solicitors are also allowed the exclusive preserve over conveyancing.

There is no reason why the rationale underpinning these special cases of restricted competition should not be re-examined from time to time. The question is whether it is necessary to create a bureaucratic and legislative apparatus in order to do so as the Honourable Fred LI proposes. I doubt it and for that reason my sympathies are more with the Honourable Jimmy McGREGOR's amendment. Hong Kong is too small a place to support a proliferation of regulators nor surely does it want to encourage the American style approach of elaborate anti-trust legislation and incessant litigation.

If the Government declares itself to be in favour of minimum interference in market forces, it must accept that there is a case for re-examining those areas including franchises, schemes of control, banks, airlines, the professions and any area where competition is restricted at the Government's insistence or with the Government's blessing. The community wish to ensure that the Government's decision making process will not suffer from inertia or timidity and that public policy should ensure that those who benefit from being given special positions do not stop to strive for higher productivity.

No doubt Members of this Council would wish to be involved at any such re-examination. The vehicle for conducting it might be an ad hoc committee associated with this Council or even with the Economic Services Branch of the Government. The formal parentage would matter less than the willingness of those involved to bring an open mind to bear on the problem and to confront conventional wisdom with constructive scepticism. This committee might discharge two main functions. First, to look systematically and dispassionately at each instance in which the Government deliberately restricts or proposes to restrict competition through authorizing a monopoly or cartel and to question whether such restrictions are both necessary and satisfactory. And secondly, to

investigate distortions and to deal with specific complaints about collusions and unauthorized irregular or informal obstacles to free and fair trade. In either case its powers would be limited to the publication of reports on which the Government, prodded where appropriate by this Council, might choose to act. I presume that this ad hoc approach would fall within the scope of what Mr McGREGOR calls the existing institutions.

Subject to my earlier reservations about the construction to be put on the phrase "unreasonable market dominance", I support the amendment.

MR ROGER LUK: Mr Deputy President, it has been said that "Hong Kong is the last bastion of free enterprises". If my memory is correct, these are the words of Nobel Laureate Milton FRIEDMAN in his popular TV series Free to Choose.

The success of Hong Kong in establishing itself as an international financial and commercial centre owes much to the advantages of openness and total freedom of economic activities. The Government subscribes to and is committed to free enterprises and fair trade. It is an established policy that, except where social considerations are overriding, the allocation of economic resources is left to the market forces.

The Government also believes that its primary role is to provide that infrastructure and systems conducive to a free market environment. Official interference is practically absent, and there are also no protectionist policies.

No market is perfect in respect of competition. Hong Kong is no exception. There are still monopoly and oligopoly. However, they are by no means results of unfair trade. Many are natural developments arising from economies of scale; others are natural selections by consumers.

In cases where the minimum efficiency scale is sufficiently large, a single supplier or at most a few suppliers would be adequate to serve the entire market. With a natural barrier to market entry, natural monopoly or natural oligopoly exists in industries like public utilities. However, there are check and balance mechanisms administered by the Government to prevent them from abusing market power and market dominance.

In competitive markets where barriers to entry are limited or virtually non-existent, suppliers are many. Market leaders are always those which are more responsive to customer needs, more sensitive to market changes, more innovative in products, more conscious of services, and more efficient in operations.

In regulated markets like financial services, entry is by franchising as a means of pre-qualification. These limitations are to ensure that only those which meet the stringent requirements are admitted. Thus, competition would

not put market integrity at risk. As in competitive markets, the dominant suppliers are always those which are more responsive to customer needs.

The Honourable Vincent CHENG has earlier responded to the criticism on the banking industry in Hong Kong with regard to competition. I share his observations and I would like to add a few points. Retail banking in Hong Kong is as competitive as any other business. Banks never forget customers have a choice. Banks are sensitive to customer needs and always respond to them with more innovative, efficient and convenient services.

A fair trade policy has three elements: first, elimination of barriers to competition; second, protection of consumers; and third, encouragement of market efficiency. In this context, the Government does have a fair trade policy in practice. The question here is essentially insufficient co-ordination within the existing institutional framework to ensure the policy is effectively implemented. What we need now is improving the existing arrangements rather than introducing a new mechanism.

I share the concern that market dominance would induce collusive behaviour to avoid competition. But, I also share the concern that the formation of a fair trade commission would undesirably open the door to bureaucratic interference of market mechanism and free enterprises, the corner stone of our success.

Mr Deputy President, we, in Hong Kong, are all for free enterprises. We are all for level playing field. We are all for breaking down barriers to competition. We, however, also see the differences between those who dominate a market because of better services and those who do so because of the privilege of being protected from competition. We must not forget what cut IBM down to size was not the unabated efforts of anti-trust regulators at Washington, but uprising competitors which simply provided better choices to users.

With these remarks, I support the motion as amended.

MS ANNA WU: Mr Deputy President, in response to today's debate, the Consumer Council has presented to members of the Legislative Council examples of monopolistic tendencies, possible forms of unfair and anti-competitive practices, the reasons for a fair trade policy and the need for review. As a member of the Consumer Council, I wholeheartedly endorse its views.

At first sight, fair competition and consumer protection seem to be uneasy allies. In fact, they complement each other. Fair competition and consumer protection are two sides of the same coin. Market efficiency is optimized when

trade barriers that prevent competitors from entering the market and restrictive practices that confuse or mislead a consumer are removed.

Competition provides choices to the consumer and information helps the consumer to make a choice. These realities force the supplier to be more sensitive to the needs of the consumer and to allocate his resources more efficiently.

A fair trade policy represents an integrated approach to promoting competition and protecting consumer interests. It means removing distortions of the economy and unreasonable market dominance.

Cartels are the most obvious form of unreasonable market dominance. Such market dominance may lead to predatory pricing mechanisms to preclude a competitor from entering the market. It may also lead to price fixing, tie-in sales, collusive tendering, non-disclosure of essential information, manipulation of supply or simply making certain services unavailable and thus restrict the choices of consumers. What can be more frustrating to the process of competition and market efficiency?

There is no law in Hong Kong that forbids restrictive trade practices or the formation of cartels. There is no administrative framework that combats monopolistic tendencies. Strangely, the law and the administrative framework provide for quite the opposite.

Legal or *de facto* monopolies exist and market access is restricted in the areas of broadcasting, telecommunications, transport, air and container services and energy supply.

While the Administration recognizes that there needs to be some degree of control over cross ownership of businesses, standards, level of profits or fare setting, the full brunt of the market forces is not felt in these areas.

The effect of monopolies and cartels, however formed, is that they guarantee business and there is little incentive to improve services. The potentially lethal effect of monopolies and cartels is that they could hold a community hostage where essential services are involved.

It has been argued that monopolies provide economy of scale and that in turn provides greater efficiency. A fair trade policy does not negate efficiency. It seeks to optimize market efficiency while preserving effective use of resources. It does not seek to preclude reasonable market dominance or price fixing in all cases.

Where severe risks of abuse exist, minimum standards of acceptable commercial behaviour need to be prescribed by law. This is so, for example, in the case of matters relating to the takeover and the running of listed companies and in the case of laws relating to misrepresentation and exemption clauses.

The law accepts that freedom to strike a bargain and the sanctity of contracts are subject to the principles of reasonableness and fair play. Onerous provisions can be struck down for being unreasonable and legal relations can be vitiated by misrepresentation. These are norms which already exist in our society. A fair trade policy is but an extension of these norms.

May I add that it is at least different to hear the Financial Secretary say that our economic policy is far from "do nothing". I hope the Government will adopt the "do something" or "say something" approach in combating unscrupulous trade practices.

Mr Deputy President, leaving aside the question whether there is an existent fair trade policy and the implications arising from the Governor's statement on developing a comprehensive competition policy, Mr Fred LI's motion and Mr Jimmy MCGREGOR's amendment provide for the same objectives. The difference however appears in the degree of aggressiveness. Fair competition, consumer protection and a fair trade policy require deliberate and integrated forethought. They require vigilance to achieve and to maintain. I therefore will support Mr Fred LI's motion which includes the setting up of a fair trade commission and will abstain from voting on Mr MCGREGOR's amendment. If the Government should in its wisdom also wish to strengthen the Consumer Council, I would of course have no objection. Thank you, Mr Deputy President.

MRS SELINA CHOW: Mr Deputy President, business, commerce and trade lie at the very heart of Hong Kong's livelihood. As we are all aware, trade has been an integral part in the history of Hong Kong and to a great extent the policy of free market economics is responsible for Hong Kong's success. Thus to maintain Hong Kong's strength one must not support Mr Fred LI's motion for he is advocating positive intervention by way of the establishment of a single organ of power which would threaten the pillar of free enterprise and market that underpin Hong Kong's success and prosperity.

It is imperative that the Government does not intrude into the workings of the free market. It is equally important that the consumers are treated fairly and that their interests are protected. This is the job of the Consumer Council. It has been an effective watchdog over local business ever since its inception, monitoring the practices of companies, providing disclosures of their findings and censuring and hitting at unethical and dishonest operators with the effective tool of publicity. The Council's track record speaks for itself and the Government must give it full support to provide services demanded of it by the community.

The Government's job is to ensure a suitable framework so that there is a level playing field for all participants in the market. We at the Co-operative Resources Centre do not want to impede the market forces from working efficiently. At the same time, we condemn collusions, cartels, price fixing and

other unfair trade practices. However, such undesirable practices can be prevented by correct policy strategies determined by the Executive Council and endorsed by this Council from time to time, requirements for transparency, exposure of questionable dealings and fraudulent practices can be penalized by appropriate legislation. Such corrective measures must be focused on specific problematic areas and not broad brushed as has been suggested by Mr Fred LI.

What we must guard against is the acceptance of the fallacy that a single bureaucratic body called Fair Trade Commission can do better than free competition and what market forces have successfully done in offering choices and competitive prices for the Hong Kong consumer.

Mr Deputy President, we oppose Mr Fred LI's motion and support Mr Jimmy MCGREGOR's amendment to the motion.

DEPUTY PRESIDENT: Mr Fred LI, do you wish to reply now? On my rereading of Standing Order 27A, I have no power in fact to allow you additional time for your reply to the amendment. So I fear you are restricted to three and a half minutes overall for both replies, if you wish to make two replies.

MR FRED LI (in Cantonese): Mr Deputy President, a number of Members have argued that the proposal as set out in my motion has violated the spirit of free enterprise. But surprisingly, since the filing of notice to move this motion, I have been recently lobbied by a group calling themselves Coalition for Free Enterprise. They have expressed support for my motion. The reason is that they take the view that Hong Kong is not too much of a place for free enterprise; they think that Hong Kong needs a fair trading commission, and some form of fair trade legislation, to fairly safeguard the practice of free enterprise. That Coalition is in fact formed by a group of private companies campaigning for free trade. It supports my motion and so I have the feeling that my motion seems like trespassing on the interests of some private companies.

Mr Vincent CHENG, Mr NGAI Shiu-kit and Miss Christine LOH mentioned that the anti-trust laws of the United States have resulted in a proliferation of bureaucratic bodies which trespass on the free market and it is for this reason that this western product should not be transplanted to Hong Kong. I agree with this point completely. That is why I did not mention in moving my motion the experience of the United States. I only mentioned South Korea and Taiwan. Indeed, Japan already had anti-trust (that is, fair trade) legislation back in 1974. All of these countries were Asian countries. I agree that there are too many anti-trust laws in the United States. The United Kingdom, which is the sovereign state of the colony of Hong Kong — at least up to this point in time — has had a fair trading commission for a long time. But even the United Kingdom does not have anti-trust laws which are quite as many

and as hurting to the economic markets as those found in the United States. But why is it that Members have seen fit only to refer to the example of the United States and ignore the examples provided by other countries? I think that we should not go from one extreme to another.

Furthermore, Members have in many instances talked in terms of the market controlling and regulating itself, in which I also believe absolutely. However, in a capitalist society, the most fundamental motive of each and every trader is invariably the largest achievable profit. It is this attitude which defines the game of survival for the fittest and which justifies the elimination of the less fit. It is not possible to rely on self-regulation by traders themselves; it is not possible to leave it to what they call the market demand to eventually achieve the state of perfection. In this regard, I tend to think that many of my colleagues in this Council are in fact speaking for the interests of the business community. But even so, are they a little over-sensitive?

Mr Roger LUK has mentioned the banking sector a moment ago. It is a well-known fact that both he and Mr Vincent CHENG are representatives of the two largest banks in Hong Kong. It goes without saying that they would have motives of their own in putting forward the views as they have done. But I am rather hoping that Members will be able to transcend their own self-interests and look at the social and economic conditions of Hong Kong objectively. Do we have free and perfect competition? Mr Jimmy McGREGOR has said that Hong Kong does in fact have a Banking Commission and an Insurance Commission. But let me point out also that there is no monitoring of the insurance industry to speak of in Hong Kong, that the existing government institution is only keeping an eye on which insurance companies are likely to fail, on the capital reserve of these companies, and on their exposure to risks. It does not care about whether these companies are engaged in monopolistic price fixing. We have been debating on a number of occasions the motor vehicle insurance sector of the industry. Can the Insurance Authority of the Government do something about the situation? The answer is no. I feel that there is a need for us to clearly distinguish the various kinds of relationships. I hope all of us will be very clear with regard to whether the Government does, or does not have a mechanism of this sort. I hope Mr CHAU Tak-hay will be able to clearly state in his reply whether the Government has a clear, centrally formulated fair trade policy for implementation by the various departments. I believe there is no such policy. Thank you, Mr Deputy President.

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, about a month ago, in answering a question in this Council raised by Mr Fred LI on the subject of today's debate, I pointed out that, during the debate last October on the Governor's policy address, diametrically opposed views had been expressed by Members of this Council on how the Government should approach the development of a competition policy.

The views expressed by Members today are no less divergent or even conflicting. At one end of the spectrum, we have heard that governmental or legislative intervention which would result in a probably huge bureaucratic apparatus and more red tape and which would distort markets and the allocation of resources should not be pursued since it would stifle enterprise, reduce efficiency and damage our economy. At the other end of the spectrum, views have been expressed that monopolistic tendencies and anti-competition practices already exist in some sectors of our economy and that anti-trust laws, more legislation on consumer protection and fair trade laws should be introduced and a fair trade commission should be set up to give consumers a fair deal.

It is worth noting once again that, as in the case of the October debate, such divided views are all about what regulatory framework, or what means, Hong Kong should adopt in order to enhance competition, but that there is no disagreement on what our fundamental objective should be, and that is to give consumers adequate protection.

I would like to make it clear on this occasion that the Government subscribes fully to the philosophy of free and fair markets, which is the best formula for enhancing competition and efficiency on the one hand and keeping costs and prices down on the other.

I am grateful to Members for their suggestions on ways to enhance competition in our economy and for their observations on the possible or perceived restrictive trade practices in certain specific sectors. I would like to assure Members that, in our further deliberations on this issue, we will give the most careful consideration to the views expressed in this Council this afternoon. I would also like to underline the Government's commitment to the use of appropriate and pragmatic measures to rectify any unfair trade practices, safeguard fair competition and protect the interest of consumers.

I do not think it is necessary today for me to respond individually to observations made by Members on alleged monopolistic or oligopolistic tendencies or inadequate competition in a number of business sectors. Most of these sectors have been the subject of comments by my colleagues on previous occasions and some are the subject of studies currently being undertaken by the Consumer Council. One of them, the monitoring of our two railways, will indeed be the subject of a debate following this one. But I must stress that my not responding to points made by Members on these sectors does not necessarily mean that the Government agrees with any of those points. As a general point, what I would like to say is that it is the Government's belief that, whenever possible, competition should be encouraged and that it is through competition that fair prices and services can be obtained. There are however circumstances where the level of investment required, or the need for prudential supervision, or the long-term interest of consumers, or other factors, indicate that free competition may not be obtainable, or may not be the best solution. In such cases, through various arrangements, we have achieved a reasonable balance

between a justified monopolistic or oligopolistic situation on the one hand and the benefits of quality services and fair prices on the other.

In respect of those sectors in the economy which are subject to government controls, a key imperative in the formulation of such controls is the promotion of competition and protection of consumers. These controls are reviewed and revised from time to time to identify areas for possible improvement and to meet the needs of changing circumstances. The efforts we have made in the last year, for example, include the injection of more competition into the areas of telecommunications, public transport and television. We are by no means complacent about these efforts. There must always be room for further improvement.

As I said in this Council a month ago, we believe that the best way forward in the development of a competition policy is to ascertain what anti-competitive trade practices exist in those major business sectors affecting the daily life of the general public. To this end, we have allocated additional funds to the Consumer Council for the purpose of conducting a series of studies on the state of competition in such major business sectors. The sectors being studied are: supermarkets, the broadcasting industry, telecommunications, supply of energy and financial services. In conducting these studies, the Consumer Council will, I am sure, have regard to any views expressed by the public, the concerned business sector and other relevant sectors of the economy. On the Government's part, we shall co-operate fully with the Consumer Council and assist in these studies in any way we can.

We do not wish to pre-empt the findings of these sector-specific studies. We have an open mind and are willing to consider all options before recommending which options are best suited to promote competition in different sectors of our economy.

We hope that the findings of these studies will shed light on any problems affecting competition in these sectors. On the basis of the findings, we shall, as necessary, revise our existing policies and formulate new ones and, where appropriate, consider introducing legislative or institutional changes to implement those policies in order to promote competition and enhance consumer protection.

Mr Deputy President, we believe that the Government should adopt a step-by-step and pragmatic approach in its formulation of the frameworks that are most suited for enhancing competition in the different sectors of our economy. We believe that we should not rush into conclusions on this important subject. We should not at this stage come down in favour of or against any particular option, which may or may not involve a new institutional arrangement or a new legislative framework. For these reasons, the ex-officio Members of this Council will abstain from voting on either Mr LI's motion or Mr MCGREGOR's amendment. Thank you, Mr Deputy President.

Question on Mr Jimmy McGREGOR's amendment put.

Voice vote taken.

DEPUTY PRESIDENT: Council will proceed to a division. The division bell will ring for three minutes.

DEPUTY PRESIDENT: Would Members now please proceed to vote?

DEPUTY PRESIDENT: Are there any queries? If not, the results will be displayed.

Mr Allen LEE, Mr Stephen CHEONG, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mr Martin BARROW, Mrs Peggy LAM, Mrs Miriam LAU, Mr Jimmy McGREGOR, Mr Peter WONG, Mr Vincent CHENG, Mr CHIM Pui-chung, Mr Simon IP, Dr LAM Kui-chun, Mr Gilbert LEUNG, Mr Eric LI, Mr Henry TANG, Mr Howard YOUNG, Dr TANG Siu-tong, Miss Christine LOH and Mr Roger LUK voted for the amendment.

Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Dr LEONG Che-hung, Mrs Elsie TU, 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 Samuel WONG, Dr YEUNG Sum and Mr WONG Wai-yin voted against the amendment.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr TAM Yiu-chung, Mr Marvin CHEUNG, Mr Timothy HA and Ms Anna WU abstained.

THE DEPUTY PRESIDENT announced that there were 23 votes in favour of the amendment and 22 votes against it. He therefore declared that Mr Jimmy McGREGOR's amendment was approved.

DEPUTY PRESIDENT: Mr LI, as you have exhausted your time for reply, I will now put the amended motion to the Council.

Question on Mr Fred LI's motion as amended by Mr Jimmy McGREGOR's amendment put and agreed to.

MONITORING OF MTRC AND KCRC

MR LAU CHIN-SHEK moved the following motion:

"That this Council urges the Government, for the sake of safeguarding the livelihood of the public, to conduct a comprehensive review of the operations of MTRC and KCRC, their fares and financial arrangements, the mechanisms for monitoring these corporations, and the Government's relationship with them in order to ensure that these corporations, while operating on prudent commercial principles, should also shoulder their responsibilities for the public's well-being; and, within one year, to submit the results of the review to this Council for discussion."

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, I move the motion standing in my name on the Order Paper.

Nowadays, the combined passenger volume of the three railways — the Mass Transit Railway (MTR), the Kowloon-Canton Railway (KCR) and the Light Transit Railway (LRT) — comes close to 3 million daily accounting for 30% of the total passenger volume of all public carriers in Hong Kong. According to estimates provided by the White Paper on Transport Policy, the daily railway passenger volume will be over 4 million by 2001. In fact, in recent years, the passenger volume of conventional means of transport, such as the bus and ferry, has registered only slight increases, and sometimes even negative growth; only the railway passenger volume registers steady growth and thus rail transport has become an indispensable mode of transport in Hong Kong. It is expected that in the soon-to-be released Railway Development Study, a number of proposals on various plans for railway development will be put forward, thus making the mass transit system of railways an even more important necessity to the people's livelihood.

The Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC), that are responsible for the operation of the three railways, are fundamentally different from other private-owned public utilities in that the capital of the MTRC and the KCRC is derived from the Government and at the same time they enjoy all kinds of preferential treatment.

The sole shareholder of the MTRC and the KCRC is the Hong Kong Government. Being the most dependable of all in Hong Kong, this shareholder has the best resources, including land resources, vast reserves and the Exchange Fund. It is because of these resources that the two railway corporations have enjoyed a competitive edge in securing loans and financing deals over other transport utilities.

Secondly, the two railway corporations stand to gain enormous profits from property developments atop their stations. The option of utilizing public resources such as land to generate additional income is not available to other transport utilities.

Thirdly, fare rises of the three railways are not subject to restrictions at all. Should the two corporations decide to increase their fares, they do not need to obtain the approval of the Legislative Council (Legco) in the form of a resolution to amend the relevant subsidiary legislation, nor do the proposed increases need to be reviewed by the Transport Advisory Committee and approved by the Executive Council (Exco). All it takes is to inform the Exco of the decision prior to fare increases. Although the Exco might have an opinion on the matter, the final decision of whether to take heed of the Exco's opinion is up to the two railway corporations. This contrasts sharply with the need to obtain approval from the Legco or Exco. Thus the three railways in fact enjoy an autonomy in deciding their own fares, an autonomy absolutely not available to all other public carriers.

Fourthly, the Government has employed various means to restrict the development of routes by other carriers along the routes plied by the MTR. Moreover, the LRT has "transit service areas". All these have strengthened the monopoly by the three railways which already have the advantages of serving short-haul and heavily patronized routes.

Fifthly, the MTRC has the power to enact some harsh by-laws, a case in point being the penalty for flicking MTR tickets. And moreover, MTR stations have special police posts. All these "privileges" are not enjoyed by any other public carriers.

While due regard has to be given to prudent commercial principles for the operation of the railways backed up as they are by public resources, we must never overlook the social responsibility that should be taken by the two corporations, as the three railways are becoming an increasingly important means of transport in Hong Kong and having more and more of a substantial bearing on people's livelihood.

Over ten years ago, when construction work for the MTR first started, the sites were surrounded by boards and hoardings with the slogan "MTR is growing for you". The general expectation then was that these public corporations that were funded by the Government would work wholeheartedly for the well-being of the general public. But regrettably, what we now see is the two corporations' gradual development into "independent kingdoms" that are free from public scrutiny. And they emphasize only the commercial principle of placing corporate interests before all other considerations. The financial burden and service need of the general public are ignored. Public interests are completely overridden by corporate interests. The public feels helpless faced as they are with the situation where they have no channel to

redress their grievances but are nonetheless obliged to travel on the three railways.

The fare of the three railways is an issue that causes much concern. In recent years, the inflation rate of Hong Kong is at a constantly high level that even the Government has to acknowledge that inflation is our "No.1 enemy". In mid-1991, a moratorium on fees and charges levied by government departments was announced, and in 1992, the two franchised bus companies were exempted from duty on hydrocarbon oils so that bus fare was kept unchanged for the year. But during the same period, with a "totally uncaring" attitude, the three railways increased their fares each year by roughly the same rate as inflation. How dare they completely disregard the burden fare increases have on the people's livelihood and their spiralling effect on inflation!

Furthermore, the "peak hour surcharge" charged by the MTR in recent years is surely the most "ridiculous" item of the unreasonable pricing policy. By charging more when service is most needed, this policy "exploits the crowded situation and robs the passengers"! It is but another excuse for the MTR to further increase its fares and for the Government to shirk its responsibility for transport planning.

On the provision of services, the most unsatisfactory phenomenon is that very limited improvements are being made to precautionary and contingency measures against the eventuality of suspension of services by the three railways due to power or mechanical failure. I think the situation calls for the three railways to commission a comprehensive study on the problem and formulate effective precautionary and contingency measures. Their staff and the general public would also need to be fully informed about the details of the contingency plan. Moreover, the three railways would also have to compensate for the losses suffered by the passengers due to their failure to provide services.

On the two corporations' communication with the passengers, although we now have the KCRC's Passenger Liaison Group whose approach is better than the MTRC's "Coffee Evening", the former is not vested with definitive powers, because of which, to follow or not to follow the group's recommendations is still up to the corporation to decide. This is a classic case of "accepting views but never acting on them". There is simply no way to monitor whether the two railway corporations have taken heed of the passengers' views.

The original aim of setting up public utilities is to provide a more effective means of utilizing public resources and avoid the problems of bureaucracy and delayed responses to the needs of society, which dilatory approach is typical of government departments. But are the management of the two railway corporations perfect? I think it is but a "beautiful illusion".

The controversy over the multi-million-dollar golden handshakes offered by the KCRC's board of directors to two resigning senior officers in 1989 more than reflected the problems that plagued the corporation's managerial decision-

making. As to the MTRC, there are criticisms that its middle and senior management echelons are filled with expatriates who are not familiar with local conditions. They only borrow the experiences from other countries without seriously responding to people's criticisms.

In the past two years, the MTRC has spent millions of dollars to refurbish its headquarters. But now we are told that the headquarters would be moved very soon. I just want to ask: Is this a waste of money? Who is to monitor such problems?

Several thousands of people are employed each by the MTRC and the KCRC. Coupled with the fact that the three railways have a great effect on people's livelihood, I would have to be concerned about whether harmonious labour relations exist in the corporations. Would problems such as the recent Cathay Pacific Airways labour dispute occur?

There is a criticism that the MTRC's structure is like an "inverted pyramid" — the ranks of the middle and senior management are ever expanding (their pay rise is also substantial) while the ranks of the junior staff (especially the frontline workers) are shrinking, thus increasing the workload for the individual workers resulting in disharmony. In fact, although there has been no large-scale industrial action for the MTRC since 1984, the staff union still has not been accorded the respect that it deserves and quite a number of staff (especially those who have worked for seven to 10 years) have a strong disaffection towards their company.

In face of the above problems, the Hong Kong Government, as the sole shareholder of the two corporations, should have the responsibility to monitor the operation of the two corporations and formulate policies for their future development. But in reality, the Government has all along only emphasized giving the two corporations all sorts of "autonomy" and has rarely, if at all, mentioned their "accountability" to the public. In effect, the two corporations have become subject to no control whatever!

Although it is laid down in the laws of Hong Kong that the Exco and several Policy Secretaries of the Government are empowered to issue instructions to the two corporations regarding their policies and operations, this power is rarely exercised. For example, it is provided by law that the Governor in Council may issue directives to the two corporations. But this power is never exercised. It is also doubtful as to how much influence and supervision the Policy Secretaries of the Government, such as the Secretary for Transport, really have on the policies of the two corporations.

In 1989, due to the various faults and mistakes it made, the KCRC came under severe criticisms from the public. And finally at the end of that year, the Exco passed a series of measures to strengthen supervision on the KCRC. But

regrettably, judging from the KCRC's development in recent years, we fail to find any appreciable number of those measures being actually implemented. Has supervision on the KCRC been stepped up really? More regrettably, no such measures have ever been imposed on the MTRC. In reality, starting from 1990, there have been no government representatives sitting on the KCRC's board of directors as ex-officio members. But for the MTRC's board of directors, there are still ex-officio members from the Government. Thus it can be seen that the two corporations come under separate and disparate modes of supervision.

Furthermore, financial arrangements between the Government and the two corporations, including the criteria for capital injection and dividend payments, have to be clarified.

Therefore, for the sake of effectively safeguarding the livelihood of the public, a comprehensive review of the operations of the MTRC and the KCRC, their fares and financial arrangements, the mechanisms for monitoring these corporations, and the Government's relationship with them, should be conducted so as to ensure that these corporations, while operating on prudent commercial principles, should also assume their responsibilities towards the public's well-being.

I would hope the Administration would start working on this review as soon as possible, and its findings and recommendations be submitted to the relevant standing panels of this Council in stages for discussion so as to come up with a comprehensive reform package step by step.

At this juncture, I would like to suggest a few areas for reform which could serve as a reference for the Government's review.

Firstly, a statutory "monitoring committee" should be set up to monitor the development and operation of the two corporations. The "monitoring committee" should have the right to decide whether fare increases of the three railways are reasonable, to deal with the public's complaints, to examine major development plans of the two corporations and to make recommendations to the Government on the monitoring mechanism of the two corporations and so on. The composition and operation of the committee should be as open as possible. I propose that at least one-third of its members should be selected from within this Council and the remaining members should come from other boards and councils and concerned civic groups whose representatives might be elected or appointed.

Secondly, the mechanism for approving fare increases of the three railways must be revised. I propose that applications for fare increases should be first vetted by the "monitoring committee", and then the Legco's approval would also be needed before the fare increases could become effective.

Thirdly, the two corporations should announce their performance pledges on the quality of various services they provide every year. At the end of each

year, a review should be made. Also, an institutionalized "Users' Committee" made up of railway passengers should be set up to monitor the implementation of the performance pledge from the passengers' point of view.

Fourthly, labour relations of the two corporations should be improved. The labour union's right of negotiation should be firmly established and the participation of various ranks of staff in the corporations' management and decision-making should be enhanced.

Fifthly, the composition of the two corporations' board of directors should be restructured to include representatives from this Council and various civic groups.

Sixthly, the Government should increase capital injection to the MTRC and delay dividend payments from the KCRC so as to lessen the pressures of fare increases on the three railways.

Seventhly, using the concept of the "public sector reform" put forward by the Finance Branch in 1989 as a reference, "corporate intent declarations" should be made by the two corporations or that "performance undertaking" be made jointly by the Government and the two corporations, which would state clearly the two corporations' objectives, the areas and nature of operation, financial and other performance objectives, the allocation of surpluses. Such a statement would have to be approved by the Exco and Legco.

Eighthly, the two corporations' future plans for business expansion and budgets should be made public every year. The yearly plan and budget would have to be vetted by the "monitoring committee" and approved by the Secretary for Transport.

Ninthly, the operations and performance of the two corporations should come under the value for money audits conducted by the Director of Audit so that public resources might be utilized more effectively by the two corporations and their transparency increased

Tenthly, in order to ensure that the two corporations will carry out their responsibilities of safeguarding the public's well-being, the Administration should amend the relevant Ordinances governing the two corporations to include provisions to the effect that, while operating on prudent commercial principles, they should also shoulder the responsibilities of safeguarding the general public's well-being.

Finally, I hope more views would be put forward by my colleagues later on in this debate to enable the Government to embark on the relevant review

with a thorough understanding of the various standpoints held by Members of this Council.

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

Question on the motion proposed.

Mr ANDREW WONG (in Cantonese): Mr Deputy President, I think the motion moved by Mr LAU Chin-shek is worth supporting in principle. The operation of the two railway corporations has a very profound bearing on our economy and people's livelihood. However, I have some reservations about Mr LAU's motion. First, the scope of the motion before us is indeed very wide, so much so that discussions on it might become too general and out of focus. Of course, if our discussions are to be centred on Mr LAU's proposals only, then the discussions would not be vague at all. Second, I wonder whether Mr LAU's proposal of reviewing the relationship between the Government and the corporations and the monitoring mechanism is tantamount to that of reviewing whether public corporations should exist at all. If a comprehensive review of all the items as proposed by Mr LAU is to be conducted, then we must first of all be perfectly certain about the roles of the corporations as public corporations. Otherwise, Mr LAU might as well propose that the corporations' roles be changed and reverted to their original identity of being under the Government's direct control.

In fact, it is not that the Government has not reviewed the operation of public bodies. In 1989, the Government did complete a study on its relationship with the Kowloon-Canton Railway Corporation (KCRC), the findings of which were subsequently tabled in the form of a legislation before this Council for deliberation in November 1990. It was approved by this Council with the following results:

- (1) to require the KCRC to submit a business development plan every five years and its annual budget to the Government;
- (2) to set transport and financial targets for the KCRC as its fundamental strategy;
- (3) to appoint a full-time Chairman-cum-Chief Executive Officer in charge of operational and other matters.

I think all the above measures are appropriate. On the one hand, the autonomy of the KCRC as a commercial public body could be maintained and its daily operations would not be unnecessarily disturbed; on the other hand, the Government could attend to the public interests by mapping out development plans and financial targets together with the KCRC through its board of directors. With this mechanism in place, the public could seek clarification with the KCRC on matters concerning its operation through the Government while

the Government could monitor the KCRC through the above-mentioned procedures. I think these measures could strike a balance between the realization of the public's well-being and the maintenance of the corporation's autonomy. Personally, I think they are sufficient enough. Given that such an arrangement for the KCRC is made so that it would be compatible with that for the Mass Transit Railway Corporation (MTRC), I think the arrangement between the Government and MTRC is also appropriate and suitable.

I think there is a point of principle which I should like to take great pains to expound. With the corporatization of the two railway bodies, the Government was initially aiming at ensuring the corporations to achieve greater operational and financial autonomy through their commercial operation. In this way, the two railway corporations could do business more flexibly according to market demand and would not be subject to excessive political pressures or red tape and bureaucratic procedures. Therefore, when formulating the relevant monitoring measures, we should not go too far and exceed the proper limits in righting a wrong. Keeping a close watch on every move of the public bodies and requiring their management to be on call at the meetings of this Council or other monitoring committees are all highly disturbing and not cost-effective. This is indeed a regression. If it is how the way things go, then we might as well let the public bodies revert to government departments under the Government's direct control. But judging from past experiences, this would be much worse than the present arrangement whereby the corporations are public bodies.

However, Mr Deputy President, the corporations, as public bodies, indeed gain an exclusive control of the market, especially when it comes to the provision of railway services. Their operation has a significant impact on the livelihood of the people and the normal operation of our society. There is a need to monitor their services and fare level to safeguard the livelihood of the general public. I propose that the Government should revise the relevant laws so that the two railway corporations' applications of fare increases have to be approved by the Executive Council instead of merely informing the Government. The nature of public corporations and other public utilities is very similar except for the fact that the former are owned by the Government, or in other words, solely owned by the public, and the latter are private companies. Still, their nature is identical. The monitoring methods applicable to the public utilities should also be applicable to public corporations.

Mr Deputy President, please allow me to stress again it is necessary for the Legislative Council and the public to monitor the public corporations. However, this should not be achieved through direct monitoring. Rather it should be made through the monitoring of the Government. In fact, the objective of corporatization is to free the operation of the corporations of any political interference. Political responsibilities should be shouldered by the Government and not the public corporations. But at the same time, the public corporations should not enjoy any privileges that are not made available to private companies.

Mr Deputy President, it is originally written in the draft of my speech that "I support the motion". But I wish to elaborate what I mean by my support for the motion. I support the motion's call for a review. But I have my own approach and I cannot support the approach as pointed out by Mr LAU Chin-shek in his speech just now.

6.32 pm

DEPUTY PRESIDENT: I will suspend the Council for a supper break and will resume the sitting at 7.05 pm.

7.17 pm

DEPUTY PRESIDENT: Council will resume.

MR EDWARD HO: Mr Deputy President, as a member of the Managing Board of the MTRC and a former member of the Managing Board of the KCRC, I would like firstly to declare my interest in that regard. Secondly, I would like to offer my observations of the performance of the two Corporations for the reference of Members and, hopefully, to assist them in making an informed decision on whether or not to support Mr LAU Chin-shek's motion.

In approaching Mr LAU's motion, two fundamental questions should be asked. The first and foremost is whether, as a community, we wish to see the two Corporations continue to be run as public corporations providing efficient and safe public transportation along prudent commercial principles, or whether the community wants these Corporations to provide transportation as a social service. In the former case, if they are run successfully, then no public subsidy is required, and any profits will eventually be ploughed back to the public coffers. In the latter case as a social service, then it may be necessary that they would be partly paid for by taxpayers in the form of financial subsidies, utilizing financial resources that can be directed to other worthwhile social programmes.

The second question is whether the two Corporations have performed well and have done so within the remits of the Ordinances that govern them. It must be said that both the MTRC and the KCRC are considered internationally as a major success in the manner in which they have provided value for money railway services. Visitors from abroad and those connected with overseas railway companies as well as governments and financial institutions have described the Corporations as outstanding examples for railway companies throughout the world in terms of safety, efficiency, and financial operations. In stark contrast, there are many railway services in the world where they are heavily subsidized by their own governments. In other words, in those

communities, the taxpayer is asked to shoulder higher taxes to support those railways.

Although railway in Hong Kong is but one mode of public transport competing with others, the fact that passengers using these services have increased consistently year by year is an undeniable indication of their acceptability by members of the public. As Mr LAU pointed out, the daily number of passengers carried by the MTRC is over 2 million and those carried by the KCRC and the LRT exceed 500 000 and 300 000 respectively.

Naturally, when Members of this Council have no direct control of the performance of a public corporation, they are concerned whether everything has been managed in the best interest of the public. Of course, this concern does not necessarily mean that there are vast problems to be remedied. I shall briefly comment on the specific points mentioned in Mr LAU's motion to set the background for this debate, as I know it.

Firstly, fares and financial arrangements — in discussing fares, one must recognize that railway fares should be decided on the principles that the Corporations would operate on prudent commercial principles in a competitive market of public transportation. The fares should be set to cover costs of operation of the railways and be reasonable to capture their market shares in a competitive public transport environment. Members of the public would of course be concerned about their fare levels, not only as consumers who would decide whether they were provided value for money, but also whether fare levels have been set at reasonable levels in relation to costs and inflation. On both counts, I do not believe that the two Corporations have disappointed the public. Since 1980, the average MTR fare has increased by of 7.6% per annum, slightly lower than the Consumer Price Index increase 8.9% per annum and significantly below the increase in nominal wages of 14% per annum. Likewise, the KCRC has kept its fare revision to levels which are below inflation in the past few years. It is important that fares are revised in order for the two Corporations to continue to upgrade the quality of their services and to be able to carry out the different planned projects to provide better facilities for the travelling public. It is also important that fares are not subject to political pressures and should largely be determined by market acceptability. Both Corporations have plans to expand their services to cater for the growing need of the Hong Kong travelling public. If those projects are to be carried out, international financing would be required. Right now, the two Corporations enjoy excellent rating from international financial institutions. These ratings are constantly reviewed by those financial institutions whose judgement is based upon performance of the Corporations and not so much on the financial strength of its shareholder — the Government. This facility to raise funds internationally is important so that public money is not called for every time an expansion takes place.

Secondly, the mechanism for monitoring is also mentioned by Mr LAU. One must accept that a public corporation, when it is not a government

department, is less accountable directly to this Council. This of course does not mean that it cannot be monitored by Members of this Council. The Corporations are answerable to the Government under many different provisions in the Ordinances. By extension, the Corporations are therefore accountable to Members of this Council through the Government. I have to cut short my speech.

We should also continue to encourage the Corporations to be sensitive to opinions of the public. I remember that after members of the Welfare Services Panel brought to my attention their desire to give concessionary fares to senior citizens in January 1992, I brought it up with the MTRC and those concessions were introduced on 1 May of that year. Similarly, I know that MTRC has recently decided that all their future facilities would provide access for the disabled and that it is carrying out a study on the feasibility of introducing such facilities in existing lines to see whether access for the disabled is viable.

Today's debate is useful in providing the two Corporations and the Government with views of Members of this Council and I shall abstain from voting on this motion.

MR MARTIN BARROW: Mr Deputy President, Mr Edward HO has tried to cover the project in some detail and I will try to keep my remarks even briefer. Anyone from Hong Kong who has experienced railways in various parts of the world must surely be proud of what has been achieved in Hong Kong. Our railways are efficient, reliable, safe and clean. Our railways do not require continual funding by the taxpayer.

They are the envy of governments and consumers alike from around the world. The construction and operation over the past 20 years of the MTR and the excellent performance of the KCRC in the past 10 years since corporatization have given them both a worldwide reputation.

In this light, I must express my concern about the Honourable LAU Chin-shek's proposed 10-point plan to study our railways. I believe that both operations are running on a transparent basis — they publish detailed annual and interim reports. They communicate with all sectors of the community. Furthermore, both railways have outside directors and their future plans are subject to the scrutiny of the Secretary for Transport. They both carry out surveys of consumer attitudes and meet with District Boards as well as Members of this Council. "Customer Service" is a core value in both organizations.

The thrust of today's motion has some similarities to our other debate on the setting up of a Fair Trade Commission. The end result of both proposals would be bigger government and a more interventionist approach in the economy.

I have spoken many times in this Council on the advantages of privatization and corporatization. Privatization is growing all over South East

Asia and in many other parts of the world. There is a strong case for privatizing both railways in Hong Kong as soon as possible and this could be achieved with a simple scheme of control or other mechanism which could protect the consumer.

In conclusion, Mr Deputy President, I consider Mr LAU's proposal to be redundant. If Mr LAU and other Members wish to pursue some of these points, may I suggest they ask for a briefing in the Transport Panel.

With these words, I oppose the motion.

MRS MIRIAM LAU (in Cantonese): Mr Deputy President, regarding the operations of the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC), the Government has all along adopted a policy of minimal intervention which allows these statutory corporations to conduct their businesses on prudent commercial principles without resorting to government subsidies. In principle, the direction of this policy is correct, as it would give the corporations more flexibility in providing services to meet the market demands. In reality, under this policy, the Mass Transit Railway (MTR) and the Kowloon-Canton Railway (KCR) have been able to provide the public with a reliable and effective means of transport, and they have become an indispensable mode of public transport in Hong Kong. However, as these corporations have enjoyed too much commercial autonomy in their manner of operation, especially in deciding fares, when the public feels that the corporations' commercial interests are having an impact on people's livelihood, Members of this Council will question whether there has been adequate supervision by the Government. In the past few years when Hong Kong's inflation rate has been staying high, the rate of fare increases each year for the two railways has been comparable to, or even more than, the inflation rate. After each fare increase, the Consumer Price Index A is pushed up further creating more inflationary pressures and bringing about a vicious cycle that affects people's livelihood.

Criticisms of inadequate supervision of the two corporations mainly stem from fare increases each year. The question of monitoring has been raised again and again by the Omelco Panel on Transport with the Government. At present, this issue is an item that needs to be followed up by the Transport Panel of this Council. The Panel hopes that while maintaining corporate interests, the two corporations will have regard to the public's well-being at the same time. The Panel has also suggested to the Government that existing laws be revised to require the two corporations to strictly adhere to that principle. But the Government and the two corporations would invariably use "operating on prudent commercial principles" as an excuse to reject the requests and suggestions of the Panel. The Government has even said that if there was ever a need to safeguard the well-being of the public, the Governor in Council could issue directions to the relevant corporations according to the law. I do not think the existing law provides an effective safeguard to the well-being of the public.

Although the Governor is vested with power under the law to issue directions, it is also provided that should such directions be in any way contrary to prudent commercial principles, the relevant corporation would have to be reasonably compensated by the Government for any loss. There are two problems with the provisions in question: Firstly, there is no definition in the law as to what constitutes "prudent commercial principles". What sort of yardstick could be used to determine what is prudent or not? "Fairly prudent", "quite prudent" and "very prudent" are all, to a certain degree, "prudent". But what is "prudent" is not determined by an objective assessment; rather it is determined through the subjective decision of the two corporations' board of directors. Therefore, where the two corporations have operated in a "very prudent" way which intensively safeguards their own commercial interests in total disregard of the well-being of the public, if the Governor were to issue any direction, the Government would still have to pay compensation.

Secondly, the term "the public's well-being" is not defined by law: does it mean the railway passengers' well-being or the general public's well-being? If it is the former, then why should a benefit to the railway passengers be paid for by taxpayers? And if it is the latter, there is no benefit to speak of if the taxpayers' money is used to buy back what they should enjoy as of right. In fact, as early as the relevant Ordinances were enacted, some of the then Legislative Councillors voiced their concern as to whether the corporations could strike a balance between commercial interests and the public's well-being. When the Kowloon-Canton Railway Corporation Ordinance was enacted, Mr CHEUNG Yan-lung pointed to the need of monitoring and regular reviewing of the operation of the KCR to ensure that such a balance be maintained. Moreover, when the Mass Transit Railway Corporation Ordinance was enacted, Sir Sze-yuen CHUNG suggested that fare increases be debated by this Council. Although I do not agree with Sir Sze-yuen's suggestion, I think that when the two corporations are revising their fares, a more detailed explanation than those presently made to the public should be provided so that the public could have a clearer understanding as to the rationale behind and the statistics in support of such fare adjustments. Prudent considerations such as the effect the adjustments may have on inflation, the public's affordability and acceptance, and the safeguarding of the public's well-being will have to be made. In the past, using the increase in operation rate as a reason, the MTRC has insisted on raising fares according to the rate of inflation. But in fact, ever since the MTR began service, earnings have been improving continuously, with operating profits up from \$115 million in 1980 to \$2.8 billion in 1991. Although operation costs have been increasing, income has more than covered it. Take 1990 and 1991 as an example, the MTRC's income in 1991 was \$389 million up from the 1990 figures while operation costs (excluding interest payments) only increased by \$155 million. The MTRC's interest payments on loans in fact are unaffected by inflation. Therefore, the pegging by the MTRC of fare rise to inflation under the pretext of an increase in operation costs is not convincing. Of course, the MTRC still has a debt of \$18 billion. But what the public is worried about is whether the MTRC would ignore public affordability

and substantially increase its fares each year so that it could repay all its debts by 2000.

Regarding the KCRC, with the growing number of passengers and increasing cross-border freight movement, its operation profits (discounting development) rose from \$140 million in 1984 to \$730 million in 1991. In the two years of 1990 and 1991, the KCRC had a net profit of over \$1 billion and payments were made to the Government by way of returns on investment. Payments in the sum of \$125 million and \$140 million were made in 1990 and 1991 respectively. Although the KCRC has a huge surplus, it still uses the reason of "operating on prudent commercial principles" to substantially increase fares each year. No doubt the public is extremely dissatisfied with this.

In reality, the Ordinances governing the two corporations only provide for their operation on "prudent commercial principles" to obtain a balanced budget. I think it is worth examining whether what is being done by the two corporations has gone beyond the provisions of the Ordinances?

In my opinion, apart from providing a reasonable service, the MTRC and the KCRC, as public transport companies to serve the general public, should take on the responsibility of attending to the interests of the public and of doing their utmost to care for the public's well-being. Clearly the two corporations have not done enough in this regard.

Mr Deputy President, although I do not agree with all the recommendations put forward by Mr LAU Chin-shek in his speech, I agree that it is the right time to embark on a comprehensive review of the two corporations in order to ensure that the interests of the public are reasonably safeguarded.

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

MR JIMMY MCGREGOR: Mr Deputy President, Mr LAU's motion might have been better directed at other transport systems. The Kowloon-Canton Railway Corporation and the Mass Transit Railway Corporation are efficient by all reasonable standards. They provide an essential service to the economy and they do it effectively. In each case, the company has entered into massive investment for growth, improvement of service standards, expansion of capacity, whilst preserving a high standard of safety and punctuality.

The Kowloon-Canton Railway and the Light Rail Transit carry a daily average of over 860 000 people, a 30% increase in only four years. Their average fares at \$4.38 for the Kowloon-Canton Railway and \$2.21 for the Light Rail Transit are modest and reasonable given the very large investment and the debt servicing required.

The Mass Transit Railway Corporation has made a dramatic contribution to our transport services and it is difficult to imagine how we could have continued to build our successful economy without it. The Mass Transit Railway carried over 750 million passengers in 1992 at an average fare of less than \$4.50. Its safety record is outstanding and its financial standing is second to no other railway system in the world. The Mass Transit Railway Corporation will, of course, build a new line to the airport at Chek Lap Kok. I have no doubt that it, too, will be both cost effective and highly efficient.

During the last two decades our transport services have come under great strain and indeed scrutiny arising from our rapidly diversifying and expanding population. New towns have been created during this time with very significant changes in location and density of population. The Mass Transit Railway Corporation and the Kowloon-Canton Railway Corporation have played essential roles in this demographic diversification. They have done all that we could expect of them and they have done so with good management and tight financial control. They are well monitored by their own boards. Their activities and performance are already subject to consideration by the Transport Advisory Committee and the Transport Department, also the Transport Panel of this Council, and the whole Council, if necessary.

We do not need, in my view, any additional monitoring. I understand Mr LAU's concern but I do not support his motion.

Mr ALBERT CHAN (in Cantonese): Mr Deputy President, as the major public corporations and the sole providers of mass transit services, the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC) have a bearing on every aspect of people's daily life. Apart from transport services, the business scope of the MTRC and the KCRC include property development, real estate management and advertising. Therefore, it is very important to monitor the services of the two corporations.

Generally speaking, the allocation of seats and votes in a private company's board of directors is determined on the basis of the ratio of shares held, because in principle every shareholder is entitled to participate in major decision-making of the company. But it is strange that for the two large public corporations such as the MTRC and the KCRC, the Hong Kong people have little knowledge about their decision-making process and the operation of their board of directors. One should not lose sight of the fact that both the MTRC and the KCRC are solely funded by the Government. It could be said that the people of Hong Kong are indirectly the shareholders of these two corporations. The people should be given the channels and means to participate in the formulation of their policies and monitoring of their operation.

At present, the chairmen and members of the two corporations' boards of directors are all appointed by the Governor. The Government has never made it clear to the public as to what sort of criteria is used in their appointment. In

terms of numbers, the law provides that the number of directors of the MTRC should not be less than four but not more than eight. Therefore, under such an arrangement, this handful of people could claim to represent the six million people of Hong Kong to decide on issues such as the MTR's development, services and fare level. The power of the two railway corporations' boards of directors is indeed very great with far-reaching influences.

Institutionally speaking, the operation of the two corporations' board of directors is very independent. Not only is the public unable to scrutinize their decisions on investments, service development and fare level, the Transport Advisory Committee, the Consumer Council, the Legislative Council or even the Executive Council do not really have the power to scrutinize or vet their relevant decisions. It is not far from the truth to say that the two railway corporations' boards of directors have attained an "all-time-high status" of "being their own masters". As the public has no access to the decision-making process of the two railway corporations' boards of directors, and there is no representative mechanism to monitor the operation of the two railways, it is highly likely that decisions on policy and operation made by the two railway corporations' boards of directors might not be in the public's well-being. On the other hand, under the guidance of "prudent commercial principles", it is extremely likely that short-term financial interests might override long-term social and community interests. From the development of the two railways, we can see there are quite a number of other problems, especially those on the environment. Many residents seriously harassed by noises made by the two railways have strongly urged the corporations to make improvements for years. But the two railway corporations have always cited financial reasons for its refusal to carry out effective noise-reduction improvements.

In order to ensure that the development of the two railways is compatible with the need of our society and the public's well-being, it behoves the Government to restructure the two corporations' boards of directors. In terms of membership, the present composition of four to eight directors is susceptible to manipulation and absolute control. To change the situation, the number of directors may be increased to 20. And instead of leaving the appointment to the Governor at his discretion, members of the boards should be made up of people with representativeness. One-third of the directors should be chosen from Members of this Council, one-third appointed by the Governor from various bodies representing local interests and concern groups such as those concerned with environmental protection or people's livelihood. The remaining one-third directorship should be held by professionals with a certain degree of representativeness or relevant government officials. The reform on the boards' composition would boost the public confidence in the two railway corporations. And as the representativeness of the boards has been enhanced, it is believed that the two corporations will pay more attention to the public's opinions and well-being when formulating their policies.

Another important issue related to the boards of directors is the "declaration of interests". At present, all Members of the Legislative Council

and Executive Council are required to declare their personal interests and the public has a right to know. Therefore, in order to enhance the integrity of the two railway corporations' boards of directors and to ensure the public's right to know, I propose that all directors of the two corporations should declare their interests. I believe that it would help to increase the transparency of the two corporations' boards of directors.

Just now, Mr Martin BARROW has said that the two corporations are running on a transparent basis and their financial situation could be made known to the public. But according to my experience, it is not how things go. For example, in December last year, a report was submitted by the MTRC, together with the relevant data and opinions, to the Government on its future financial arrangements. The public, however, was kept in the dark. When people finally learnt of the report, requests were made to the Government to let the Members of this Council have access to this information. Until now, the requests are still under the Government's consideration and the Government is reluctant to make public the report and the data. This is hard fact to show that the two corporations are not transparent enough. In this connection, further improvements have to be made to increase their transparency. As to the development of the railways, many people, especially residents in the northwest of the New Territories and Tseung Kwan O, are strongly dissatisfied with the Government's reluctance to commit itself on extending the mass transit railway lines to their districts, that is, Tuen Mun, Yuen Long and Tseung Kwan O. Although the Railway Development Study has been completed, it is yet to be released. I hope that the Government would take into serious consideration the transport needs of the people when deciding on railway development in the future. The transport needs of the people should never be sacrificed simply out of economic considerations or on the excuse that the so-called "prudent commercial principles" must be observed.

Mr Deputy President, the services and future development of the two railway corporations have significant effects on people's livelihood. The reform of the two corporations' boards of directors is of utmost urgency. I hope the Government would consider and act on the above requests.

With these remarks, I support the motion.

MR MARVIN CHEUNG: Mr Deputy President, first of all, I have to declare an interest as my firm, KPMG Peat Marwick is the auditor of both the Mass Transit Railway Corporation and the Kowloon-Canton Railway Corporation. I personally have been involved with the audit of the Mass Transit Railway Corporation for a number of years and am therefore privy to information which may not generally be known to the public. However my speech will break none of the codes of confidentiality by which I am bound and I trust that the insight I have gained through working closely with the Corporations will prove a useful contribution to the debate.

The reason given for the proposed review is to safeguard the livelihood of the public. This is an extraordinary statement because it implies that, first, the individual's way of life is somehow directly threatened by what the railway corporations may do or not do and, second, that it is the duty of the Corporations to protect the public livelihood. In fact nothing is further from the truth. Both of these assumptions are wrong.

The objective of the Mass Transit Railway Corporation and the Kowloon-Canton Railway Corporation is to respond to the transport needs of the Hong Kong people by providing an efficient and safe service at reasonable cost. They are required by legislation to operate on sound commercial principles. They are not allowed to be a drain on the public purse. Indeed if they were ever required by the Government to act in any way contrary to prudent commercial principles they would have to be compensated by the Government for any consequential financial loss.

Unlike the Honourable Miriam LAU, I do not see any difficulty with this arrangement as it ensures that the performance of the Corporations is not masked by social policies and the consequences of any deliberate social policies are clearly identified. After all, the Corporations are wholly owned by the people of Hong Kong. The point is that it is the job of the Corporations to run competitive railways; safeguarding the public livelihood is the job of the Government.

As far as monitoring is concerned, it may not be generally known that the Corporations are already monitored in no less than six separate ways.

First, the Board of Directors. In my personal experience with the Mass Transit Railway Corporation, at least, I can confirm that the Board is highly effective. It meets regularly, demands and receives full and comprehensive reports on all aspects of its activities and is in the habit of questioning executives closely. Proposals are by no means automatically accepted but always queried and often modified.

Second, the Government. The Corporations have frank and regular meetings with the Transport Branch and the Transport Advisory Council who have to be consulted on fare increases and major policy decisions. Contrary to what Mr LAU Chin-shek implies, the Government offers no guarantees to lenders to these Corporations except for a small proportion of the initial borrowings to fund the building of the first Mass Transit Railway line. If these Corporations are required to seek approval from the Government before they can increase their fares, as suggested by Mr Andrew WONG and Mrs Miriam LAU, it would destroy the ability of the Corporations to borrow money without the backing of a government guarantee.

Third, annual accounts. These explain the results of the operations and are tabled each year for the Legislative Council and public scrutiny. I know from personal involvement that it is the policy of the Corporations to make full

and frank disclosure on all matters involving their activities in their annual reports and that the highest standards of accounting are adopted. Proof of this is the fact that the Mass Transit Railway Corporation's accounts have won the Best Accounts in Hong Kong Award no less than four times, including the last three years. The Kowloon-Canton Railway Corporation's accounts have also won awards.

Fourth, external auditors. The firm I represent ensure that the information set out in the audited accounts and annual reports is a true and fair account of the financial results and state of affairs of the Corporations.

Fifth, funding agencies. The Corporations are active in the international financial markets as borrowers and their commercial standing is therefore subjected to regular and thorough review. The position is extremely positive as shown by the very favourable credit ratings awarded to the Mass Transit Railway Corporation.

Last, the customers. The Corporations are both highly aware of the central importance of their customers and have developed extensive and responsive systems of customer relations in a real effort to ensure that their performance is satisfactory. In fact it was the Mass Transit Railway Corporation who was the first public body to issue a performance pledge and this was well before the Governor's proposal last year. The Kowloon-Canton Railway Corporation was the first body in Hong Kong to introduce passenger liaison groups as a direct customer feedback mechanism.

In my opinion, the railway corporations already do a good job of balancing the transport needs of Hong Kong with the requirements to provide a commercial operation. Indeed our railways are the envy of the world both because of their efficiency and their financial viability. And with the six layers of monitoring that I have pointed out, it is difficult to see how any business could make itself more accountable.

The proposed review is not justified. It is not needed. It could be counter-productive and in my view a total waste of public time and money.

Mr Deputy President, I do not support the motion.

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, on 18 June 1991, the last day of a long holiday, large crowds of people were waiting in Shenzhen for their trains back to Hong Kong. But unfortunately, at 9 am a section of overhanging cable was broken and it took 12 hours to fix it. On that day, up to 250 000 railway passengers were affected. When railway services were disrupted, the Kowloon-Canton Railway Corporation (KCRC) failed to provide timely and adequate feeder bus service to various stations to cope with the transport demand. As a result, all the stations were in a state of chaos. At its peak, there were about several thousand passengers. And four and a half

hours have elapsed before the Transport Department informed the Kowloon Motor Bus Company to deploy 60 more buses to assist in the transportation of the passengers. Contingency measures in that incident were so bad that it has drawn much criticisms. The KCRC said that it would form a special working group to look into the incident.

After a year, the service of the KCRC was seriously disrupted again. It happened in the morning of 27 July 1992 when a KCRC maintenance truck caught fire and it spread to the nearby cable. Service was disrupted for as long as five hours. The number of passengers affected was up to 80 000 and many stations were seriously congested.

Just after one month, the railway cable near Fanling was struck by lightning. This time, it happened in the afternoon when people were going home after work. The railway stations were again very congested and chaotic. The Police Tactical Unit was called in to maintain order. It took three hours before normal service was resumed. However, good times do not last long. Two weeks later, when works were being carried out at Ho Tung Lau, water seeped through the insulating layer of the cable as a result of human negligence, and the poor old cable had to undergo another "operation". It was lucky that this incident happened at non-peak hours in the afternoon. Only a small number of people was affected.

It is disappointing that the KCRC cannot minimize the occurrence of such serious service breakdowns and that when such incidents occur, the so-called "contingency measures" are poorly arranged. According to statistics of the KCRC, from 1 January to 15 November 1992, there were altogether 16 serious cases of service breakdowns. On average, there was 1.5 cases per month. This figure is very difficult to accept indeed. Instead of taking remedial steps every time after such breakdowns, the KCRC should as a precaution, make a thorough inspection and conduct comprehensive study on the whole system of overhanging cables in order to ensure the safety of the cables. Moreover, contingency measures in case of service breakdowns should also be greatly improved. Also, out of the 16 cases mentioned above, I find that at least seven were caused by man-made mistakes. Therefore, there is a need for the KCRC to further improve the training of its station staff.

The second point which I would like to mention is that, starting from 1990, the KCRC has a hefty reserve of \$400-600 million a year. However, the KCRC has not taken any positive step to improve the facilities of the railway stations to provide the passengers with more comfort. Let me cite an example, the ventilation facilities of Tai Po Market, Fanling and Sheung Shui stations are extremely poor. In hot days, the stations are hot and stuffy which make the passengers feel very uncomfortable. It is only after I had urged the KCRC to improve the situation that plans to install air-conditioning facilities in one of the stations, that is, the lobby of the Fanling station, were made recently. But no similar plan is made to install air-conditioning facilities in Tai Po Market and

Sheung Shui stations. The KCRC is just mindful of its habitual fare increase each year and ignores the responsibilities it should have towards the passengers.

The third point which I would like to mention is that the KCRC only knows how to "grab money" and it fails to discharge its moral obligation. Why do I say that? Three years ago, without obtaining the consent of the Commissioner for Transport, the KCRC operated three free feeder bus routes in Tai Po. Its intention was to attract more people to use the railway as the feeder bus services were provided free of charge. At that time, the law did not require the consent of the Commissioner for Transport on such matters. As the bus services were provided free of charge and frequent, the feeder bus was naturally very popular among the people. However, in 1991, the KCRC proposed to charge a fare for the bus services. As a result, strong opposition occurred and the KCRC was thus forced to take back its proposal. The KCRC's violation of its own promise to charge a fare on the free bus services is an act without any moral sense and very disappointing. I hope that the KCRC should adhere to the principle of serving the public and would not forget its moral obligation in the face of monetary gains.

Lastly, I would like to point out that the noise created by the railway trains in certain areas has already exceeded the limits permitted by the laws of Hong Kong. After I had lodged a complaint with the Environmental Protection Department in 1990, the Department then asked the KCRC to make improvements. Three years have elapsed, the KCRC has only managed to finish a consultancy report and no date has been set as to when noise reduction facilities would be installed to minimize noises created by the trains.

Mr Deputy President, the KCRC has contravened the relevant laws on noise pollution in Hong Kong for at least three years, and still it has not made any efforts to speed up improvement. Is this what public corporations are supposed to do? Where is the respect that ought to be commanded by our laws?

From the four points that I have raised, it is evident that the KCRC should be subjected to close supervision and I hope that the motion put forward by Mr LAU Chin-shek would be supported and adopted by members of this Council.

MR FREDERICK FUNG (in Cantonese): Mr Deputy President and fellow colleagues, the three railway systems of Hong Kong, that is the Mass Transit Railway (MTR), the Kowloon-Canton Railway (KCR) and the Light Rail Transit (LRT), form a major part of our transport network. The passenger volume handled by the three railway systems is large, and it is an indisputable fact that by providing the people of Hong Kong with a fast mass transit service, the pace of economic activities in Hong Kong has been speeded up.

The railway services have a significant effect on our economy and the people's livelihood. As the two railway corporations — the subject of our

motion today — have such an important function and effect on the community, it is worth our utmost concern for the role they play in the community. It is a controversial subject but it has always been overlooked by the general public and the railway users.

Railway operations have been classified as a kind of public services, here in Hong Kong and in other parts of the world. Railway operators should have certain responsibilities and obligations to the public, and their business should also be in line with other social policies. The railways have used our land resources and the Government, on behalf of the tax-payers, has put many resources into the business of the two railway corporations, such as the opening up of new routes. All these have considerable effects on the development of the community and our choice of the mode of transport.

However, the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I cannot find any decisive role in which the people can play in the operation of the railway business under the existing laws. The existing laws have not provided for such a role. Although the Hong Kong Government has the power to appoint the Chairmen and other members to the boards of directors of the two railway corporations, no definite scope has been provided for with regard to the corporations' direction of development and public responsibilities, not to mention any specific social obligations that they should undertake.

The two corporations are required by legislation to operate on prudent commercial principles and make every endeavour to avoid any financial loss. Insofar as the fares are concerned, the setting and the adjustment of fares are left entirely to the boards of directors. As to such decisions which affect several million railway users, the boards of directors only have to notify the Executive Council. The Legislative Council has no power to monitor them and bring the mechanism of checks and balances into full play. Thus it is clear that basically the two railway corporations have not shown any respect to the passengers who are their principle source of revenue.

With regard to the composition of the two railway corporations, the members of their boards of directors are all appointed by the Governor. And there is no participation from or discussion with the public when determining the fares. There is no way in which the public could question the operation of the two railway corporations or exercise supervision. From the above situation, we can see that the spirit of the laws has denied the participation and neglected the right of the people, and the interest of the people has been ignored.

Although the Government has established the Transport Advisory Committee, the monitoring of the two railway corporations is not included in the terms of reference of this Committee. The two railway corporations are in fact in possession of an enormous amount of resources and power, and they have adopted an indifferent attitude towards the people. The two railway

corporations therefore have become independent public corporations subject to no supervision at all.

Let us look at the business performance of the two railway corporations. Take the KCRC as an example. Its return on fixed assets for the past two years has reached 11%, a rate which is in stark contrast with the return on savings that has an interest rate of 1.5% only.

All in all, both the ADPL and I feel that it is necessary to put the two railway corporations under effective control. We propose that the Administration should consider upgrading the Transport Advisory Committee as an organization with statutory powers, and for the time being, I will just call it the "Transport Committee". The "Transport Committee" should be responsible for the formulation of all public transport policies, independent of the influence of the Executive Council, but under the monitoring of the Legislative Council. Its members could be nominated by the Governor for the approval of the Legislative Council. At least half of its members should come from elected members of the three-tier structure, while the remaining should be comprised of representatives from the public, such as academics and professionals. Its Chairman could be a full-time member who must have no conflict of interest. I believe that in this way, the accountability of the Committee could be enhanced. The Committee would also have to submit reports to the relevant panels of this Council each year. With the establishment of this Committee, public participation in the formulation of railway policies could be ensured and the overall transport policies in Hong Kong be co-ordinated.

With these remarks, I support Mr LAU Chin-shek's motion.

DR LAM KUI-CHUN (in Cantonese): Mr Deputy President, as a member of the Legislative Council, it is our duty to safeguard the livelihood of the people. The wording of the present motion put forward by Mr LAU Chin-shek is quite neutral and Members at the Co-operative Resources Centre also identify with the starting point of safeguarding the people's livelihood. Although with such an identification, I feel that there are several important points which need to be raised here.

First: demands on the Government must be appropriate

The job of the Government is to provide the necessary services required by the people without incurring additional expenses on itself. For things that are by nature commercial, no government in the world can do a good job. Talking about railway services, the national railway authorities of such countries as the United Kingdom, France, Germany, the Netherlands and Spain are all running in deficit. They need to be subsidized by the general public (including those who are not railway users). At present, the financial situation of the three railway systems is sound. I think we are putting our trust wrongly

if we are to count on the Government, which is only good at operating losing business, to conduct a comprehensive review on the financial arrangements of the three railway systems and hope that through such a review better financial arrangements could be made. At the same time, for those requests made forcibly on the Government to interfere with the operations of the two railway corporations just because people are dissatisfied with the excessive profits enjoyed by the two corporations without considering whether such profits are earned because they have greedy directors or excellent operation techniques, then it is very likely that the outsiders from the Civil Service would mess up the operation of these public corporations.

Second: demands on the Government must not be "out of bounds"

Although the target of the two railway corporations' services is undoubtedly the general public, they are after all private corporations. The Government should not have excessive intervention in their internal affairs. If all those private corporations, whose target of services is the general public, should be subjected to government supervision, then financial institutions such as the Hong Kong Bank, Hang Seng Bank, and various Chinese-funded banks; supermarkets like the Park'n Shop or Wellcome; department stores such as Wing On and Mitsukoshi, and all their likes would also have to be screened comprehensively by the Government. In fact, such model does exist in which the government exercises total supervision on all the organizations within the country in order to safeguard the people's livelihood. But sadly, what it brings about is the disappearance of real private corporations. Due to the need of government approval, the provision of materials and services thus become inflexible, and the power of the government has become too great. In recent years, this model has been eliminated by the trends of the world. This system of management, so well-known to the people of Hong Kong, is called the "centralized state power under the socialist system". This system would have an important bearing on the prosperity which is being enjoyed by Hong Kong, and that is a fundamental change to our free market economy. In my estimation, should the Government use such a system to manage private corporations, then the majority of the people of Hong Kong would choose to stay away from it and would never approve of it.

8.00 pm

DEPUTY PRESIDENT: I am sorry to interrupt you, Dr LAM. It is now eight o'clock and under Standing Order 8(2) the Council should now adjourn.

ATTORNEY GENERAL: 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 evening to be concluded.

Question proposed, put and agreed to.

DEPUTY PRESIDENT: Dr LAM, please continue.

DR LAM KUI-CHUN (in Cantonese): Third: helpers must not be mistaken and thus attacked as enemies

With their action, the people has shown their support for the three railway systems. Looking at the issue from an objective point of view, the services provided by the three railway systems are comparable to those of any railway around the world. The three railway systems enjoy a high level of patronage, provide reliable services and maintain a low rate of services breakdowns. Mr LAU is concerned about the fares of the three railway systems, but I would like to point out that the average railway fare around the world is \$0.8 per km., while that of the KCR is \$0.3 per km. Insofar as monitoring is concerned, the two railway corporations are under the monitoring of the District Boards, people appointed by the Government and the Government itself. Independent consultancy firms are commissioned to conduct passenger surveys, publications are used as a channel for being accountable to the public, reports are made to the Transport Panel of the Legislative Council, and to a certain extent, their budgets are open. In reality, the most effective assessment of the two railway corporations is to see whether they can attract more passengers under fair competition. Members of this Council would like to see better services provided by the two railway corporations. But under the circumstances, if we use such a high profile gesture to urge the Government to ensure that the two railway corporations would shoulder the public responsibilities and conduct a comprehensive review, I fear that the people would have the misunderstanding that the two railway corporations are "in a real mess" and have reaped huge profits secretly. Mr LAU Chin-shek and Mrs Miriam LAU who spoke before me have both pointed out that railway services in the past have certain room for improvement. However, we must bear in mind that having "a fly in the ointment" is totally different from being "the greatest evil of all". When we state a case for the people, we have to keep our minds clear so that we would not mistake our helpers as enemies and attack them, or label them as the public's enemy.

Mr Deputy President, in this motion debate, I think what we should urge the Government to do is never use its expertise in doing losing business and "levying more taxes for subventions" to meddle with the finances of commercial business, or to interfere with internal operations of private corporations. What the Government should do is to consider the following questions from an outsider point of view:

1. Whether the services are up to the standard demanded by the public?
2. Whether there is still room for improvement?

3. Whether the fares are set at a reasonable level under the existing circumstances?
4. Whether there is any means of transport that could compete with the two railway corporations openly so that the full force of market adjustments could be utilized to safeguard the public's livelihood?

Mr Deputy President, although we can conduct a review on the issue of railway transport in Hong Kong, yet like Mr Andrew WONG, I have reservations about the direction and extent of such a review.

DR CONRAD LAM (in Cantonese): Mr Deputy President, with the Mass Transit Railway (MTR) carrying more than 2 million passengers a day and the two railways run by the Kowloon-Canton Railway Corporation (KCRC) handling more than 760 000 passengers daily, it is evident that the two railway corporations do play an important part in Hong Kong's public transport system. It is precisely because the two railway corporations have such a great impact on people's daily life that the Government must monitor their operations effectively.

All along, the Government has emphasized that it has maintained effective monitoring on the two railway corporations. But is it the true picture? Perhaps we may see whether it is true from different perspectives:

- (1) Relevant Ordinances governing the two corporations: The Government is of the opinion that the Mass Transit Railway Corporation (MTRC) Ordinance and the Kowloon-Canton Railway Corporation (KCRC) Ordinance enacted in 1975 and 1982 respectively have already laid down the operation principles for the two statutory bodies. And the two corporations would have to be bound by them. But we have to understand that one of the purposes of these Ordinances is to provide maximum protection for the two corporations to ensure their economic growth at their inception so that they would not fall prey to the tough competition in the market. After more than 10 years' operation, the two corporations together are now handling one-fourth of the total passenger volume of all means of public transport in Hong Kong. Against this background, some out-dated provisions in the two Ordinances have to be amended accordingly. Certain areas along the railway lines of the two corporations could be open to the operation of other modes of public carriers, such as public light buses and buses. The quality of their services could be improved through healthy competition.
- (2) Monitoring on the corporations' financial standing: The present situation is that the two railway corporations are only required to submit their Annual Reports and audited accounts to the Financial Secretary every year, and the scope of their investments is limited

to certain types of projects endorsed by the Financial Secretary. But the point about the MTRC's financial situation lies in its lack of transparency. For example, out of the \$17 billion loan incurred by the MTRC, what percentage does interest payment account for it? As the two railway corporations have a large ridership, there is really no need to worry about their international credit ratings. Some experts are of the opinion that at present, the local market has the ability to raise loan for the MTRC and what we should be monitoring is whether there is inordinate high proportion of interest payment in the composition of loans. Furthermore, how the MTRC makes use of its annual revenue and its development strategy are both important areas of monitoring. It is estimated that apart from paying for recurrent expenditure, about 90% of the MTRC's revenue is used for loan payment. Two Mass Transit Railway (MTR) extension projects outlined in the 1990 White Paper on Transport Policy, one from Tseung Kwan O to central Kowloon and the other for the Central-Wan Chai Reclamation, are shelved indefinitely. In fact, the MTRC could consider changing the composition in the servicing of its loans, such as extending the period of repayment. This would reduce the amount of interest payment for each instalment. Funds are thus available for building the new extension lines, thereby effectively expanding its services each year. Moreover, we do not have readily available information on the size of salary the two corporations paid to different levels of staff. I am sure that we all remember the golden handshakes involving millions of dollars given to the KCRC's senior staff a few years ago. In this connection, the Government is fooling none other than itself if it still maintains that there is now sufficient monitoring on the two railway corporations.

- (3) Monitoring the boards of directors: The two corporations are each under the control of a board of directors, and the directors are appointed by the Governor. The Governor has the responsibility to explain to the public just what sort of mechanism is in place to ensure that the decisions made by the appointed directors would take into consideration the passengers' well-being and demands. Any attempt by the two corporations' boards of directors to excessively expand their power has to be checked. According to the relevant Ordinances governing the two railway corporations, if the Governor should veto fare increases in public interests, the two corporations have the right to seek compensation from the Government for their losses. Why would these corporations which are owned by the Government, thus in fact belonging to the people of Hong Kong, ask for compensation from the Government (indirectly from the purse of the public) for moves that are contrary to the public interests? What kind of logic is that? Should there be monitoring or not?

The terms of reference of the Transport Advisory Committee (TAC) is to advise the Government on matters relating to sea and land transport in Hong Kong. But for a long time, the operation of the two railway corporations does not come under the monitoring of TAC because the person at the helm then intended to turn the two corporations into independent kingdoms. Over the years, it has been proved that such an attempt is unwise and wrong. Why should transport systems that handle one-fourth of the total passenger volume be left out of the ambit of TAC which is responsible for the overall improvement of our transport? Under such circumstances, how can TAC come up with effective strategies to improve the overall transport situation of the territory?

The Secretary for Transport may remember that Transport Branch did suggest certain administrative measures to strengthen the monitoring of the KCRC in a Transport Branch paper dated 14 December 1989.

I propose that the Government should put the operation of the two railway corporations under the monitoring of TAC as soon as possible and increase the transparency of their operations. The out-dated provisions of the Ordinances governing the two corporations should also be amended in such a way that the Director of Audit could have the right to vet the operations of the two corporations and the Public Accounts Committee of this Council would be able to conduct real monitoring of the corporations.

Mr Deputy President, with these remarks, I support Mr LAU Chin-shek's motion.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, the Mass Transit Railway Corporation (MTRC) is established as a statutory corporation in accordance with Cap. 279 of the laws of Hong Kong. The MTRC Ordinance provides that the MTRC must operate on prudent commercial principles. These general principles have given the MTRC full autonomy in deciding the fare level without having to be subject to public monitoring. These principles have enabled the MTRC to ignore its social responsibilities as a mass carrier and a public corporation solely funded by the Government when deciding the fare level.

Mr Deputy President, Mr Edward HO has raised a very important question, that is, how do we define the services provided by the MTRC? Do we treat the services as transport services provided by a statutory corporation which operates on prudent commercial principles? Or do we see it as public services subsidized by the Government? Mr LAU Chin-shek's motion in fact does not ask for subsidies for the passengers out of taxpayers' purse. The United Democrats do not take this stand. But given that it is operating as a public service in the form of a statutory corporation, could we not make this corporation take up more constructive social responsibilities? Profits should not be its only concern when deciding fares, and people's well-being and the effects of inflation also have to be taken into account. If it should operate only on the

basis of commercial considerations, have the substantial fare rises of the China Motor Bus and the Kowloon Motor Bus in the past few years not taught us a painful lesson? It can be said that the point that we are now debating after all is the balance between sound business operation and social responsibilities. It is obvious that the scale is at present tipped towards commercial considerations. In some cases, commercial considerations are congruent with social responsibilities. But in other cases, they may run counter to each other. Too much emphasis on commercial considerations would result in the reduction in the proper attention given to the Government's overall transport planning and policies. And the public would suffer as a consequence. The reason why the MTRC and the Kowloon-Canton Railway Corporation (KCRC) have not yet decided on the time schedule for extending railway lines to Tuen Mun, Yuen Long and Tseung Kwan O is that these lines are not viable commercially. It is strange that, as corporations solely funded by the Government, the two corporations could think of nothing but profits. Then who should be held responsible for the trouble the one million strong residents in Tuen Mun, Yuen Long and Tseung Kwan O have been subject to in the sense that they have to spend long hours every day travelling on public carriers?

Section 6 of the MTRC Ordinance clearly states that the corporation's responsibility is to ensure that enough revenue can be generated each year to meet its operating costs. Before 1990, the MTRC's profit and loss statement had always been in the red and subventions from yields from property developments were needed. But starting from 1991, after meeting a hefty \$1.5 billion interest payment, the MTRC registered a surplus of \$67 million, excluding income from property development. It is believed that surplus would continue to increase. The accumulated surpluses, if kept in separate accounts, would be enough to service the \$17 billion debts incurred by the existing three lines of the MTR by 2000. In the light of this development, it is evident that the MTRC is going to generate profits on a scale larger than that prescribed by the law. Then should the MTRC adopt a milder approach when adjusting its fares?

The United Democrats have always held that the accounts for the existing three railways, the Lantau line and the new airport railway project should be handled separately so that the public will not have to subsidize the tourists and others using the new airport in the future. If their accounts are separated, the three railways would have considerable surpluses and fare revision every year would be much lower than the prevalent inflation rate. Out of competition, fare adjustments of other means of public transport, such as bus, public light bus and taxi would be milder and the burden of the people's transport costs as a whole would be lessened. And this would generally help to hold down inflation.

Mr Deputy President, the MTRC's Managing Board, which decides on the corporation's development and fare level, has a biased membership. At present, the MTRC directors are Mr David GAIRNS, Mr HO Sai-chu, Secretary for Transport, Mr Gordon MacWHINNIE, Mr David NENDICK, Mr John STRICKLAND and Mr Edward HO. Apart from the two government officials, most of the other members come from the local industrial and business sectors.

How can such a membership reflect the views of the general public when they set the fares and design customer services? These businessmen who are rich in commercial experience would invariably apply their expertise in the process of decision-making of the corporation. Judging from the composition of the MTRC's Managing Board alone, one can conclude that commercial considerations completely override social responsibilities.

Mr Deputy President, some of our colleagues in this Council and certain public views hold that some independent monitoring committees be set up to monitor public services. I think this suggestion is worth pursuing. But if the members of these so-called independent monitoring committees are to be appointed by the Governor, I do not think much difference would be made. I am afraid our Governor would not be so irrational as to appoint a group of conservative directors to the MTRC on one hand and then appoint a group of open-minded and independent grassroots representatives to monitor the Managing Board on the other. But if members to these monitoring committees would be elected from among members of the councils/boards, the idea does warrant our consideration. However, we must bear in mind that if such a principle is applied to the appointment of members to many other statutory bodies, there will be a risk that many legislators may in effect become part of the bureaucracy and too many hierarchies may be set up.

As a matter of fact, in the long-run, if the Chief Executive or the Governor is to be elected by popular votes, he would have to attend to public interests should he wish to be re-elected. This is indeed a certain form of monitoring. He would naturally exercise more care and make balanced choices when appointing members to the statutory bodies' boards of directors. But in the meantime, what shall we do? I propose that when the Governor is appointing members to major public and statutory bodies, the appointments should be endorsed by this Council which has elected elements. Questioning and hearing sessions might also be held before deciding on the appointees. This arrangement would ensure that the power of appointment is still vested with the Governor or the Chief Executive; and on the other hand, checks by this Council which has elected Members with mandate from the public can also be maintained. Only by this way would a more balanced representation emerge.

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

MR GILBERT LEUNG (in Cantonese): Mr Deputy President, in a tiny place such as Hong Kong which is home to 6 million people, mass carriers like the Mass Transit Railway (MTR), the Kowloon-Canton Railway (KCR) and the Light Rail Transit (LRT) which do not occupy road surface of carriageway indeed provide great convenience to the public. The quality of their services would indeed have a bearing on people's daily life. At present, the MTR handles an average of more than 2 million passengers per day, and the KCR more than half a million. From these figures, it is clear how closely the people's livelihood is linked to the two railway corporations. As such, the

Government has the responsibility to monitor the two corporations effectively, safeguard the public's well-being and rights and ensure that they would be operated in a more equal and open manner and their services more acceptable to the people of Hong Kong.

In all fairness, the quality and efficiency of services provided by the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC) are comparable to those in other parts of the world. But I hope that the two railway corporations would not be complacent, rather they should keep up their efforts to strive for providing even better services. To attain this goal, constructive opinions from the passengers and the maintenance of a harmonious relationship with them are needed. At present, channels available for the passengers to lodge their complaints against the two corporations are fragmented and not well-organized. For example, public complaints could be lodged by telephone, in writing or through the mass media. And the Consumer Council and the Transport Advisory Committee are not in a position to handle the complaints as they have not been given the statutory right to do so. Therefore, the power to deal with the complaints falls entirely in the hands of the two corporations and the matters would only be dealt with internally. Recently, with the Executive Council's approval to put the two railway corporations under the ambit of the Commissioner for Administrative Complaints, their accountability to the public is no doubt improved. But we must not lose sight of the fact that the Commissioner for Administrative Complaints is only responsible for the handling of complaints relating to administrative malpractices. For public complaints in relation to certain policy decisions, there is currently no independent mechanism to deal with them. Moreover, until now, the public has no way to know how the two corporations go about the complaints. We have no idea as to the number of substantiated complaints, the number of unsubstantiated complaints, the total number of complaints or the nature of the complaints.

To collect passengers' opinions, the KCRC has set up a passenger liaison group. Although work in this area has shown marked improvements, it is doubtful as to suggestions put forward by the passengers through the liaison group would receive proper attention as the group is not a statutory body. The MTRC has not yet set up any body similar to such a passenger liaison group. It tries to collect the fleeting passengers' views through the organization of the "Coffee Evening" meetings and other informal channels. The effectiveness of these exercises is thus very doubtful. I support the idea of institutionalizing the mechanism of the passenger liaison group. I think the concept of "Users' Committees" proposed by the Governor in paragraph 94 of his policy address could be borrowed and they should be given a suitable amount of statutory powers. Independent mechanisms should also be put in place to deal with the complaints lodged by the public against the two railway corporations which should fully consider the opinions.

On the other hand, I entirely agree with Mr LAU Chin-shek's view that the Government has to ensure that while the two railway corporations operate on prudent commercial principles, they should also bear their responsibilities for the public's well-being. When the MTRC and the KCRC were corporatized in the first place, the object was to give them the flexibility and autonomy essential for successful commercial operation. It was hoped that the two corporations would be more effective in catering for the passengers' needs and utilization of their resources after corporation. Therefore, it is clear that the objective of corporatization is not for the two corporations to make huge profits, but to provide services that could be of optimum benefit to the general public. Having said that, we must admit that it is always our wishful thinking to expect the two corporations to put public interests before anything in their decision-making process. But is it the reality? Let us take the Tseung Kwan O extension line as an example. According to the Second Comprehensive Transport Study in 1989, when the population of Tseung Kwan O reaches 150 000, the operating costs and the depreciation of trains would be well-covered by the volume of passengers. Some land has also been reserved for the construction of the MTR Tseung Kwan O extension line. However, although the population of Tseung Kwan O has now reached 120 000 and would continue to rise to 300 000 when Tseung Kwan O is fully developed, no definite date has been set for the construction of this MTR extension line. We must not forget that the benefits brought about by this extension line to the whole society would be very significant. Therefore, no matter if one looks at the issue from the point of view of commercial considerations or social benefits, there is no reason not to embark on the construction work of the Tseung Kwan O extension line right away. At this juncture, I would like to thank Mr LEE Wing-tat for supporting our requests. As the MTRC and the KCRC are responsible for providing effective mass transit services to the public, the Government should ensure that they are accountable to the public and make the public's well-being their first and foremost consideration when formulating their policy.

With these remarks, I support Mr LAU Chin-shek's motion.

MR MAN SAI-CHEONG (in Cantonese): Mr Deputy President, the Mass Transit Railway Corporation and the Kowloon and Canton Railway Corporation are virtually the only public carriers to meet the daily transport needs of some 2.5 million citizens. The two corporations' services have significant effect on the livelihood of our people. As the two railways are extremely important to the well-being of our people, I request the Government to tighten its control over the corporations so as to ensure that while operating along prudent commercial principles, they will also fulfil their responsibilities of serving the interests of the community at large.

Both the two railway corporations claim that they place great emphasis on operating along "prudent commercial principles" to maintain a "reasonable" return, and that they also look after the interests of the people of Hong Kong by providing efficient, safe and economical railway service and other supporting

services. No doubt, the two railway corporations follow a principle of "low cost, high returns" when providing efficient transport services to the people. However, both railway corporations lack a sense of corporate responsibility, which we hope for long that they would display. Despite the fact that the two corporations enjoy monopolized operation, social responsibility and public interests are never their major concern. For instance, every year the reason cited by the two railway corporations to raise fare is to allow for inflation. However, the rate of increases is extremely unreasonable, because the main cost of the railway corporations stems from power consumption, and electricity charge does not increase according to inflation rate. That is to say, an increase at a rate even not higher than the prevalent inflation level may not necessarily be reasonable. Besides, in recent years, Hong Kong has been plagued with high inflation. The Government and the public are making great efforts to curb inflation. Such an unreasonable policy followed by the two corporations of linking their fare increase with inflation rate contrasts sharply with our determination to curb inflation, and only add fuel to the flames, so to speak. The two corporations simply ignore the public interests and have not taken their corporate responsibility for the community. Moreover, when the two railway corporations determine their fare level they have not taken the public interests into full account and all they are after is to make profits. Let me give an example. The huge profits of the Kowloon-Canton Railway Corporation come mainly from the operation of Lo Wu Station. While the second class fare for Hung Hom to Sheung Shui is \$7, the fare for Hung Hom to Lo Wu is \$25. And Lo Wu and Sheung Shui is just one station apart, and the ticket costs \$15.50 for that matter. We can see that the corporation is reaping an unreasonable profit of \$13 to \$16 each trip from every passenger using Lo Wu station. This is a modified form of levying departure fee. The Mass Transit Railway Corporation is using similar tactic to reap profits. It is achieved through charging unreasonable fare from every passenger making each cross-the-harbour trip. This is unreasonable because when bus and public light bus use the cross harbour tunnel, the tunnel company is charging each vehicle, not every passenger on it. This is really a sort of poll tax or toll, or a trick to make profits, having no regard to public interests.

The two railway corporations are public bodies. The Government is their sole proprietor and the members of their boards of directors are all appointed by the Governor. But the two corporations are entirely independent in their management and operation. They manage the property atop their stations and depots, by exercising their land title, the right of private property, the right of land use and deed of mutual covenant. That is to say, even when the individual owners collectively holding more than 51% legal ownership of any properties built atop railway stations and depots decide to terminate the service of the management company, or make any other major decisions, they may not have the necessary right to do so in order to manage their properties. In this connection, it is obvious that the two railway corporations would care nothing about the interests of the individual owners of properties built atop various railway stations. Moreover, the railway corporations are empowered to sign agreement, to decide fare all by themselves and to engage the services of

specialists and consultants. And the Legislative Council can do nothing about it. The boards of directors of the two railway corporations do not have any representatives from the public or any elected Members. They let us know little about their operation. And they become in a way a kingdom of their own, concerned little about the interests of the public, nor shouldering any social responsibility in the way they provide their services. Furthermore, the operation and facilities of the two railway corporations have failed to attend to the needs and rights of the disabled and the elderly. They should, for instance, install and make available lifts for use by the disabled.

It is thus clear from the above that the two railway corporations, which are wholly owned by the Government, should not be allowed to use "prudent commercial principles" as their sole guideline for operation. As monopolized public corporations, everything they do, great or small, has a direct effect on the community at large. And they certainly should be held responsible for the "social cost" incurred, such as noise pollution, and traffic chaos due to occasional failures of the railway systems. I think, under the relevant Ordinances, a provision to protect the interests of the public should be added in addition to the existing provisions stipulating the prudent commercial principles for the two railway corporations. And the provision providing that the Government shall provide compensation if the instructions given by the Governor in protection of the interests of the public compromise the prudent commercial principles should be deleted. This is because in a modern world, public interests and commercial considerations are not mutually exclusive. Besides, to promote public's well-being is part of the responsibility of any public bodies. For these reasons, it is absolutely unreasonable to provide that the Government should make any compensation.

With these remarks, I support that control on the two railway corporations should be tightened so that the two corporations will not only operate on prudent commercial principles, but bear their responsibilities for attending to the public's well-being.

MR STEVEN POON (in Cantonese): Mr Deputy President, time is changing and people want a more open and fair society. Naturally they will demand stricter control of the public utilities companies. The operations of the Mass Transit Railway Corporation and the Kowloon-Canton Railway Corporation are also facing new challenges in the light of continuous development in Hong Kong. For these reasons, I think it is necessary to review the supervision of these two public corporations.

First, we must consider the relationship of these two railway corporations with the Government and the people of Hong Kong. The people all along regard the two corporations "official, but not quite; commercial, but not really". Sometimes, the two corporations appear in the form of an "official" body to avoid supervision that ordinary commercial institutions are subject to; but sometimes they take on a commercial appearance to protect their

commercial interest. Under such circumstances, the people cannot have a good understanding of the policy of the two railway corporations, not to say to endorse their policies. Although the shareholder of the two railway corporations is the Hong Kong Government, they should be subject to strict government control like other public utilities companies. In the past some people might be of the view that since these corporations are owned by the Government, and the members of their Boards are appointed by the Governor, there is no need for the Government to exercise strict control on them. However, as the people now want a more open and fair society, such thinking is outdated. The people are now seeking to monitor the Government itself, they will certainly be much dissatisfied to find that these government-owned companies or public corporations are exempted from the control of the public. Not only does the Government need to tighten its control over these companies, it should also enhance the transparency of the monitoring process, so that the people can be rest assured that the control exercised by the Government is effective.

Apart from reviewing the relationship of these corporations with the Government and the people, I also recommend the Government to review the effectiveness of the boards of directors of these corporations in monitoring the operations. The Board members are appointed by the Governor, and they are elites from various professions and the field of institution management in Hong Kong, so we should cast no doubt on their capability. Since the work of the Corporations is executed by the administrative staff, and the policies are also drafted and proposed by the administrative staff, the Boards have the responsibility of monitoring the work of the administrative staff. In fact, the Boards are in the front-line insofar as the monitoring of the operations of the Corporations is concerned. If they fail to discharge their duties, the issue will be left to the hands of the Government and the people. The idea that the Boards of these public corporations are in fact the front-line in supervisory work is very often overlooked. Let us examine from this direction the existing arrangement of the Managing Board of the Mass Transit Railway Corporation. Under the Mass Transit Railway Corporation Ordinance, the Chairman of the Managing Board is also the Chief Executive of the Corporation. But my view is that the Chairman of the Board should take up the role of leading other members of the Board to monitor the work of the administrative staff, while the function of the Chief Executive is to execute the work as a whole, and should be under the supervision of the Board. So the arrangement that the posts of the Chairman of the Board and the Chief Executive are being held by the same person really is worth some thinking. I personally hold the opinion that such a practice will reduce the effectiveness of the Board as a supervisory body. Let me go further into this question, under the Mass Transit Railway Corporation Ordinance, there is such a post as the General Manager. However, this post has now been deleted, and the Chairman of the Board is holding the posts of the Chairman, the Chief Executive and the General Manager, three in one. So the people have reason to doubt the effectiveness of the Board as a supervisory body. Similar thing also happens in the managing Board of the Kowloon-Canton Railway Corporation. Although it is provided in the Kowloon-Canton

Railway Corporation Ordinance that there are posts of Chairman and General Manager, the Government has deleted the post of General Manager in December 1989, and the Chairman is also holding the post of Chief Executive simultaneously. Has the Government defeated the original purpose of the Ordinances by doing this? Since the Ordinances were enacted in the Legislative Council, should the Government be required to put forward any amendments to the Ordinances to the Legislative Council beforehand? I hope that the Government will review these issues. Mr Deputy President, I wish to state that although I query the arrangements of the Boards of the two railway corporations, it does not mean that I am dissatisfied with the members of the Boards, quite the opposite, I have great respect to the two Chairmen of the two railway corporations, and I appreciate very much their capability shown in their work. I raise these questions in the hope that the Boards can be so arranged that the people will have more trust on the two railway corporations.

Another question regarding supervision which has led to much controversy is the right of determining their own fares. It is provided in the Ordinances of the two railway corporations that the two railway corporations have the right to determine their own fares, without the need of seeking the Government's approval. I find this puzzling. At present, the charges of the Hong Kong Telephone Company need the approval of the Legislative Council; the fares charged by the bus companies require the scrutinization of the Transport Advisory Committee and the approval of the Government; the fees of the power companies have to obtain the approval of the Executive Council; so only the fares of the two railway corporations do not require the approval of the Government. The explanation that the Government gives is that if the fares of the two railway corporations are subject to control, the banks will not provide them with loans. Such argument is specious. The loans incurred by the China Light and Power Company and the Hong Kong Electric Company are tens of billions, but their ability to secure loans is not affected by the fact that their charges need the approval of the Executive Council. So the rights enjoyed by the two railway corporations to determine their own fares need to be reviewed.

With these remarks, I support the motion.

MR TIK CHI-YUEN (in Cantonese): Mr Deputy President, I am an elected member of the New Territories North Constituency, which covers the area of Tai Po and North District. On many occasions when I met local residents either through casual contacts or in meetings, the service of the Kowloon-Canton Railway (KCR) was invariably one of our major subjects as the residents in the New Territories North have to rely on the KCR as their major means of transport. From opinions expressed by the residents, we can see that their concerns mainly fall into four categories:

1. Standard of service: The majority of residents are dissatisfied with the present standard of KCR services, such as unreliable services, inadequate facilities in the stations and poor attitude of staff and so on.
2. Fare: With the high level of fares, for example, a single journey from Sheung Shui to Kowloon costs \$7, transportation costs have become a heavy burden to those who live in the New Territories North. The residents are also dissatisfied with the annual fare increase as when the Kowloon-Canton Railway Corporation is deciding on the level of fare adjustment, it has not taken into account the affordability of the people.
3. Efficiency of operation: Incidents about the gratuity offered to resigning staff have shown that there are problems in the KCRC's operation which is a cause of concern to the people.
4. Future development: The residents are worried about the future expansion of the KCRC's services in that they might not be able to cope with the population growth. At present, peak hour services have been saturated.

Mr Deputy President, under the existing system, the general public as the consumers of services provided by the KCRC cannot exercise effective control over the operation of the KCRC. Every time when the KCRC proposes to raise fares, the consumers feel a sense of helplessness as we all know that we are incapable of exerting any influence on the level of fare increases. Even when the rate of increase is not reasonable and the interest of the public has been ignored, the consumers can do nothing about it. So, we are of the opinion that the rights of the consumers are not being protected. In the past few years, services provided by the KCRC have been improved to a certain extent. But these improvements do not mean that they have catered for the demands of the consumers, or that the level of fares is reasonable and cost-effective. For many years, local community groups and the residents have been actively promoting the consumers' rights and the participation of the consumers in the hope that the monitoring of the KCRC's services could be strengthened so that a balance between the commercial principles of the KCRC and the rights of the consumers could be maintained. Last year, the KCRC set up "Passengers Liaison Groups" to enhance the link between the Company and the passengers. But I think such groups are but a public relations gimmick which at the most can only be counted as a channel of communication, and not a means of monitoring.

With regard to the protection of the consumers' rights, Meeting Point has the following suggestions:

1. We propose that a consumer consultative committee vested with statutory powers be set up, with members coming from representatives of the public, professionals and consumers. With

this consultative committee assuming the monitoring role for the general public, substantial influence on the operation and services of the KCRC could be expected.

2. Independent organizations, such as tertiary institutions, could be invited to conduct regular surveys to gauge the opinions of the passengers so that an objective and comprehensive method could be used to collect the consumers' opinions and suggestions on the services to ensure that improvements be made to the KCRC's services.
3. When adjusting the level of fares each year, the KCRC must make known its calculation factors to the public so that the people could determine whether the fares are set at a reasonable level.

Mr Deputy President, Meeting Point is not opposed to the KCRC operating on commercial principles. But at the same time, the interest of the general public must be taken into account. Under the existing system, it is evident that the rights of the consumers are not protected, and it is necessary to step up the monitoring of the KCRC.

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

MR HOWARD YOUNG: Mr Deputy President, as the representative of the tourism industry in the Legislative Council, I can say that one feature which distinguishes people from our industry with many other industries in Hong Kong is that we have travelled internationally very widely.

Travelling and observing the lifestyles of many countries across the globe gives an opportunity to compare. When we talk about monitoring our public utilities, we must not have illusions that public monitoring is the cure-all for obtaining value for money in services.

Take London as an example. The fares for a shortest trip on the underground start at 90 pence (equivalent to between HK\$10 to HK\$13.50 depending on what exchange rate is used that was valid over the last year). This is more than double the cost of a short trip here in Hong Kong; yet the *per capita* GDP in the United Kingdom is far less than double that of Hong Kong. Anyone who has been to London and travelled on the underground there will agree that our MTR is cleaner, is more punctual, is safer and is cheaper. I could apply the same argument to the subway in New York.

We must be disillusioned by the belief that artificially suppressing fares is in the best public interest. The cost of running any service must be paid for by one means or another, either by fares or fees, or by taxes. It is not honest to try and tell the public that one advocates lower than economic fares without calling

for an increase in taxation at the same time. Any form of public subsidy must inevitably be paid for somehow out of the public purse.

I am glad that the motion does recognize the virtue of prudent commercial principles. What it does not recognize is that undue interference is quite often in conflict with prudent commercial principles. Prudent commercial principles include being able to determine fares in the light of realistic conditions and to raise money, also in the light of realistic world financial conditions.

Without prudent financial principles and a reasonable return on investment, the MTRC would not be able to borrow money to build more lines for the public good. That would mean asking the Government for more money in the form of equity — all out of the taxpayers' pocket in the end.

I and some other Members of this Council, in fact including one from UDHK, last week had the opportunity to meet senior members of the international credit rating agency Standard and Poor. They made the point that Hong Kong could only maintain its high international credit rating if there was sufficient autonomy after 1997. Likewise, I think we should recognize that the MTRC also could only maintain its very high international credit rating which allows it to borrow money on attractive terms if it also enjoyed sufficient autonomy.

MR WONG WAI-YIN (in Cantonese): Mr Deputy President, my fellow colleagues moved two motion debates this afternoon, namely, monitoring the two railway corporations and fair trade policy which we just now debated. The two motions are both related to the monitoring of public services and public utilities. Before I go any further I would like to state Meeting Point's views and its basic position on this matter. Firstly, it is a basic need of a modern society to have quality public services and public utilities. Not only will they help to improve people's living standard, but also have a positive effect on social stability and enhance the development of a more efficient society. Secondly, as direct or indirect consumers of the public services or public utilities, people should have the right and power to monitor the operation of such institutions. Thirdly, we do not blindly believe in market mechanism, and worship government intervention. It is our view that we should evaluate the effectiveness of public services and public utilities in the context of the overall effectiveness and overall cost of our society as a whole, and also seek to uphold the principle of social equality. Fourthly, there should be clear guidelines and rules which should be properly honoured and observed by the public service providers and the users so that the standards and development targets of protecting the rights of the citizens, ensuring the quality and quantity of the services, a choice for the people, accessibility to information, fairness, means to complain and effectiveness of the services would be met.

After I have briefly stated as above the views and basic position of Meeting Point on this issue, I should like now to give my opinion on the monitoring of the three railway corporations. At present the Government tries to monitor public utilities through five different means, which I am not going to elaborate here. Where most of the public utilities are concerned, the Government has, to a certain extent, monitored, on behalf of members of the public, their operations and regulated the level of their profits. However, regarding the three railway corporations, which are public utilities solely owned by the Government, the Government faces conflicts in roles when playing its part as a monitoring body and fails to represent the public by performing effective supervision. This has always been attacked and criticized by the public. For years, many members of councils/boards, grassroot groups, political organizations and members of the public have strongly demanded a means to impose tighter control on the three railway corporations. In November 1988 in the course of a debate on the policy address in this Council, Miss Maria TAM, who was then the Chairman of the Transport Advisory Committee (TAC) and a Member of both the Executive Council and the Legislative Council, made it quite clear that the two railway corporations were in fact subject to the control of their boards of directors only. However, it was unfortunate that the members of the boards of directors were only part-time directors, and could not devote all their time to the supervision of the management leading to the fact that the management was given disproportionate power. And the boards of directors very often became mere figurehead. Miss TAM was also critical of the fact that the two railway corporations were regulated neither by any government departments, TAC nor the panel on transport of the Office of Members of the Executive and Legislative Council (OMELCO). Questions regarding the quality of the services provided by the Light Rail Transit (LRT) system, the frequent accidents of the LRT, the golden handshakes given by the Kowloon-Canton Railway Corporation (KCRC) to its senior administrative staff, and the imposition of the rush-hour surcharge had worried the people of Hong Kong and stirred up their discontent, and further revealed the fact that the three railway corporations were regulated neither by any government departments, TAC nor OMELCO's transport panel and the boards of directors were entrusted with too much power at the expense of public interests. The Government came to realize the seriousness of the matter, and finally took actions towards the end of 1989. It initiated significant changes to the management of the KCRC. However, this overhaul did not seem to bring about any distinct improvement, so criticism did not die down.

Many colleagues have already expressed their views regarding the problems of the Mass Transit Railway Corporation (MTRC) and the KCRC, so I only want to concentrate on the LRT to illustrate the inadequate monitoring. The LRT is owned by the KCRC which in turn is solely owned by the Government. The Government has always emphasized that there is a three-tier system to monitor the LRT, that is, the Governor in Council, the boards of directors of the KCRC and Tuen Mun District Board and Yuen Long District Board. However, it is quite unfortunate that this three-tier monitoring system has failed to exercise close monitoring. The Governor in Council is supposed to

be the highest monitoring authority. Yet the Governor in Council is responsible for wide scope of duties, and takes up such heavy responsibility on policy matters, how can we expect the Governor in Council to perform continuous, meticulous and thorough monitoring. Moreover, the Governor, as the head of the Administration, is also the Chairman of the board of directors of the KCRC. It is unrealistic to expect the Governor to take actions that go against his own interests.

The supervisory role of the board of directors of the KCRC has its limitations. All the members of the board of directors are appointed by the Governor, and the board is a decision-making body. It is very difficult to expect that the board will regulate the corporation in full consideration of the public well-being. Moreover, the directors are only performing such duties on a part-time basis; they may not be able to grasp and keep their fingers on the pulse of its daily operation, the decision making-process and its latest developments. Also, most of the directors rely on reports and information provided by the management to have some idea about the situation of the corporation. In most cases, it is very difficult for them to identify the corporations problems. In view of this, it will be difficult for these part-time directors to exercise comprehensive monitoring on the management.

The supervisory function of the district boards is the most ineffective. The function of the district boards is to consult the public and to reflect their opinions and do not have any real authority in terms of monitoring. Although the authorities have set up a Tuen Mun and Yuen Long district boards joint committee on the monitoring of the LRT system, it is only an empty show. When hard pressed by the committee, the corporation will only give way on some trivial and minor matters and when it comes to major issues, it will turn a deaf ear to the committee's proposals or adopt an unco-operative attitude, not to mention any success on the part of the committee to monitor fare setting mechanism.

The three-tier monitoring system which I just mentioned has not fulfilled its function effectively. Could the services meet the need of the residents in different district? Are there any improvements in the services or its efficiency after an increase in the fares? Will the consumers benefit from the services? We should give a reasonable and fair evaluation of these questions.

In this connection, Meeting Point should like to make some recommendations as follows: First, in view of the growing number of representatives of the public in the Legislative Council, there should be a statutory body formed by this Council to regulate the services of the three railway corporations. Second, some consumer consultative body and effective channels should be set up, so that participation of the members of the public can facilitate effective monitoring. Third, it is the responsibility of the three railway corporations to make public full detail of information regarding their business. And the Government should review the legislation in order to ensure that members of the public can obtain the necessary information. Fourth, TAC

or the Consumer Council should launch a large-scale survey on the various types of transport services and passenger services every year, so as to guarantee the quality of services.

Mr Deputy President, with these remarks, the four Meeting Point Members in this Council: Dr LEONG Che-hung, Mr FRED LI, Mr TIK Chi-yuen and I support Mr LAU Chin-shek's motion to ensure that the rights and interests of the general public would be protected and upheld.

DR TANG SIU-TONG (in Cantonese): Mr Deputy President, both the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC) are public corporations wholly owned by the Government. In other words, the MTRC and the KCRC are public property. They must work for the people's well-being. In general, how to define the relationship between such public utilities and the Government is not a simple and easy task. These public corporations on one hand operate on commercial principles and thus their boards of directors should be given a free hand to run their business so as to enable them to make commercial decisions which are financially viable. However, on the other hand, since these corporations are the property of the Government or to put it more appropriately, public property, they enjoy privileges, guarantees, and special rights not available to ordinary companies. Therefore, the authorities should take necessary measures to ensure these corporations can effectively serve the public interest. It is certainly also the responsibility of the Legislative Council to safeguard the public interests. We should be concerned about the operation of these public corporations and the relevant legislation and we should review them, so that they can cope with the changing situations.

I should like to emphasize that the two principles, that is the one concerned with commercial operation and the one with the public interest, which I mentioned above, carry the same weight. Therefore, regarding commercial management and day-to-day operation, the MTRC and the KCRC should be left to run their business with the least interference. However, on matters relating to the well-being of the people, they as public corporations should be more transparent in their operation, so that members of the public could understand more how they run their business and may put forward their opinions accordingly. At the same time, the authorities should provide sufficient channels to monitor their decisions and ensure that their operation do not go against the public interest.

Let me give an example. People are mostly of the opinion that the public transport's never-ending fare adjustments are contributory to our runaway inflation. Many people have to pay high transport fares when they go to work and return from office every day, and the high transport fares impose a heavy financial burden on them and lower their standard of living. The Mass Transit Railway and the Kowloon-Canton Railway are major means of public transport. The level of their fares have a great knock-on effect on the charges of other

modes of transport. Given that they are so closely related to people's livelihood, the two corporations should not raise their fares just as when they like to do so. When it is necessary for them to increase fares, they should not forget that it is obligatory for them to consider the effect on the livelihood of the people and the possible chain reactions.

Recently, the Government proposed to raise the toll of some tunnels, so that their returns will be set at 15% of their net assets value. Members of this Council were stunned to learn about it. If the way the tunnel toll is set indicates what corporatization means, I am afraid corporatization will not help to lower operation cost and improve efficiency but become a means for the Government to reap profits.

Apart from the issue of fares, the operation, financial arrangement and some other aspects of the MTRC and the KCRC also bear on the public interest. For instance, in New Territories West, there is a pressing need to build a mass transit system to solve the local transport problem, so the KCRC and the MTRC should consider, and study the feasibility of, extending their services to New Territories West as soon as possible.

As a related issue, what are the real causes of the serious failures of the MTR and the KCR which caused delays and inconvenience to the public? Do they stem from problems with the standards of maintenance, staffing policy and the like?

Now I would like to cite another example. According to some press reports, in the next few years, the KCRC will not be able to attain significant increase in its returns merely relying on rail transport, so the corporation will make serious effort to develop property atop its stations, with a view to generating more profits. People are quite concerned about this development, because rail transport and property development require professionals with different expertise. And one is justified to doubt whether the KCRC should engage itself in property development instead of concentrating on running its transport business in the public interest.

Where a company in the private sector is concerned, all the above policy-related issues will be put to the shareholders and subject to their supervision. In the case of the MTRC and the KCRC, it should really be the responsibility of the authorities to give advice and to provide the necessary supervision, so as to ensure that the public interest would be best served. Moreover, the KCRC will be involved in the construction and operation of a light rail system in New Territories West, while the MTRC will take part in the construction of the new airport railway project, so the financial arrangements involved will have a bearing on their future profit level, which will in turn directly have implications for the setting of their fares.

To conclude, both the MTRC and the KCRC are public utilities and they should serve different social needs in different stages. Principles and policies

which were set years ago may no longer be appropriate at the present time. For this reason, the Government should review and improve its relationship with these two corporations and the monitoring legislation, so as to cope with the various social developments in Hong Kong. In this connection, it is the right time for the Government to review these two corporations in the coming year. And the thrust of the review should be to strike a balance between commercial principles and the public interest, maintaining a high level of efficiency in respect of the two corporations' operation, and at the same time looking after the well-being of the people.

Mr Deputy President, these are my remarks.

MR ROGER LUK: Mr Deputy President, first of all, it is probably necessary for me to make a declaration of interest as a senior executive of Hang Seng Bank which is granted a franchise by the Mass Transit Corporation to establish and operate banking offices along its Mass Transit Railway lines.

The motion in question should be considered in three respects:

1. first, the rationale behind the existing *modus operandi* of the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC) as statutory body corporates;
2. second, the quality and standard of services provided by these two Corporations; and
3. third, the need to redefine the established operational arrangements particularly the monitoring mechanism in the light of their public responsibilities.

The establishment of the MTRC as a public statutory corporation in 1975 was in itself revolutionary in concept. As the Corporation is not a government department, its operation is not financed by public funds. It is required by law to conduct its business on prudent commercial principles taking account of the reasonable requirements of the public transport system of Hong Kong. This means that it has to operate on a commercial basis, and to seek to earn enough revenue to meet its operating costs, service its debts, and eventually make a profit to self-finance future expansions.

Modelled after the MTRC, the KCRC was created in 1982 as a statutory public corporation to take over the railway department of the Government. The KCRC is also required to operate basically on the basis of prudent commercial principles.

Such an arrangement has obvious advantages. A public corporation can adopt more flexible organization than a government department. It can maximize commercial opportunities with regard to the use of resources,

acquisition of assets, as well as development and marketing. It also has a less trammelled hand in the recruitment and management of staff and the deployment of assets. In essence, both Corporations are operated on a value for money basis.

In a small but densely populated city like Hong Kong where many public transport options are available, operators could not remain competitive unless their services are attractive in terms of safety, reliability and cost. The most effective measure of the standard and quality of MTR services is perhaps customer patronage. The MTR now carries over 2 million passengers a day and the patronage is growing. These facts demonstrate that the MTR is providing a service which commuters want and are willing to pay for.

Meanwhile, the KCRC has also significantly enhanced and improved its services to keep pace with the rapid development and urbanization of the New Territories. All in all, the quality and standard of services provided by these two Corporations have been quite satisfactory.

The monitoring of these two Corporations practically has two levels. At the operational level, the most efficient monitoring of their services is indeed by commuters themselves as commuters would choose to patronize other transport options if their services are substandard or not value for money. In fact, both Corporations are making continuous efforts to monitor and respond to customer demand and feedback.

At the policy, planning and strategy level, it is the onus of the Government as the sole shareholder to ensure that these two Corporations conduct their businesses under prudent commercial principles and act in the best interest of the public. The major cause of concern in this respect as reflected by the critics is the public accountability of their Boards of Directors. The question here is basically the need and desirability of a mechanism to check and balance on their decisions affecting the general public.

Any public corporation has two pillars: prudent commercial principles and public responsibilities. It is always important that these two pillars are in balance. Both the MTRC and the KCRC in fact have good track records in this respect. Notwithstanding, periodic independent reviews of their operations with a view to further improving the standard and quality of services should be supported.

Mr Deputy President, Hong Kong's ability to operate mass transit systems as a customer-oriented value for money business is indeed unique and is the envy of most major cities throughout the world. It would certainly not be in Hong Kong's best interest if the established *modus operandi* is upset in the name of safeguarding the livelihood of the public. Although I disagree with the criticism of the Honourable LAU Chin-shek, an independent review of the operation of these two Corporations with a view to reaffirming the soundness and the appropriateness of the existing arrangements and identifying areas that

need improvement would be necessary at this stage to clarify any misunderstanding.

With these remarks and the reservations on the scope and the objective of the proposal review, I support the motion.

MS ANNA WU: Mr Deputy President, both the KCRC and the MTRC are public corporations run by Boards of Directors appointed by the Governor. The object is to have minimum government involvement and to permit the Corporations to react quickly and flexibly to changing needs.

The Corporations have financial autonomy and set their own fares. They are required to operate according to "prudent commercial principles" and to have "regard to the reasonable requirements of the public transport system of Hong Kong". These form the twin performance pledges by which their success is measured.

I support the philosophy under which the Corporations operate and I do not wish to disturb that at all. However, I support the motion of Mr LAU calling for a review for the following reasons:

First, the need for transparency — as corporations, confidentiality prevails and the respective managements are not accountable to the public the same way government departments are. Of course, this is not to say that they should be turned into government departments. The need for transparency becomes even more obvious in view of such incidents as the "golden handshake" in the KCRC that occurred in 1989.

Second, the need for clarity over the role of the Boards — as members of the Boards, the directors owe fiduciary duties to the Corporations. They are bound to exercise their powers for the benefit of the Corporations. The presence of government representatives may well cause conflict of roles. Do they represent the Government or the Corporations? The same issue would arise in respect of any appointment made based on a representative capacity of any organization.

Third, the need to refine the interaction between the twin pledges of performance — are the Corporations to meet transport needs using prudent commercial principles or are they to meet transport needs and to make a reasonable profit? Is it right for the MTRC to impose a surcharge during peak hours? Is this meeting transport needs by penalizing customers through fare increase? I do understand that the surcharge is revenue-neutral.

Fourth, the need to give weight to consumer interests — given the competing demands in making decisions, consumer interests may not be given the weight they deserve. The Corporations should consider institutionalizing consumer representation to assist them with management decisions.

Thank you very much, Mr Deputy President.

SECRETARY FOR TRANSPORT: Mr Deputy President, this has been a very useful and balanced debate with divergent views expressed on both sides of the motion. I am most grateful to Members for their views and suggestions on how to enhance the monitoring of the two railway corporations.

I shall focus on responding to the main areas of concern raised in this debate and on reassuring Members of the adequacy of the existing monitoring arrangements.

Prudent commercial principles

I should like, first of all, to start by repeating the basic principles under which the two Corporations were established. Basically, these were twofold. First, the tasks involved were considered best performed by non-government organizations able to respond rapidly and flexibly to changes in the business environment, and most importantly passengers' requirements and aspirations. Secondly, the Corporations were expected to be able to operate without subsidy from the Government or the taxpayers. These fundamental considerations remain valid today.

Governing Ordinances and public transport objective

Thus, the two Corporations are provided with a structure and given powers under their respective Ordinances to operate railway services on a commercial basis. Under the Ordinances, the Corporations are governed by their managing boards, and are able to appoint staff, to set fares for railway services, and to raise loans to finance expansions and improvements. But such powers are not conferred without clear public objectives and proper controls.

Under the law, both Corporations must operate their railway services having regard to the reasonable requirements of the public transport system in Hong Kong. This requires them to provide an efficient, safe and reliable railway service tailored to the needs of Hong Kong. In this respect, as some Members have already said, the track records of both Corporations speak for themselves. Our railway services have been rated among the best in the world in terms of reliability, safety and value for money.

As several Members have rightly pointed out, the railway corporations are not welfare agencies; it is not the role of the Corporations to safeguard the livelihood of the public and this is not in fact the purpose implied in the motion.

Fare policy

Prudent commercial principles require the Corporations to ensure that, as far as possible, revenue is at least sufficient to meet expenditure. Central to this requirement is their ability to determine fares. Let me first emphasize that being government-owned, they do not have the pressure or the need to maximize profits like private operations. Nevertheless, revenue must be sufficient to cover all the outgoing expenses. The alternative would be subsidy from the Government and taxpayers, as is the case with most railway systems elsewhere in the world.

The Corporations' ability to determine fares is essential for them to raise loans to fund necessary improvements and expansions. A steady and reasonably reliable generation of revenue is a key consideration in the minds of prospective lenders. Government controls over fares could downgrade their good credit ratings and hence jeopardize future expansion plans. It could also result in reduced investment in the present rail system and a deterioration in the standard and quality of services to the level experienced in many other countries. Our system is the envy of many other cities and many are already moving in the direction which we wisely took some years ago.

Given these considerations, yet sensitive to public acceptability, the Corporations have been mindful in developing a fare policy of modest fare increases generally lower than inflation. Since 1980, MTR fares have increased by an average of 7.6% per annum, below the CPI(A) average increase of about 9%. Similarly, KCR fares have been kept below inflation in the past five years.

Furthermore, railway services have to compete against other public transport services, particularly franchised bus services. In setting fares, the Corporations must ensure that their competitive edge *vis-a-vis* other transport modes is not eroded. This acts as an effective constraint on fare increases. Before each fare revision, the Corporations carry out extensive consumer and market surveys to ensure that the proposed adjustments are both publicly acceptable and commercially competitive.

Inter-modal co-ordination and competition

Contrary to what some Members alleged that the railways are monopolies protected from competition, our railways are open to competition from all other public transport modes, namely buses, public light buses, ferries, taxis and residential coach services. Even within the Northwest Transit Service area in the New Territories, the Light Rail Transit Service has to compete with public light buses, residential coaches and taxis. In the main, railways face the greatest competition from buses. Practically, along all the major railway corridors, there are parallel bus services running. As a result of this policy, the travelling public have a choice of a wide range of public transport services offering different degrees of comfort, convenience and fares.

Monitoring mechanisms

Despite the extensive safeguards under the Ordinances, the Government is fully alert to the need to improve and strengthen monitoring in the light of rising public expectations and changes in the transport scene. Administrative arrangements have been introduced to further improve monitoring. This is done, for example in 1989, on the KCRC. It is a continuous process of reviews and improvements over the years. The process is still on-going.

What then are the existing monitoring mechanisms? There are, in my view, at least 10 ways in which the Corporations are being monitored.

First, by the Board. In accordance with the law, the Boards of the Corporations are appointed by the Governor. Members are chosen from a cross-section of the community with expertise and professional knowledge geared to the needs of the Corporations, and sensitive to the needs of the public.

Secondly, by the Administration. To ensure that the corporate strategy and business plans are compatible with government policies, the two Corporations are required to produce annual strategy statements and business plans for agreement with the Government. Included in these plans are operating targets against which performance is measured.

The Government receives and studies the Corporations' operating reports every month to examine any deviations from the approved plans and budgets, their reasons for changes and to take remedial actions.

In addition, I meet the two chairmen every two months to review performance and to give policy directives where necessary. These are supported by further meetings regularly between the Corporations and the Transport Branch and the Transport Department on all operational matters.

The third to the fifth layers involve the Legislative Council, the Transport Advisory Committee and District Boards. The Legislative Council and District Boards all ask questions during the year. They are also regularly invited to see the systems in operation or to discuss any problems concerning the railways. The Transport Advisory Committee monitors the broader aspects of railway operations, particularly in relation to overall transport policies and management. In addition, the Corporations attend District Board meetings and the Legislative Council Panel on Transport to explain their policies and to answer questions.

The sixth level is financial monitoring. The Corporations' audited accounts and annual reports are submitted through the Financial Secretary for tabling at the Legislative Council. Any moneys of the Corporations available for investment may only be invested in such forms as the Financial Secretary may agree.

Furthermore, government guarantees of the Corporations' borrowings can be granted only with the approval of this Council.

The seventh level is safety monitoring. A local Railway Inspectorate, headed by a Chief Inspector of Railways appointed by the Governor, is responsible for safety inspections and accident investigation. In addition, the United Kingdom Railway Inspectorate visit Hong Kong regularly to carry out inspections and to review all safety matters.

The eighth level is the direction by the Governor in Council. Under the law, the Governor in Council is empowered to give directions to the Corporations of a general nature if the public interest so requires.

The ninth level is monitoring by the users of railway services. It is important of course that all the customers provide the best feedback on monitoring of railway services. Both Corporations are fully committed to improving their communications with their customers and to responding positively to their views and suggestions. The MTRC published in 1992 its performance pledges relating to reliability of trains, tickets and escalators. These pledges were adopted following consultations with customers. KCRC will announce its performance pledges in the next month or so.

To obtain feedback from the customers, both Corporations have set up and made effective use of an extensive consultative network, including passenger liaison groups, customer service centres and passenger surveys.

Such direct dialogue has produced useful results. These include improvements to train frequencies, air-conditioning, public address systems, passenger queuing, ticketing, station facilities, signage, and noise abatement measures. For the past three years, the Corporations have spent a total of \$1.2 billion on these improvements.

And last, but not least, the tenth layer of control is through the recent introduction to use the Office of the Commissioner for Administrative Complaints to monitor the two Corporations.

Conclusion

Two fundamental questions are raised in this debate. First, whether there is the right balance between the public interest, particularly that of the travelling public, and the requirement for the two Corporations to operate on prudent commercial principles. Second, whether there are any sufficient controls and safeguards to ensure that the public interest is protected. Having examined the performance of these Corporations and the Government's relationship with them, my answer to both questions is yes. For the reasons which I have explained earlier in my speech, that is to say, we already have an on-going process of reviews and improvements over the years, a comprehensive review of the nature suggested does not seem to be necessary. Nor do I think any

additional legal safeguards are warranted. Having said that, I welcome this motion debate which has helped identify areas of operation where further improvements might be needed. The Government will take full note of the points raised in this debate and will consider how best these can be pursued in the next few months. Thank you.

DEPUTY PRESIDENT: Mr LAU, do you wish to reply? You have 3 minutes 21 seconds.

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, many people including myself would often ask questions like these: why do transport companies in the private sector, such as the two bus companies, have to apply for fare increases while the two railway corporations, which are wholly owned by the Government, would only have to inform the Government of their decisions to increase fares? Why do the two bus companies decide to put off fare rises in recent years while the two railway corporations have to increase their fares every year? Just as what I have pointed out in my speech earlier on, the two railway corporations enjoy the Government's blessing and strong guarantee in securing loans, and reap huge non-transport-related profits in the utilization of public resources such as land. Against this background it is only reasonable for the people to urge the corporations to take the responsibilities of safeguarding the public's well-being while operating on prudent commercial principles.

By the same token, due to the above reasons and other factors which are not commonly found in other places, such as short routes, dense population and a high level of patronage, it is quite natural that the two railway corporations should achieve such great renown. Some Members praise the two railway corporations for their services, management and accountability to the public, but I would like to ask: how can they justify the MTR's ludicrous decision to levy peak-hour surcharge which is overwhelmingly opposed by the people of Hong Kong? Mr Deputy President, I must reiterate that the three railways are public utilities. The two railway corporations have to take on their social responsibilities. And the Government just cannot relinquish its role in the promotion of the three railways' undertaking of their social responsibilities.

The day before yesterday, the MTR Chairman said publicly that the fare increases this year would be set at a rate more or less the same as that of inflation. I think it is an indisputable proof that the MTRC simply ignores the well-being of the people. According to information submitted by the Administration to the panel of this Council yesterday the impact of fare rises of the Mass Transit Railway is enormous as compared with other means of public transport in Hong Kong. I think the Government should keep a close look on the fare-increase proposals of the three railways this year, and scrap the peak-hour surcharge in order to safeguard the people's livelihood.

Mr Deputy President, I think it is necessary for the Secretary for Transport, in his roles as the co-ordinator of the Government's transport policies and the head of the relevant policy branch, to assume the responsibility of monitoring the two railway corporations. I propose that yearly review on the performance of the two railway corporations should be submitted by the Secretary for Transport to the Transport Panel of this Council.

Mr Deputy President, finally, I wish to stress that it is never my intention to make the two railway corporations come under the management of any government department. What I am suggesting is that it is necessary to make the two railway corporations more accountable to the public and the Administration should step up monitoring on them.

At this juncture, I would like to thank all my colleagues in this Council who have spoken in this motion debate, no matter if they are for or against it or abstain. In particular, I think Mr Steven POON's description of the three railway companies as "sometimes public bodies and sometimes commercial corporations" to make the most out of different situations in his capacity as someone who has a fair knowledge of their operations, really hits the nail on the head.

With these remarks, I hope that the Administration would swiftly carry out the comprehensive review of the two railway corporations for the purpose of monitoring their operation.

Question on the motion put.

Voice vote taken.

THE DEPUTY PRESIDENT said he thought the "Ayes" had it.

MR MARVIN CHEUNG: Mr Deputy President, I claim a division.

DEPUTY PRESIDENT: Council will proceed to a division. The division bell will ring for three minutes.

DEPUTY PRESIDENT: Would Council now please proceed to vote?

DEPUTY PRESIDENT: Yes, Mr POON?

MR STEVEN POON: Mr Deputy President, mine does not work. Could I be allowed to use another one?

DEPUTY PRESIDENT: We are showing 29. You are on now.

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

Mr Martin LEE, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mrs Peggy LAM, Mrs Miriam LAU, Mrs Elsie TU, 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, Mr LEE Wing-tat, Mr Eric LI, Mr MAN Sai-cheong, Mr Steven POON, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Dr TANG Siu-tong, Mr Roger LUK and Ms Anna WU voted for the motion.

Mr Martin BARROW, Mr Jimmy McGREGOR, Mr Vincent CHENG and Mr Marvin CHEUNG voted against the motion.

The Attorney General and Mr Edward HO abstained.

THE DEPUTY PRESIDENT announced that there were 24 votes in favour of the motion and four votes against it. He therefore declared that the motion was carried.

Adjournment and next sitting

DEPUTY PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Friday 19 February 1993.

Adjourned accordingly at twenty-nine minutes to Ten o'clock.

Note: The short titles of the Bills/motions listed in the Hansard have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

WRITTEN ANSWERS**Annex I****Written answer by the Secretary for Security to Mr CHIM Pui-chung's supplementary question to Question 1**

The interdepartmental investigation team comprised 17 officers, temporarily deployed from five departments; these were the Government Laboratory, the Fire Services, Labour, Electrical and Mechanical Services and Environmental Protection Departments. Altogether, they spent about 3 900 man-hours carrying out the investigation and working on the report. Calculated on the basis of the total staff (salaries plus on-costs) and administrative costs, the overall cost of the investigation is estimated to be about \$2.69 million.

The investigation was conducted in the public interest. The objectives were to find out the causes of the explosion and to avoid a reoccurrence. Public safety is one of the Government's primary responsibilities. The investigation was not requested by or provided for the China Light and Power Company. The principle of cost-recovery does not, therefore, apply and it would be inappropriate to seek to recover the cost from the Company.

Annex II**Written answer by the Secretary for Security to Dr Conrad LAM's supplementary question to Question 1**

The main contractor for the Castle Peak Power Station was GEC Turbine Generators and the sub-contractor, recommended by GEC and subsequently accepted by the Company, was Norsk Hydro. The Company itself also carefully considered the background and experience of Norsk Hydro before accepting its appointment as the sub-contractor.

The Company also engaged British Electricity International to provide consultancy services on the project. With the assistance of the Central Electricity Generating Board, which is the national electricity utility in the United Kingdom, British Electricity International reviewed and agreed with GEC's proposal and its recommendation to use the Norsk Hydro plant.

WRITTEN ANSWERS — *continued***Annex III****Written answer by the Secretary for Planning, Environment and Lands to Dr TANG Siu-tong's supplementary question to Question 2**

The owner of a civil servants' co-operative housing society flat may apply for the payment of the land premium if he intends to dispose of his flat on the open market. The premium is assessed according to an established formula. Put simply, this is set at two-thirds of the existing use value of the land. The value of the land reflects the existing development on the site and takes into account the sale price of the flat, having regard to such factors as its age and condition.

Following the payment of land premium for all the flats in the whole development and hence the lifting of the legal charge on the development, a developer may obtain agreement and authorization from all individual owners and proceed with redevelopment under the conditions governed by the existing lease. In this case, no additional land premium will be charged for the redevelopment. However, should the developer or the owners wish to proceed with a more intensive redevelopment than is permitted under the existing lease conditions, then the developer or the owners have to apply for a modification of the lease. A modification premium will be assessed with reference to the difference in full market land value of the site, having regard to the full development potential and development rights before and after the modification.

Annex IV**Written answer by the Secretary for Planning, Environment and Lands to Mr Jimmy MCGREGOR's supplementary question to Question 2**

Until recently, transfer of title was effected by the surrender and regrant of the relevant lease. Under this system, the time between submission of the application and dissolution of the society ranged between 13 and 48 months depending on the size of the membership and the complexity of the case. The average was 32 months. A further one month was needed to make the title to individual properties ready for distribution to ex-members.

The Administration has recently introduced a new system involving modification of the lease. Under this system, the time required to effect transfer of title is much shorter. No case has yet been completed but we expect that, for a society with a small membership, the whole process should take about one year.

WRITTEN ANSWERS — *continued***Annex V****Written answer by the Secretary for Home Affairs to Mr TAM Yiu-chung's supplementary question to Question 4**

If a trade union provides recreational and social facilities for its members, it will fall within the definition of "club" under the Clubs (Safety of Premises) Ordinance. Trade union premises which provide catering therefore fall within this definition. Such premises need to operate under a certificate of exemption and eventually a certificate of compliance. Improvement works that may be necessary to qualify for certificates of compliance under section 8 of the Ordinance will be notified in writing by the Licensing Authority.

All the other existing trade union premises which do not provide recreational and social facilities for their members are considered to be outside the ambit of the Clubs (Safety of Premises) Ordinance. The fees for the certificates of exemption, if already paid, will be reimbursed.

Annex VI**Written answer by the Secretary for Recreation and Culture to Mrs Selina CHOW's supplementary question to Question 6**

While the guidelines which have been drawn up include "reaction spark to bullets", "bullets" which are actually blank ammunition used in film and television production are licensed under the Firearms and Ammunition Ordinance Cap. 238, for which the Commissioner of Police is the licensing authority.

For the possession of blank ammunition cartridges not exceeding 1 000 rounds, the Commissioner of Police under section 4(3) of the said Ordinance may issue an exemption licence at a fee, as stipulated in the Second Schedule of the Ordinance.

For the possession of cartridges over 1 000 rounds, the Commissioner of Mines is the authority and he may issue a storage licence under section 10 of the Dangerous Goods (General) Regulations, Cap. 295.