

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 26 May 1993

The Council met at half-past Two o'clock

PRESENT

THE PRESIDENT

THE HONOURABLE JOHN JOSEPH SWAINE, C.B.E., LL.D., 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 MRS SELINA CHOW LIANG SHUK-YEE, 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 RONALD JOSEPH ARCULLI, 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 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 ERIC LI KA-CHEUNG, J.P.

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE STEVEN POON KWOK-LIM

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

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

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

THE HONOURABLE MOSES CHENG MO-CHI

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

THE HONOURABLE GILBERT LEUNG KAM-HO

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE TIK CHI-YUEN

IN ATTENDANCE

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

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

THE HONOURABLE MICHAEL SZE CHO-CHEUNG, I.S.O., J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

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

MR GORDON SIU KWING-CHUE, J.P.
SECRETARY FOR ECONOMIC SERVICES

MR DONALD TSANG YAM-KUEN, J.P.
SECRETARY FOR THE TREASURY

MR JOHN TELFORD, J.P.
SECRETARY FOR TRANSPORT

MR KENNETH JOSEPH WOODHOUSE, J.P.
SECRETARY FOR SECURITY

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

THE DEPUTY CLERK TO THE LEGISLATIVE COUNCIL
MR PATRICK CHAN NIM-TAK

Papers

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Ozone Layer Protection (Controlled Refrigerants) Regulation	158/93
Ozone Layer Protection (Products Containing Scheduled Substances) (Import Banning) Regulation	159/93
Designation of Libraries (Urban Council Area) Order 1993.....	160/93
Public Health and Municipal Services (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 3) Order 1993	161/93
Revised Edition of the Laws (Correction of Errors) (No. 2) Order 1993	162/93
Road Traffic (Examination of Private Cars and Light Goods Vehicles) Order 1993.....	163/93
Urban Council Financial (Amendment) Bylaw 1993	164/93
Employees Retraining Ordinance (Amendment of Schedule 2) (No. 3) Notice 1993	165/93
Shipping and Port Control Ordinance (Exemption) Notice 1993	166/93
Statutes of the Chinese University of Hong Kong (Amendment) Statutes 1993	167/93

Sessional Papers 1992-93

- No. 80 — Regional Council
Revised Estimates of Expenditure 1992-93
- No. 81 — Report of the Police Complaints Committee 1992

Address

Report of the Police Complaints Committee 1992

MRS PEGGY LAM (in Cantonese): Mr President, on behalf of the Police Complaints Committee, may I present the Committee's Annual Report for 1992.

The Committee is an independent body, appointed by the Governor, to monitor and review the investigation of complaints made by the public against the police. Investigations are carried out by the Complaints Against Police Office (CAPO) of the Royal Hong Kong Police Force. CAPO's reports, together with the relevant files, are examined by the Committee, which is assisted by an independent secretariat. A case is finalized only after the investigation result has been endorsed by the Committee.

I shall now highlight some of the contents in the Committee's Report.

Compared to previous annual reports, the contents of the report 1992 have been substantially enlarged. Chapters 2 to 6 describe, in more elaborating terms, the receipt, classification and examination of investigation reports on police complaints by the Police Complaints Committee. Where applicable these are illustrated by actual cases. Two new chapters have been introduced. Chapter 7 reports on the review of the existing system. This review stemmed from my attendance at the conference organized by the International Association of Civilian Oversight of Law Enforcement in San Diego in September 1992. I had the opportunity to exchange information with sister organizations and to compare the police complaints systems in other overseas jurisdictions. Following my report on the conference, the majority of Police Complaints Committee members agreed to a number of recommendations to strengthen the existing system. These were put to the Administration in December 1992 for its consideration. I am delighted that the Administration has recently accepted most of the recommendations. The Police Complaints Committee will be actively pursuing their implementation in co-operation with the Administration.

During the year under report, the Committee has reviewed and endorsed a total of 3 250 complaint cases, embracing 4 146 allegations. With the support of an independent secretariat, the Committee has been able to vet in details each and every complaint case. Arising from these complaints, various forms of legal, disciplinary and internal actions have been taken against, and advice given to, 161 police officers. In addition, the Committee has proposed a number of reviews of, and changes to, police practices, procedures and instructions. It is hoped that the Commissioner of Police finds the Committee's proposals helpful in identifying and rectifying areas which lead, or might lead, to complaints.

The 3 250 complaints received in 1992 should be viewed in the context of at least 3.13 million potential police-public confrontation situations in the year. These included 1.14 million persons stopped and checked through the Enhanced Police Operational Nominal Index Computer System (EPONICS), and 1.99

million traffic summonses and tickets issued by the police. The difficult nature of the front-line duties of police work to protect the community should also be borne in mind.

Of particular concern to the Committee was that the increase in the percentage of allegations of police assault continued in 1992. During the year, a total of 1 659 reports were made, representing 51% of all complaints received in 1992. In represents 44.1% of all allegations received in 1992 compared with 43.5% in 1991 and 38% in 1990. It is, however, worth noting that a significant number of allegations of assault were later withdrawn or not pursued by the complainants. In 1992, 88.2% of these allegations were classified as withdrawn or not pursuable and endorsed as such by the Committee. The Committee however considers that this aspect needs to be looked at and has set up a Survey Subcommittee to probe into the causes for withdrawn/not pursuable cases.

For the first time, the Report in its Chapter 8 provides 25 case summaries of interest. For the community to have confidence in the complaints system, a prerequisite is knowledge of how it works. The earlier chapters, Chapter 2, 3 and 4 in particular, have described in some detail the framework, the procedures and some of the factors affecting the Committee's deliberation. Such information, whilst useful, is probably not as telling as accounts of actual cases. Chapter 8 hopefully will give the readers a glimpse of the efforts made by the investigating officers, the contributions made by the Committee and the various factors taken into account in classifying a complaint. Some of these cases may promote a better understanding of police procedures and policies.

I reported last year that the Informal Resolution Scheme would be implemented at full scale with effect from 1 January 1992. This has been done. During 1992, 363 minor complaints were informally resolved with the agreement of the complainant. The Committee considers the scheme useful in resolving minor complaints in order that efforts may be concentrated on more serious complaints.

Finally, on behalf of the Committee, I would like to place on record our appreciation of the co-operation given to the Committee by the Commissioner of Police, and his officers in CAPO in particular.

Oral answers to questions

Air pollution caused by diesel vehicles

1. MR PETER WONG asked: *In view of the serious air pollution problem caused by diesel vehicles, will the Government inform this Council what measures are being taken to alleviate the problem and whether consideration will be given to requiring the use of cleaner diesel fuel such as the "City Diesel" being used by trucks and buses in Sweden?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, air pollution from diesel vehicles is mainly caused by their emission of black smoke and other particulates, and this is basically due to poor maintenance. The principal form of action taken against the problem is a testing programme aimed at achieving better vehicle maintenance. The programme involves spotting, calling up and testing "smoky vehicles". In 1992, almost 46 000 vehicles were tested to ensure compliance with the standards stipulated in the Road Traffic (Construction and Maintenance of Vehicles) Regulations. Where they did not respond to call-up notices or meet emission requirements, their licences were cancelled. There were more than 2 500 such cancellations.

Another measure adopted to attack the problem is the vehicle examination programme which, in addition to checking for roadworthiness and safety, checks engine emissions to ensure compliance with the same construction and maintenance regulations. Under this programme, buses, public light buses and taxis are all checked annually. From 1 June 1993, these annual checks will be extended to all light goods vehicles, and to medium and heavy goods vehicles manufactured before 1989.

In addition to these vehicle inspection programmes, we also propose the introduction of a higher quality automotive diesel fuel with a lower sulphur content to reduce the sulphur content from 0.5% to 0.2%, and the adoption of more stringent emission standards for large diesel engines. This is known as the EURO 1 Standard. We aim to introduce both of these requirements in 1995.

We are also examining the feasibility of an improved vehicle emission inspection and maintenance programme, and higher penalties for smoky vehicles. In addition, the feasibility of requiring new light duty vehicles to run on unleaded petrol rather than diesel is being looked into once again.

As for the Swedish "City Diesel" referred to in the question, as I understand it, this fuel has properties which are very different from those of other diesel fuels used worldwide. It has been introduced in Sweden in conjunction with the design and manufacture of a very limited number of new engines. It is not at all clear as yet whether and what benefits would result by its use in the many different types of engines we have in Hong Kong. However, the Director of Environmental Protection is monitoring the Swedish initiative and if it becomes clear that there would be benefits and if its introduction is feasible, we will consider it.

MR PETER WONG: *Mr President, apart from lowering the sulphur content of diesel, what plans are there to reduce the levels of polyaromatic hydrocarbons which is one of the main harmful ingredients of diesel emissions today?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think I have outlined in the answer to the principal question the series of measures that I am able to give specific information on this afternoon. As for the answer to the question which has just been posed, it is a very technical one and I will offer a written response. (Annex I)

MISS CHRISTINE LOH: *Mr President, are there any plans to legislate on controlling speed limits and turning off the engine when a car is waiting in order to control vehicle emissions into the environment?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, there are no proposals for such measures in the pipeline at the present time. But I think in the context of our examination of the problems of air pollution we will be considering a very considerable range of possible solutions, amongst which the two just mentioned could well feature, but at this stage they are not under active consideration.

DR SAMUEL WONG: *Mr President, could this Council be informed why the EURO 1 Standard and the use of lower sulphur diesel fuel, as mentioned in the third paragraph of the Secretary's reply, could not be introduced this year but has to wait until 1995?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think it is in the nature of changes of this kind that the trade, the users of vehicles and indeed this legislature require some notice of changes in order for adjustments to be made to meet the requirements that these new standards will require.

MR EDWARD HO: *Mr President, will the Secretary inform this Council whether he is aware or not of the status of our major diesel fleet operators and whether they have examined the merits of using "City Diesel"?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I cannot speak this afternoon on behalf of the diesel fleet operators. I think I have said as much as I know about the current state of play on "City Diesel" in Sweden, and as I have said, we are keeping in touch with that particular initiative. And if it proves to be something that might be applied in Hong Kong, then we would be interested in taking that forward and we would certainly consult the diesel fleet operators at that stage.

REV FUNG CHI-WOOD (in Cantonese): *Mr President, the pollution caused by diesel vehicles is more serious than that by petrol vehicles. I am glad to know that the Administration is considering again reducing the number of diesel vehicles. When will the Administration make a firm decision on this?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think I have indicated that the next significant step, which will be the reduction of sulphur content and the adoption of more stringent emission standards for large diesel engines under EURO 1 Standard, should be introduced in 1995.

REV FUNG CHI-WOOD (in Cantonese): *I am sorry, Mr President. I am referring to the second last paragraph of the Secretary's reply in which it says that the feasibility of requiring new vehicles to run on unleaded petrol rather than diesel is being looked into. I understand at the moment the Administration is drafting some proposals to encourage vehicles now using diesel to turn to petrol so as to reduce the number of diesel vehicles. May I ask when a firm decision on its implementation will be made?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, just to quote again, what I said in my initial answer was that, in addition, the feasibility of requiring light duty vehicles to run on unleaded petrol rather than diesel is being looked into once again, and I think it is clear from that answer that it is not a proposal which we are actually on the brink of making firmly for introduction at a particular time, and I hesitate to use the phrase "as soon as possible". But we will be trying to move ahead with our examination of all the measures that I have referred to as quickly as we can.

Hong Kong's participation in international treaties

2. MR HOWARD YOUNG asked (in Cantonese): *Will the Government inform this Council of:*

- (a) *the number of international treaties in which Hong Kong's continued participation may cease when it becomes a Special Administrative Region of China; and*
- (b) *the progress of the efforts made in retaining Hong Kong's continued participation in these treaties after 1997?*

ATTORNEY GENERAL: Mr President, there are at present over 200 multilateral treaties and about 180 bilateral treaties which have been extended to Hong Kong by the United Kingdom. The objective of the

Hong Kong Government is to ensure that all of those treaties which are of significant benefit to Hong Kong will continue to apply to the Hong Kong Special Administrative Region after 30 June 1997.

In accordance with Annex II of the Joint Declaration, a Subgroup on International Rights and Obligations has been established under the Sino-British Joint Liaison Group to consider the necessary action to be taken by the British and Chinese Governments to ensure the continued application of existing international rights and obligations affecting Hong Kong.

Agreement has already been reached between the two sides on the continued application of about half of the multilateral treaties. Consideration in the Subgroup of most of the others is taking place.

As regards the bilateral treaties, these will lapse in respect of Hong Kong after 30 June 1997. Discussion is therefore under way in the Joint Liaison Group on programmes for Hong Kong to negotiate, where there is a need, on its own, bilateral agreements which can remain in force after 1997. Some agreements have already been concluded in the fields of air services, investment promotion and protection, and the surrender of fugitive offenders.

MR HOWARD YOUNG (in Cantonese): *Mr President, in his reply just now the Attorney General has said that agreement has already been reached between the two sides in respect of about half of the multilateral treaties but no mention is made of the bilateral treaties. May I ask if bilateral treaties and aviation agreements in particular, which are a major concern of our tourist industry, have also achieved as good a progress as multilateral treaties in that agreement has also been reached in respect of about half of the treaties?*

ATTORNEY GENERAL: Mr President, we are making steady progress with the bilateral agreements. It is not possible at this stage to say what proportion we have completed. Perhaps it would help the Council if I was to give the figures for progress thus far in relation to bilateral treaties. Eleven bilateral treaties have been signed. One of those is for the surrender of fugitives, one is for investment protection and promotion, and nine are for air services. And that covers treaties signed. A further 18 bilateral agreements have been initialled, three for the surrender of fugitives, eight of investment protection and promotion, and seven for air services.

MR LAU WAH-SUM (in Cantonese): *Mr President, referring to the multilateral treaties on which agreement has yet to reach as mentioned in the third paragraph of his reply, will the Attorney General inform this Council when they would be completed and whether there is a timetable for their completion? Can the Administration also list out those bilateral treaties which cannot take effect automatically?*

PRESIDENT: Have you got the two questions, Attorney General?

ATTORNEY GENERAL: Mr President, as regards our time frame for multilateral agreements, it is our intention and our hope that we will have secured well before 1997 the agreement of the Chinese side to the continued application of those multilateral agreements which we believe confer a substantial benefit to Hong Kong.

As regards bilateral treaties, I am afraid it is not possible to give the figures that Mr LAU seeks. As I indicated in my main answer in relation to bilaterals, what we are doing is to agree programmes with the Chinese side on the negotiation of new bilateral agreements which will apply to Hong Kong and which will remain in force after 1997.

MS ANNA WU: *Mr President, with regard to the penultimate paragraph of the answer relating to the continued application of about half of the multilateral treaties, can the Attorney General state how Hong Kong will continue to enjoy the benefit of these arrangements? In other words, what will be the status of Hong Kong on these treaties and will China, for instance, sign on behalf of Hong Kong, and if so, when?*

ATTORNEY GENERAL: Mr President, as I have already indicated, agreement has already been reached with the Chinese side on the continued application of about half of the multilateral treaties. When the process is at an end, there will have to be a document that will give effect to that agreement. That will be a document which will list out all the multilateral agreements that will continue to apply after 1997 and it will be an instrument to which China will either be a party or will have signified its agreement. That will be a public document and it will be a document that will be registered at the United Nations.

MS ANNA WU: *Mr President, I do not believe the question has been answered. I would like to know how exactly Hong Kong's legal status on these treaties will be handled. At the moment they are applied to Hong Kong through the United Kingdom. Is the Attorney General saying that the Chinese Government will be signing on behalf of Hong Kong in future or that Hong Kong will be signing in its own name?*

ATTORNEY GENERAL: Mr President, the status of Hong Kong in relation to international treaties is of course a matter set out in the Joint Declaration and the Basic Law.

MISS CHRISTINE LOH: *Mr President, can the Attorney General tell us whether China is going to accede to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights? If China is not going to accede to the covenants, what will the British Government do?*

PRESIDENT: Are you able to answer that, Attorney General?

ATTORNEY GENERAL: Mr President, I am certainly not able to answer the first part. I am afraid that question will have to be directed to another person.

As regards the second part, the Joint Declaration and the Basic Law — Article 39 of the Basic Law — provide for the continued application of the two covenants mentioned by the Honourable Member to Hong Kong after 1997.

DR TANG SIU-TONG (in Cantonese): *Mr President, given that the row between China and Britain has delayed the work of the Sino-British Joint Liaison Group and that bilateral treaties would lapse after 30 June 1997, does the Administration have any ways and means to ensure that an agreement in respect of bilateral treaties can be reached before 1997?*

ATTORNEY GENERAL: That is my earnest hope, Mr President.

MISS EMILY LAU: *Mr President, is the International Covenant on Civil and Political Rights one of the items being examined by the Subgroup on International Rights and Obligations, and if so, what steps have been taken to ensure that Hong Kong, after 1997, will continue to be subject to the scrutiny of the United Nations Human Rights Committee, which of course is one of the requirements of the covenant?*

ATTORNEY GENERAL: Mr President, as I have already indicated, the continued application of the International Covenant on Civil and Political Rights is specifically provided for in the Joint Declaration and in the Basic Law. In the ICCPR, as some Members will know, Article 40 provides for reporting obligations. I see no reason why those obligations should not continue to exist after 1997.

MISS EMILY LAU: *Mr President, can I follow up on this? I am sure the Government knows that Hong Kong is not a party to the covenant; we are only a party through the United Kingdom; and China is not a party. So, will the Attorney General please explain to this Council how on earth Hong Kong will*

be subject to the scrutiny of the United Nations Human Rights Committee after 1997 unless the Government can now make some arrangement for Hong Kong to accede to the covenant on its own, or unless China will accede so that Hong Kong will be subject to the scrutiny under China's membership?

ATTORNEY GENERAL: Mr President, I must repeat that the continued application of the ICCPR is provided for in the Joint Declaration, itself an international treaty registered at the United Nations. That commitment to continue the application of the ICCPR to Hong Kong, because there is no qualification, carries with it those terms of the ICCPR that apply to Hong Kong, including Article 40.

MR EDWARD HO: *Mr President, will the Attorney General please advise this Council as to whether the bilateral treaties that he referred to include those that allow professional institutions in Hong Kong to participate as full members in international organizations as they are at present?*

ATTORNEY GENERAL: Mr President, the multilateral agreements to which I have referred in my main answer make provision for Hong Kong to continue as member of a large number of international organizations, some 22 of those, including the International Maritime Organization, the World Health Organization and other similar organizations. I am not sure if Mr HO is referring to those or if he is referring to some other international organizations. Perhaps he could elucidate.

MR EDWARD HO: *Mr President, I am referring to such professional organizations as the International Federation of Architects where the Hong Kong Institute of Architects can participate as a full member.*

ATTORNEY GENERAL: Mr President, I would have to take advice on that. I am not sure that such bodies are the subject of international treaties, but perhaps I can look into that and let Mr HO have an answer in writing. (Annex II)

MR SIMON IP: *Mr President, in relation to the reporting obligation under the ICCPR, will the Attorney General please tell us whether what he has said just now is his own interpretation of what is required after 1997, or whether in fact he has obtained confirmation from China that after 1997 China will assume the reporting obligation?*

ATTORNEY GENERAL: Mr President, I was simply describing the position as it appears to be under the Joint Declaration.

MR FREDERICK FUNG (in Cantonese): *Mr President, when I met the Foreign Secretary Mr Douglas HURD during my recent visit to Britain, I asked him the same question that Miss Emily LAU has asked in the hope that he would clarify. At the time the Foreign Secretary told me that the last report on human rights to be submitted to the United Nations by Britain would be in 1994. After that, it would be a matter for China. He did not give any assurance as to whether China would do the same but the British Government was willing to follow that up. May I ask the Attorney General to clarify whether what he has said or what the Foreign Secretary Mr Douglas HURD has said is correct?*

PRESIDENT: Are you able to answer that, Attorney General?

ATTORNEY GENERAL: I do not think it is appropriate for me to comment on what the Foreign Secretary has said, Mr President.

Accidents in MTR stations

3. MRS SELINA CHOW asked: *Will the Government inform this Council how many accidents where passengers, especially children, have fallen off the edge of platforms in Mass Transit Railway stations have occurred in the past five years; whether these accidents are related to crowding on the platform; and what measures are adopted by the Mass Transit Railway to prevent such accidents?*

SECRETARY FOR TRANSPORT: Mr President, 125 people, including 29 children, have accidentally fallen from the platforms at Mass Transit Railway stations during the past five years. The annual figures are annexed to the reply.

The people concerned were interviewed by MTR staff as part of their investigation into each accident and none claimed to have fallen on the track because of platform crowding. According to MTRC records, the incidents were evenly spread throughout the day and were not particularly prevalent during peak travelling times when the platforms were most crowded.

To prevent such accidents occurring as far as possible, the MTRC has taken a number of measures:

- (a) all platforms are adequately lit and kept free from obstruction;

- (b) to act as a visual reminder to passengers, a yellow line is painted near to the edge of the platform. In addition, the edges of all platforms are now being painted white;
- (c) regular announcements are made to remind passengers to stand behind the yellow line;
- (d) a platform queuing scheme has been introduced to facilitate orderly boarding and alighting from trains. Platform assistants are provided to help with crowd control at busy stations during peak hours; and
- (e) the Corporation organizes annual courtesy and safety campaigns for the users of the system.

Annex

Number of Persons Accidentally Falling on
the Tracks at MTR Stations

1988	27	(5)
1989	19	(7)
1990	28	(12)
1991	17	(3)
1992	34	(2)
Total:	----- 125	----- (29)

The numbers of passengers aged 12 or under included in the total figures are shown in brackets.

MRS SELINA CHOW: *Mr President, of the figures given in the Annex, how many involve passengers falling into the gap between the train and the platform and what has been done to address this specific problem?*

SECRETARY FOR TRANSPORT: Mr President, if I can provide the figures first of all, the numbers who have fallen into the platform gap are:

In 1988	:	six
In 1989	:	eight
In 1990	:	15
In 1991	:	five
In 1992	:	four

As far as measures to prevent people falling into the platform gap are concerned, I have mentioned already some of those measures: there is the

yellow line which is placed 0.6 m behind the platform edge; white lines are now being provided in all stations; there are regular announcements both in the train and on the platform to advise people to stand back and to avoid the platform gap; publicity material has been provided by the Corporation in the form of booklets and posters. On platforms where the gap is particularly wide, under-platform lighting has been provided to illuminate the gap and teaching-aid kits are being distributed to all primary schools to advise children on how to use the system safely.

MR STEVEN POON (in Cantonese): *Mr President, can the Administration inform this Council whether some MTR stations have more accidents than others; if so, what measures there are to improve the situation?*

SECRETARY FOR TRANSPORT: Mr President, the problem tends to occur in stations where the platform gap is wider than normal and those are situations where the platform is curved and the track is curved and for that reason the gap can be rather wider. In those particular stations, announcements are made more frequently and, as I have said earlier, we have under-platform lighting to illuminate the gap and hopefully keep people back from it.

MR STEVEN POON (in Cantonese): *Mr President, can the Administration inform this Council which stations have more accidents than others?*

SECRETARY FOR TRANSPORT: Mr President, I do not have a breakdown of the stations where the accidents have occurred, but I can say that the stations where the platforms are curved are Admiralty, Mong Kok and Central, in particular.

DR LAM KUI-CHUN: *Mr President, figures in the Annex supplied by the Secretary for Transport show no downward trend in the frequency of people falling on the tracks in the MTR stations in the last five years. Will the Government inform this Council whether there was or will be any publicity campaign to raise public awareness on the problem so as to minimize its further recurrence, or whether the Government expects the measures outlined in the third paragraph of the Secretary's main answer to show their effect as a decreasing trend in the figures of such accidents in the near future?*

SECRETARY FOR TRANSPORT: Mr President, as I mentioned earlier, campaigns are being organized now on an annual basis — with posters and booklets widely distributed; educational kits passed to schools; and quite a major publicity effort being made to reduce the incidence of people falling on the tracks. But I think we also need to look at the reasons for people falling on the

tracks so that we can see that in some cases it may be very difficult to address the problem. Some of the major causes are:

- Sickness of passengers : People under the influence of medicine and drugs.
- Misconduct by passengers : People playing on the platform in their drunkenness.
- People who simply claim that they were not aware of the proximity of the track.

I think in all these circumstances it is rather difficult to eliminate the problem altogether, although we would dearly like to. I think we also should look at the statistics in a rather different way. Although there are, on average, 25 cases of people falling on the track per annum, the system does carry 2.2 million per day or 800 million passengers per year.

DR CONRAD LAM (in Cantonese): *Mr President, the Secretary has just listed a number of reasons for such accidents, but can the Administration inform this Council what the three main reasons are?*

SECRETARY FOR TRANSPORT: Yes, Mr President, the three main reasons in 1992 were:

Sickness of people on the platform, including, as I have mentioned before, those under the influence of medicine and drugs.

People losing their balance for various reasons. And also, passengers' misconduct.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, if we cannot eliminate the problem (whatever its causes) of passengers falling on the tracks, then are there ways to alert the operator at the first opportunity to make him stop his train immediately so that it will not pose any danger to the lives of passengers who fall on the tracks?*

SECRETARY FOR TRANSPORT: Mr President, I think, as Members know, within each compartment there is an emergency button which can be pressed by members of the public in case of emergency, including the incidence of people slipping on to the track.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, since not every passenger on the train knows that there is an emergency button, and if someone has fallen on the track and nobody within the train presses the emergency button, can the operator possibly know in such circumstances that someone has fallen on the track?*

SECRETARY FOR TRANSPORT: Mr President, of course the operator can be alerted by people on the platform or within the train. But I could mention that for people slipping through the platform gap, the incidence of injury is extremely low. On the figures I gave Members earlier, there have only been minor injuries in the last four years and by that I mean scratches, bruises, that sort of thing.

MR PETER WONG: *Mr President, to what extent can accidents be avoided by erecting barriers, such as those in the MTR of Singapore, and what would the costs be?*

SECRETARY FOR TRANSPORT: Mr President, I do not have figures on the costs for screen-doors, but the value of screen-doors is in some doubt, as I understand it, internationally. While screen-doors can certainly stop people from falling on to the track, there is a risk that people could become caught between the screen-doors and the train. The screen-doors could interrupt the evacuation of trains in an emergency situation. And if it happened that the train did not stop immediately opposite the screen-doors, then there could also be a danger of people trying to get from the entrance to the screen-door.

MR JIMMY MCGREGOR: *Mr President, can the Secretary give the figures for people injured or killed in these accidents? Has compensation been claimed or paid?*

SECRETARY FOR TRANSPORT: Mr President, I am not aware of any situation where people were claiming compensation from the MTRC. In terms of injuries for people slipping through the platform gap, the situation is as follows:

In 1988	:	one serious injury, one minor
In 1989	:	four minor injuries
In 1990	:	nine minor injuries
In 1991	:	four minor injuries
In 1992	:	two minor injuries

And one so far this year.

PRESIDENT: Is that the answer you wanted, Mr McGREGOR?

MR JIMMY McGREGOR: *Not really, Mr President. I mean in regard to all of the accidents which the Secretary has named in his schedule, how many people in these accidents have been actually injured or killed?*

SECRETARY FOR TRANSPORT: Mr President, the only figures I have with me are for those who have slipped through the platform gap. But I can certainly provide a written reply. (Annex III)

Crimes committed at Vietnamese migrants detention centres

4. MR WONG WAI-YIN asked (in Cantonese): *Will the Government inform this Council of the following:*

- (a) *the number of crimes committed at Vietnamese migrants detention centres in the three years up to the end of March this year; the classification of these crimes by type; and the number of crimes involving the use of intimidation or violence to dissuade migrants from participating in the voluntary repatriation programme; and*
- (b) *the measures taken to safeguard migrants against harassment by lawless elements seeking to influence their decision to participate in the voluntary repatriation programme?*

SECRETARY FOR SECURITY: Mr President,

- (a) The police have only kept separate records of crimes in Vietnamese migrants centres since April 1991. I regret, therefore, that I only have statistics for the last two years. 520 crimes were reported in Vietnamese detention centres in 1991-92 and 269 in 1992-93.

Of the 520 in 1991-92, 348 were violent crimes and 172 were non-violent crimes; whilst out of the 269 in 1992-93, 227 were violent crimes and 42 were non-violent crimes.

No separate statistics are kept on intimidation or the use of violence to dissuade migrants from joining the voluntary repatriation programme.

- (b) The Administration and the United Nations High Commissioner for Refugees have made strenuous efforts to persuade Vietnamese migrants to join the voluntary repatriation programme. Those who decide to volunteer are moved to voluntary repatriation centres,

which house only fellow volunteers. This reinforces their decision to volunteer and frees them from any pressures from lawless elements who might wish them to withdraw. Any illegal or suspected unlawful acts are reported to the police for appropriate action.

Additionally, the Administration is empowered under the Immigration Ordinance (Cap. 115) and the Immigration (Vietnamese Boat People) (Detention Centre) Rules to separately detain or to transfer Vietnamese who attempt to threaten or intimidate other detention centre inmates.

MR WONG WAI-YIN (in Cantonese): *Mr President, will the Administration consider giving priority to mandatory repatriation of lawless elements in Vietnamese detention centres who often commit crimes or harass other migrants? If yes, what measures are there to prevent them from using force to resist repatriation? If no, what are the reasons?*

SECRETARY FOR SECURITY: Mr President, the situation with regard to lawlessness in Vietnamese migrants centres is similar to that which applies throughout the rest of Hong Kong. If any Vietnamese migrant commits a crime he is treated in the same way as other members of the community. The one difference arises in the case of an offender who, after due process of law, has been sentenced by the court to imprisonment for more than two years; then the offence in question becomes a deportable offence, and Vietnamese migrants who are convicted of a deportable offence can and are deported at the end of their sentence.

PRESIDENT: Is that the answer to your question, Mr WONG?

MR WONG WAI-YIN (in Cantonese): *Mr President, the Secretary may have misunderstood my question. My question is: since some migrants in Vietnamese migrants centres are harassing other migrants and many of the inmates find this very distressing, will the Administration consider giving priority to repatriation of migrants who are harassing others?*

SECRETARY FOR SECURITY: Mr President, the situation with regard to those who are harassing other Vietnamese migrants is that they are subject to report and, subject to the person being harassed coming forward and providing the necessary evidence, we will then take action against the Vietnamese concerned. We have screened out the vast majority of Vietnamese migrants in Hong Kong and, therefore, every single one of them is a target for us to try and

persuade to return to Vietnam. We have a situation where we are trying to encourage as many of those to return as possible.

MR WONG WAI-YIN (in Cantonese): *Mr President, in fact my question is very simple. I asked whether the Administration would consider giving priority to repatriation of Vietnamese migrants who are harassing others.*

SECRETARY FOR SECURITY: I am sorry, Mr President, I am still a little confused as to the question. The situation is that we are trying to give priority to repatriation of all of the Vietnamese migrants. As regards those who are guilty of any offences in the centres, as I have already explained, we take legal action against them in the same way that we would take legal action against anyone committing a crime in Hong Kong.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, from the reply of the acting Secretary, we understand that some Vietnamese migrants in fact break the laws of Hong Kong. Our community has to spend money on them as a result, and it has an adverse impact on our reputation too. Will the acting Secretary confirm that the Authority will strictly enforce the rules of the Vietnamese migrants camps and that Vietnamese migrants who refuse to return will be detained separately, for example in Tai A Chau or other places, so as to make it easier to keep watch on them?*

SECRETARY FOR SECURITY: Mr President, yes, I can confirm that. In the first situation regarding those who break the law, they are dealt with in exactly the same way as any other lawbreaker in Hong Kong and are subject to the same process of law. If they are found guilty, they are sentenced according to the law and serve prison sentences in Hong Kong's penal institutions in the same way as any other convicted criminal.

As I have said, should the offence of which they are convicted be a deportable offence, deportation proceedings will be undertaken prior to their release. To date, 105 Vietnamese migrants have been deported back to Vietnam following completion of their sentences.

Regarding the other category mentioned in the question, in 1992, we separately detained slightly over 1 000 Vietnamese migrants as punishment, and for the four months between January and April this year, 347 were so detained. The length of detention is usually between one and two weeks, and under the Immigration (Vietnamese Boat People) (Detention Centre) Rules it may not exceed 28 days.

DR LEONG CHE-HUNG: *Mr President, can the Secretary provide a comparison between the crime rate for the Vietnamese camps and the crime rate applying to crowded districts of Hong Kong, such as Mong Kok and Yau Ma Tei?*

PRESIDENT: Do you have those figures handy, Secretary?

SECRETARY FOR SECURITY: Mr President, I am afraid the Honourable Member has been a little too specific. But if I could perhaps respond by giving the more general figures. In terms of overall crime, the Vietnamese have a lower crime rate than that of the whole of Hong Kong. The crime rate, which is defined as the number of crime cases per 100 000 of population, amongst Vietnamese migrants for 1991-92 is 880, compared with 1 535 for the whole of Hong Kong; the crime rate amongst Vietnamese migrants for 1992-93 is 564, compared with 1 454 for the whole of Hong Kong. The crime rate amongst Vietnamese migrants and the number of crimes reported has shown a decline, due in no small part to the increased work and vigilance of the Correctional Services Department staff and others looking after Vietnamese migrants.

MR MARTIN BARROW: *Mr President, in paragraph (b) of his answer, the Secretary said that strenuous efforts have been made to encourage voluntary returns. However, I understand that there are no more than 25 full-time counsellors for 40 000 migrants, which surely does demonstrate a particularly strenuous effort. What plans does the Secretary have to step up the level of counselling?*

SECRETARY FOR SECURITY: Mr President, counselling is given to Vietnamese migrants by the Administration and the UNHCR to try and persuade them to volunteer to return. The UNHCR instructs all of their staff to act as voluntary repatriation counsellors and to give out information and to advise on the programme. Government staff in detention centres have also been briefed on the scheme and can give general advice and encourage active volunteering but they pass prospective volunteers on to the UNHCR for detailed counselling. The UNHCR provides reintegration assistance and other assistance schemes such as the European Community Credit Scheme in Vietnam, and these are explained to potential volunteers. Frequently, updated information on the current political and economic life of Vietnam is given in the form of newspapers, magazines and videos. Two voluntary repatriation centres have been opened in the Whitehead Detention Centre to accommodate volunteers only and to provide an environment where volunteers are together and free from any harassment or pressure from those opposed to voluntary repatriation.

We are exploring further initiatives with the UNHCR to increase the number of volunteers and also to ensure that new volunteers are transferred to the voluntary repatriation centres immediately they volunteer, rather than letting them remain in the detention centres for some days whilst arrangements for transfers are made.

MS ANNA WU: *Mr President, with regard to those who were deported after serving a prison sentence in Hong Kong, can the Secretary indicate the average length of their sentences in Hong Kong, and the offences of which they were convicted?*

SECRETARY FOR SECURITY: Mr President, I do not have the details with me but I can provide a written reply on that. (Annex IV) All of the 105 people who have been deported were sentenced to terms of imprisonment in excess of two years but I would be happy to provide the details requested by the Honourable Member, in writing.

Exchange Fund Advisory Committee

5. MR FREDERICK FUNG asked (in Cantonese): *Will the Government inform this Council whether it is aware of the number of members in the Exchange Fund Advisory Committee who have the right of abode in other countries; and whether there is any plan to introduce a localization policy to the composition of this Committee?*

FINANCIAL SECRETARY: Mr President, the answer to both parts of the question is "No, Mr President".

MR FREDERICK FUNG (in Cantonese): *Mr President, in other countries, organizations that play a role similar to that of a central bank usually are made up of members who are nationals of their own countries. In the case of the Exchange Fund Advisory Committee of Hong Kong, part of its function is to play the role of a central bank. The answer of the Secretary to both parts of the question is "No", does it mean that he is not aware of that or simply he is not willing to disclose? If he is not aware of that, is the Government prepared to understand the situation, publish the relevant information and introduce a localization policy? If he is not willing to disclose, what are the reasons?*

FINANCIAL SECRETARY: Mr President, I think my answer was entirely clear. The first part of the question was asking me whether the Government was aware of the number of members in the Exchange Fund Advisory Committee who have the right of abode in other countries to which the answer

was "no". The second part was whether there is any plan to introduce a localization policy to the composition of this Committee to which the answer was "no". I think the meaning of my answer was entirely clear but I am very happy to clarify it.

MR FREDERICK FUNG (in Cantonese): *The Secretary has not answered my question.*

PRESIDENT: Well, would you rather put the question again, Mr FUNG, please?

MR FREDERICK FUNG (in Cantonese): *Mr President, my follow-up question is: if the Government is unaware of that, are there plans to understand the situation and publish the relevant information, and if the Government is not willing to disclose, what are the reasons? The answer given by the Secretary just now is in effect repeating what he has said. My question is: if the Government is not aware which member has the right of abode in other countries, does it intend to find that out?*

FINANCIAL SECRETARY: Mr President, again, I think I must say that my answer was entirely clear. We do not keep records. I do not ask for information as to who has the right of abode in other countries; I do not have that knowledge even of Mr FUNG. It is not the sort of information which is published and it is not the normal meaning attached to localization.

MR VINCENT CHENG: *Mr President, does the Financial Secretary agree that members of the Exchange Fund Advisory Committee are appointed on the basis of their knowledge of international financial markets and the absence of the right of abode in other countries cannot be a substitute for such qualification?*

FINANCIAL SECRETARY: Yes, Mr President.

MR JIMMY MCGREGOR: *Mr President, can the Financial Secretary advise whether his "no" would also apply to all other government committees, boards and councils, including this one?*

PRESIDENT: Have you any answer to that one, Financial Secretary?

FINANCIAL SECRETARY: Mr President, fortunately the question only related to the Exchange Fund Advisory Committee, but I would seek your ruling on whether it can be extended to all other committees.

PRESIDENT: It is not really a supplementary within Standing Orders, Mr MCGREGOR.

Mr FUNG, do you have one final question?

MR FREDERICK FUNG (in Cantonese): *Mr President, according to the reply of the Financial Secretary, one's qualification will be considered. In actuality, even if we have a list with us, we still cannot find out who hold foreign passports, or perhaps only the Financial Secretary is able to do that. May I ask the Administration whether it will appoint those who do not have the right of abode in other countries but possess the required qualification?*

FINANCIAL SECRETARY: Mr President, we do not look at the question of right of abode in other countries in looking at membership of this Committee.

Security measures in public housing estates

6. MRS PEGGY LAM asked (in Cantonese): *In view of recent signs of deterioration of law and order in public housing estates, will the Government inform this Council whether consideration will be given to improving the security measures in public housing estates, such as by installing iron gates at the entrances to buildings, installing close-circuit cameras, employing more caretakers, improving the lighting system inside and outside the estates, and stepping up police patrols especially at night, so as to improve law and order in the estates?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the question is based on an underlying general assertion, which is not explained, that the state of law and order in public housing estates is deteriorating. I should first of all say that that is not the case and put the matter in the overall crime context.

First, the crime rate in public housing estates is consistently lower than in the territory as a whole. In the first quarter of 1993, it was 12.4 per 10 000 residents, compared to 34.5 for Hong Kong overall. Second, there are no signs of deterioration within housing estates. The crime rate there was 13.5 and 13.8 for the third and fourth quarters respectively last year. So at 12.4 in the first quarter of this year, there is an improvement.

Needless to say, we have to recognize that, in generalizing and talking in broad terms, we are not seeking to pretend that everything is all right everywhere or that the individual victims of crime have no cause for concern.

Housing Authority rental estates are provided with a caretaker service. Individual rental blocks are not provided with entrance gates or modern security devices like a CCTV system or door-phones. The Authority reviewed the position in public housing estates in late 1992 and agreed a way forward after discussion in committee. Basically it concluded that gates and CCTV should not be provided as a standard provision in existing or new rental blocks on the basis of practical management and cost considerations as well as views expressed by tenants. But it endorsed a pilot scheme in Tsing Yi District to be carried out if the tenants in the block are willing to contribute to the installation and recurrent costs of the equipment and the provision of security guards. Other measures it agreed upon include better illumination, more patrols by Estate Assistants, and closer liaison with the local police on crime prevention in consultation with the Mutual Aid Committees and tenants' associations. The Authority will keep the overall situation and the situation in individual estates under regular review in consultation with the police. And a survey on tenants views will be conducted later this year.

The advice of the police is sought at the design stage of new public housing estates so as to minimize opportunities for crime. Tenants are reminded of the importance of neighbourhood security through briefings and a tenant's handbook. Local crime rates and other current security issues are regularly reviewed at District Fight Crime Committee, Area Committee and Mutual Aid Committee meetings. Where necessary, increased police patrols and other measures can be introduced.

MRS PEGGY LAM (in Cantonese): *Mr President, will the Secretary inform this Council of the total number of serious crimes committed in public housing estates in the past two years? What measures does the Administration have to prevent these serious crimes from occurring again or to reduce the number of such cases?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I have some statistics on crimes committed in public housing estates, but I regret to say they are provided on a quarterly basis and they cover a very large number of categories of crime. If I can perhaps quote one or two examples as a matter of illustration and then seek to provide the overall statistics which the Honourable Member asked for in writing. (Annex V) In the first quarter of 1993, the total number of crimes in Housing Authority rental estates was 2 923; in the preceding quarter, the fourth quarter of 1992, it was 3 250; and in the quarter before that, it was 3 196. It is running slightly above and below the 3 000 mark quarterly. As far as the more serious type of crime is concerned, again, let me give one or two examples. Violent crime against the

person is running and falling between 400 and 300 per quarter; violent crime against property is running and falling between 600 and 500 per quarter; burglary, theft and handling stolen goods is running and falling between 1 500 and 1 300 per quarter. I believe the measures I mentioned in my main reply indicated what is being done to improve the situation, such as improving lighting and seeking to increase patrols by both estate staff and, where necessary, police. There have been one or two other items which I did not mention because of the detail involved. But I would like to give a couple more of examples, if I may, such as the sealing-off of dark corners, or underparts of staircases, which might be used possibly as ambush spots; removing promptly advertisements or threats scribbled on housing estate walls by such people as loansharks, so as to give tenants a greater sense of security; and, again, the provision of space of a reasonable standard for mutual aid committee offices should tenants wish to form them.

MRS ELSIE TU: *Mr President, the Secretary's answer is generalized but would he admit that there are some estates, for example in Tuen Mun, where triads and other crimes are more prevalent? Can any special measures, such as those suggested by Mrs LAM, be taken in Tuen Mun and other vulnerable estates?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I was at pains to acknowledge in my reply that generalization does not necessarily present the total picture, and I was also at pains to acknowledge that the position will be different from estate to estate and probably from block to block in various areas. I think as regards what we might perhaps refer to as particular blackspots, it is clearly a matter where the estate management and, if possible, the residents in the form of mutual aid committees or area committees, and also the local police must together consider what additional measures must be taken. I believe that in the case of Tuen Mun, which has been referred to, steps have been taken to do such things as improving lighting and increasing police patrols.

MRS MIRIAM LAU: *Mr President, in the answer it is stated that the Housing Authority has concluded that gates and CCTV should not be provided on the basis of practical management and cost considerations as well as views expressed by tenants. Can the Secretary inform this Council of the practical management problems envisaged, what the cost considerations are, and how the views of the tenants have been gauged?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, this subject was covered in a study conducted by the Housing Department in the second half of 1992, and it was a matter for discussion in the Housing Authority's Management and Operations Committee late in 1992. At that meeting, members of the Housing Authority — some of them are residents

of housing estates and are members who have contact with residents of housing estates — were able to express their views on the basis, I believe, of a certain amount of firsthand knowledge. The practical issues which were the subject of both a review and discussion by the Authority members concern the practicalities of installing security gates in older estates where, in fact, the layout of the blocks would require considerable security fencing and numerous security fences; and these are particularly problematical because the indications are that, if there are too many security gates, this is a matter of considerable inconvenience to residents, particularly those on the lower floors, going in and out of estates. And whilst there may be those who feel that security has been improved, there will also be many who believe that access has been very inconveniently impeded.

On the question of cost, a very preliminary assessment of what it would cost to provide security devices in a typical housing estate puts the cost at approximately \$60 per flat per month. And it is felt that, in the light of residents' reactions, for example, to adjustments in rental, there would be considerable resistance to meeting this kind of additional cost for the purposes of security.

PRESIDENT: We will have to move on.

Written answers to questions

Standard of the two polytechnics

7. DR SAMUEL WONG asked: *Will the Government inform this Council whether the two Polytechnics in Hong Kong have, in terms of academic performance and research achievements, achieved university standard; and if yes, whether there is any plan to change the names of these two institutions so as to properly reflect their university standard?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, according to the academic judgement of the University and Polytechnic Grants Committee (UPGC), and its adviser, the Hong Kong Council of Academic Accreditation (HKCAA) as appropriate, the standard and quality of courses at various levels provided by the two Polytechnics in Hong Kong are comparable with those at equivalent levels provided at the other UPGC-funded institutions, including the Universities, and compare favourably with internationally recognized standards for such courses.

As regards research, both the Polytechnics have introduced post-graduate education and research degree programmes relatively recently and offer research programmes in some subject areas only. They have also historically been provided with a lower level of resources for research than the

Universities. Their academic staff have, however, been reasonably successful in winning research grants from the Research Grants Council and other sources of peer-reviewed research funding and have achieved a creditable publication record. The Polytechnics are also very active in the fields of applied and contract research.

In early 1991, the two Polytechnics (and the Hong Kong Baptist College) separately notified the UPGC of their intention to apply for institutional accreditation (or self-accreditation) status. This relates to the capability of an institution to validate and revalidate the degree courses it provides without involving an external accrediting agency. The question of university status and title was also raised, but the UPGC's view was that this issue should be considered further only after the three institutions had demonstrated their capability for self-accreditation and accepted the continuing need for a differentiation of roles among the UPGC-funded institutions in Hong Kong.

In January 1993, the UPGC appointed a panel to conduct institutional reviews of the two Polytechnics (and the Hong Kong Baptist College) to ascertain whether they had developed sound internal accrediting mechanisms and processes, and to consider whether they were ready for self-accreditation. The panel's report was considered by the UPGC at its meeting in April. The UPGC will shortly report to the Secretary for Education and Manpower on the outcome of the exercise and the Committee's recommendations regarding the readiness of three institutions for self-accreditation and the further action to be taken on the question of university status and title for these institutions.

Blockage of drain inlets

8. MRS PEGGY LAM asked (in Chinese): *In view of the increasing occurrence of flooding due to rainstorms in Hong Kong, and the Administration's indication that these floods were generally caused by the blocking of drain inlets by mud and refuse, will the Government inform this Council:*

- (a) *of the measures taken to prevent the blockage of inlets of drains, and*
- (b) *whether arrangements would be promptly made for deployment of staff to clear the inlets of drains as soon as rainstorms break out, so as to prevent the occurrence of flooding?*

SECRETARY FOR WORKS: Mr President,

- (a) Daily sweeping of streets by Urban Services Department (USD) and Regional Services Department (RSD) helps to prevent blockage of inlets to underground drains. For areas which are considered to be

litter blackspots, the frequency of sweeping will be increased. Refuse in water courses discharging to the drainage system is also cleared regularly.

Regular road inspections are carried out by Highway Department (HyD). Blocked roadside gratings and gullies identified are cleared by HyD on expressways and by USD/RSD on other public roads.

If required, additional roadside gullies will be provided at locations vulnerable to flooding due to frequent blockage of drains inlets by refuse.

- (b) Upon approach of rainy season HyD mobilizes its term contractors to clear identified blockage of drain inlets in order to prevent occurrence of flooding.

During rainstorms, USD/RSD mobilize their staff to patrol areas particularly prone to flooding. Drainage Services Department (DSD) has sewer gangs and term contractors specially geared up to handle flooding incidents. HyD renders assistance to clear blocked drain inlets as and when required and sends its staff to inspect the surface conditions of roads to report on any identified flooding spots for immediate and follow-up actions by DSD and HyD as appropriate.

Shortage of secondary school places in Tai Po and North District

9. REV FUNG CHI-WOOD asked (in Chinese): *Due to serious shortage of secondary school places in Tai Po and North District, many secondary school students living in these two districts have to attend school in other districts. Will the Government inform this Council of the position in 1993-94 with regard to the following:*

- (a) *whether there will be any improvement to the number of secondary school places available in these two districts when compared with the position in 1992-93; and*
- (b) *how many Form I students and secondary school students in other forms who live in these two districts would be required to attend school in other districts?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the answers to Rev FUNG's questions are as follows -

- (a) Yes. Compared to 1992-93, the number of secondary school places has increased by 1 320 in Tai Po and 3 000 in North District in 1993-94.
- (b) Based on forecast data from the Secondary School Places Allocation system, the number of Form I students to be allocated to schools outside their own district in the 1993-94 school year will be 100 for Tai Po and none for North District. It is not possible to predict the numbers of secondary school students in other forms who will be attending school outside their own district in 1993-94.

CFC refrigerants and halon fire fighting installations

10. MR PETER WONG asked: *Will the Administration inform this Council of the progress in phasing out the use of chlorofluorocarbon (CFC) refrigerants and halon in fire fighting equipment installed in government offices and subvented organizations?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, to meet the accelerated programme agreed by parties to the Montreal Protocol in Copenhagen in November 1992, which requires that halons will be completely phased out by 1994 and CFCs by 1996, government departments and subvented organizations have taken the following measures:

CFC refrigerants

CFC refrigerants will not be used in any new air conditioning and refrigeration equipment and systems in government and subvented projects. Existing equipment and systems will be retrofitted using substitute refrigerants such as HCFC (R22 and R123) and HFC (R134a), or replaced by those using zero ozone depleting refrigerants in a five year programme costing about an estimated \$310 million. The programme covers all equipment and systems maintained by the Electrical and Mechanical Services Department in government, municipal councils, Hospital Authority and subvented organization buildings, including the Hong Kong University, the Prince Philip Dental Hospital and the Red Cross Blood Transfusion Centre.

In the financial year 1993-94, \$5.4 million will be spent on the installation of high efficiency purges and refrigerant recovery and recycling units to stop the venting of CFCs to the atmosphere from 51 systems in the buildings referred to above. These measures include the conversion of a machine to use R123 refrigerant at Queen Mary Hospital and another to use R134a refrigerant at the Prince of Wales Hospital.

Halon fire fighting installations

Under the Montreal Protocol, only "essential installations" are allowed to continue using halons. As yet there is no agreed definition of "essential installation" and no certified safe direct substitute to replace halons used for fire fighting installations. However, the use of halon-based fire protection systems in new projects maintained by the Electrical and Mechanical Services Department has stopped. The Department has also surveyed all existing halon fire fighting installations under government maintenance. Pending the availability of safe substitutes and a clear definition of "essential installation", a replacement programme similar to the one for CFCs will be prepared in conjunction with the Environmental Protection and Fire Services Departments.

The procurement of halon-based portable extinguishers for government buildings has stopped and they will be replaced with environmentally friendly extinguishing agents when existing equipment reaches the end of its serviceable life.

Dredging projects off Tung Lung Chau

11. MR ALLEN LEE asked (in Chinese): *Catcher fishermen affected by dredging projects off Tung Lung Chau have recently learnt that the Government has amended the original method of calculating compensation from using one year's catches to three years' catches as the basis. Will the Government inform this Council:*

- (a) *of the criteria by which the new calculation method is determined;*
- (b) *whether consideration will be given to compensating fish culturists affected by the same project, and whether the method of calculating their compensation will be the same as that applicable to catcher fishermen; if not, what principles are adopted in determining the calculation methods; and*
- (c) *whether consideration will be given to strengthening the communication and co-ordination among the relevant government departments, so that the fish catches in fish culture zones will not be affected as a result of the improper siting of dredging projects?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the revised basis for calculating the amount of *ex gratia* compensation payable to capture fishermen affected by dredging projects was determined taking into account the extent and duration of the disruption to inshore fishing activities caused by the current programme of dredging works, the effect on the livelihood of inshore fishermen, the likelihood that the affected fishing grounds would take some time

to recover when works have been completed and the decreasing opportunities for continuing work in fishing and fishing-related industries.

The Administration is reviewing the *ex gratia* allowances payable to mariculturists to see if changes are required to cover possible disturbance arising from dredging projects. It is unlikely however that the method of calculating *ex gratia* allowance payable to mariculturists will be brought into line with that applicable to inshore fishermen. If any mariculturists are affected by the works, they will be affected by an individual project in the vicinity of the fish culture zone in which they are licensed to operate. Even if business has to be suspended during the period of time dredging goes on nearby, the mariculturists will be able to resume operations once works in the vicinity have ceased.

The Government's intention is to ensure that dredging projects cause as little disruption as possible to the mariculture industry. Arrangements are in place for the Civil Engineering Department to inform the Agriculture and Fisheries Department well in advance of any proposed works which might affect the mariculture industry. The Agriculture and Fisheries Department, in turn, has well-established channels of communication with the mariculture industry, the most important of which is the Aquaculture Subcommittee of the Advisory Committee on Agriculture and Fisheries. These co-ordination and communication arrangements are working satisfactorily.

Medical and health resources allocation

12. MISS EMILY LAU asked: *Will the Government inform this Council what measures are being taken to eradicate the existing disparities in the allocation of medical and health resources and to ensure that such resources are adequately provided to newly opened and planned hospitals and clinics in the New Territories, and whether it has any plan to formulate and publish in collaboration with the Hospital Authority a Five-year Resource Allocation Plan showing how medical and health resources are distributed?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the provision of new hospitals and clinics must take into account various inter-related factors such as population growth, community demands, distribution of existing medical facilities and interface with other projects in the pipeline.

In recognition of prevailing demands and population movement, progressively more resources have been allocated for medical facilities in the New Territories. To illustrate this point, a total of 1 485 hospital beds, three specialist clinics and six general clinics were commissioned in the New Territories over the last five years compared with a net decrease of 260 hospital beds and the addition of one general clinic in the urban area during the same period. Furthermore, around 2 500 hospital beds, three specialist

clinics and six general clinics in the New Territories will be coming on stream between 1993-94 and 1997-98.

The recurrent consequences of capital projects are taken into account in the annual resource allocation exercise. This ensures that adequate provision of resources will be given to the Hospital Authority and the Department of Health to commission new hospitals and clinics in accordance with operational requirements.

There is no plan to publish a Five-year Resource Allocation Plan for the Hospital Authority. However, the Authority is required to compile a Corporate Plan setting out its strategic targets, the plan to achieve these targets, an assessment of the resource implications as well as a projection of revenue and expenditure. The Corporate Plan will cover a period of at least five years and will be rolled forward every year. This Plan is under preparation and should be completed before end of 1993.

AIDS Foundation

13. DR LEONG CHE-HUNG asked: *In view of recent reports of the loss incurred by the AIDS Foundation in the investment of its funds, will the Administration inform this Council of:*

- (a) *the rationale for granting \$15 million to the AIDS Foundation in 1991 but restricting the Foundation to use only the income generated from the investment of the grant;*
- (b) *the Government mechanism, if any, for monitoring how the Foundation, or other subvented organizations of similar nature, uses and manages funds received from government grants or public donations;*
- (c) *the assistance, if any, provided by the Government to these organizations in the management of their financial resources; and*
- (d) *the progress of its investigation into the above incident?*

SECRETARY FOR HEALTH AND WELFARE: Mr President,

- (a) As stated in paragraph 5 of Finance Committee Paper FCR (91-92)27, the AIDS Foundation is responsible for raising its own finance. The \$15 million was a one-off seeding grant to show Government's support for the activities of the AIDS Foundation which should complement the Government's AIDS prevention programme.

- (b) The Government uses a combination of measures to control and monitor the use of funds provided to a subvented organization. They include:
- (i) the establishment of rules and procedures governing the use, management and investment of funds;
 - (ii) the examination of periodic financial reports and the annual audited accounts of the organization;
 - (iii) the ad hoc inspection of records and accounts by staff of the responsible government department and the Audit Department; and
 - (iv) the appointment of public officers as members or observers of the management board or executive committee.

The extent of the monitoring and control varies from organization to organization depending on the size of the subvention.

As regards the Hong Kong AIDS Foundation, the Government laid down guidelines on the investment of the grant of \$15 million. Paragraph 5 of Finance Committee Paper FCR (91-92)27, for example, stated that investments should be in short-term fixed deposits, bonds, loan stocks and certificates of deposit.

The Government does not monitor the use of donations by subvented organizations under certain circumstances. However, a subvented organization must seek the Government's agreement before it can accept a donation, for example when additional recurrent subvention would be required as a result. The expenditure of donations would be subject to the same overall accounting control within the subvented organization as other expenditure.

- (c) The Government provides assistance on request to subvented organizations in their financial management. Where necessary, these organizations may seek funds from the Government to obtain external consultancy services to help them manage resources or secure better value for money. In addition, the Government may make suggestions for improvement in the examination of their financial reports.
- (d) The Government has initiated an investigation into the facts of matter and is examining the report from the AIDS Foundation.

Commonwealth Law Conference

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

- (a) *of the number of members of the Judiciary who attended the Commonwealth Law Conference held in Cyprus earlier this month;*
- (b) *of the purpose and the respective length of their attendance; and*
- (c) *how their attendance at the Conference affected the work of the Judiciary, for example, how many hearings had to be adjourned, and cases deferred?*

CHIEF SECRETARY: Mr President,

- (a) Six members of the Judiciary of different levels attended the 10th Commonwealth Law Conference held in Cyprus earlier this month.
- (b) The Commonwealth Law Conference is a regular triennial meeting of Commonwealth judges, lawyers and law teachers. It gives participants an opportunity to meet and exchange ideas and experiences, and to keep abreast with legal and judicial developments in the Commonwealth. It is for this purpose that members of the Hong Kong Judiciary attended the Conference, which lasted from 3 to 7 May 1993. All participants attended for the whole period of the Conference.
- (c) With forward planning, it was generally possible to avoid adjournment or deferment of hearings during the absence of these judicial officers. One case was however affected. It was a trial which started in early March and had overrun its estimated duration. The trial had to be suspended for a week in the Judge's absence.

Hospital Services Department

15. MR MICHAEL HO asked (in Chinese): *With more Hospital Services Department staff transferring to the Hospital Authority, will the Government inform this Council whether it plans to disband the Department; if so,*

- (a) *what are the factors the Government will consider in determining the disbandment date;*

- (b) *what arrangements will be made for those civil servants who are not willing to transfer; and*
- (c) *when the civil servant's organizations concerned will be consulted?*

SECRETARY FOR THE CIVIL SERVICE: Mr President,

- (a) There is at present no plan to disband the Hospital Services Department.
- (b) When the Hospital Authority took over the management of the public hospital system in 1991, the 21 793 departmental grade staff, for example, medical officers, nurses, paramedics, working in the Hospital Services Department were given until the end of November 1994 to decide to transfer to the employment of the Authority or remain as civil servants.

The Hospital Services Department was reorganized to exercise personnel management responsibilities for the civil servants working in the Authority. It will continue to look after the interests of those civil servants who choose not to transfer to the employment of the Authority after November 1994. These officers will remain working in the Authority on civil service terms of employment until they leave the service through natural wastage.

- (c) As at 1 April 1993, there were still 12 260 civil servants working in the Authority. The establishment of the Hospital Services Department will be reviewed regularly having regard to the declining number of civil servants remaining with the Authority.

Qualified English teachers

16. MR TIMOTHY HA asked (in Chinese): *The findings of a survey conducted among teachers by the Education Department in 1991 indicated that less than 20% of the English Language teachers in secondary schools were university graduates in either English Language or English Literature. The percentage of these teachers who had also received educational training was lower than 15%. Will the Government inform this Council:*

- (a) *whether the percentage of suitably qualified teachers of English has now been improved; and*
- (b) *what specific measures the Government has in hand to recruit, train and retain staff specialized in the teaching of English?*

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

- (a) According to the Teacher Survey conducted by the Education Department (ED) in 1991, the percentage of English Language teachers in secondary schools who were university graduates in either English Language or English Literature was 30%. The percentage of those who had also received professional training in education was 22%. In the current school year, these percentages have improved to 33% and 24% respectively.
- (b)
 - (i) As regards specific measures to recruit staff specialized in the teaching of English, schools give preference to graduates from the colleges of Education and universities who have majored in English. In addition, secondary schools can also, if they wish, recruit expatriate English language teachers who are university graduates with English language teaching qualifications. Schools can recruit up to three such teachers locally under the Codes of Aid, or up to two such teachers under the Expatriate English Language Teacher Scheme.
 - (ii) As regards training, the Government has introduced a number of measures specifically to upgrade the teaching of English as a subject. For pre-service College of Education graduates majoring in English, the Government provides, on a joint-funding basis with the British Council, a six-week immersion English course in the United Kingdom. For in-service training, the Institute of Language in Education (ILE) provides a 16-week full-time refresher course for both graduate and non-graduate secondary teachers of English, which is followed by a four-week immersion English course in the United Kingdom. To ensure that sufficient support is given to these teachers when they return to school, the ILE provides 12-week refresher courses for secondary school panel chairpersons of English, which include a four-week United Kingdom immersion course element. In addition, the Advisory Inspectorate of the ED runs seminars and other short courses on subject content and methodology for serving and newly recruited teachers of English.
 - (iii) As far as retention is concerned, the Government is committed to improving the teaching environment in schools and enhancing the professional careers of teachers so as to make teaching a more rewarding and respected profession. The Education Commission's Report No. 5 contained important recommendations in this regard, which the Government has accepted and has begun implementing. In addition, a housing assistance scheme for aided teachers has recently been

announced for implementation in September. These measures should help encourage teachers to stay in the profession.

Illegal sale of soft drugs

17. MR CHEUNG MAN-KWONG asked (in Chinese): *In view of the worsening problem of soft drug addiction among young persons and the availability of soft drugs for sale in stores and clinics, will the Government inform this Council:*

- (a) *of the respective numbers of enforcement action and prosecutions taken in the past three years by the Administration against illegal sale of soft drugs to young persons, and the geographical distribution of these drug stores and clinics;*
- (b) *among the above prosecution cases, how many registered medical and nursing personnel were involved and penalized, and what their sentences were;*
- (c) *how many young persons aged 25 or below were hospitalized or died as a result of soft drug addiction over the past three years; and*
- (d) *what measures, such as introducing legislative amendments and imposing more severe punishment, will be taken to curb further spreading of illegal sale of soft drugs in stores and clinics?*

SECRETARY FOR SECURITY: Mr President,

- (a) Regular inspections are conducted by Department of Health officials at medicine dealers and registered clinics. In 1990, 6 292 inspections were made; the corresponding numbers for 1991 and 1992 were 6 271 and 5 624. Test purchases are also made to ascertain if the medicine dealers and registered clinics are contravening the law. In the past three years, the number of test purchases made were 489, 105 and 431 respectively.

Arising from the inspections and test purchases, 22 prosecutions were made in 1990, 17 in 1991 and five in 1992. The geographical distribution of the medicine dealers and registered clinics concerned is set out at the Annex.

- (b) Among the 44 prosecutions brought in the past three years, four involved medical personnel; three medical practitioners were prosecuted in 1991 and fined \$7,000, \$15,000 and \$30,000 respectively; and one medical practitioner was prosecuted in 1992 and fined \$2,000. These cases were referred to the Medical

Council for disciplinary actions. Two cases are still under enquiry. In the third case, the medical practitioner was removed from the medical register for three months, suspended for one year. As for the fourth case, the medical practitioner was removed from the medical register for six months on account of other offences, and he has not applied for re-registration.

- (c) In the past three years, the numbers of youngsters aged 25 or below seen in the Accident and Emergency Departments of the major regional hospitals suffering from psychotropic substance abuse have been:

<i>Psychotropic Substances involved</i>	<i>1990</i>	<i>1991</i>	<i>1992</i>
Stimulants	1	1	-
Depressants	10	1	3
Tranquillizers	41	24	21
Hallucinogens	10	-	2
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Total	62	26	26

Six death cases involving fatal dosages of psychotropic substances were identified in the past three years, but no breakdown by age is available for the cases concerned. The details are set out below.

<i>Period</i>	<i>No. and type of fatal dosages detected</i>
1990	2 Tranquillizers
1991	2 Tranquillizers
1992	1 Depressant 1 Tranquillizer

- (d) The illegal sale of drugs is kept under constant review by the Action Committee Against Narcotics, which recommends to the Administration appropriate actions, including legislative controls or more severe penalties when circumstances so justify. On the advice of the Action Committee, 32 drugs of the Benzodiazepine group, available on the market and found liable to abuse, have been controlled as dangerous drugs since 18 January 1992. The legislative controls require that these drugs can only be supplied by registered medical practitioners for the purpose of genuine medical treatment, or by pharmacists on a prescription given by a registered medical practitioner. In response to increasing reports about the abuse of Cough Medicine, stricter controls on the sale of this medicine, containing more than 0.1% of Codeine or

Dextromethorphan, were recommended by the Committee, and have been introduced under the Pharmacy and Poisons Regulations since 1 January 1993.

Enforcement action has also been stepped up to deter the illegal supply and to discourage the misuse of psychotropic substances. The Department of Health plans to step up routine inspections of all drug retail premises to at least twice a year.

Annex

Geographical Distribution of Prosecutions
Against Illegal Sale of Psychotropic Substances

		<i>1990</i>	<i>1991</i>	<i>1992</i>
Hong Kong	- Central and Western	1	0	0
	Eastern	1	3	0
	Southern	0	1	0
	Wan Chai	3	0	0
Kowloon	- Kowloon City	2	0	0
	Kwun Tong	2	2	1
	Mong Kok	3	1	0
	Sham Shui Po	1	1	1
	Wong Tai Sin	3	2	0
	Yau Tsim	1	0	0
New Territories	- Kwai Tsing	0	0	0
	North	2	1	1
	Sai Kung	0	0	0
	Sha Tin	1	0	0
	Tai Po	2	1	1
	Tsuen Wan	0	3	0
	Tuen Mun	0	2	0
	Yuen Long	0	0	1
	Total	22	17	5

Source: Department of Health

Misuse of Hong Kong textiles quotas

18. MR JIMMY McGREGOR asked: *Will the Government inform this Council of:*

- (a) *the measures that have been or will be taken to prevent the misuse of Hong Kong textiles quotas for the export of textile products made in China; and*
- (b) *the respective numbers of investigations into and prosecutions initiated against such malpractice over the last three years and the results of these prosecutions?*

SECRETARY FOR TRADE AND INDUSTRY: Mr President, the Hong Kong Government abides fully by its obligations under multilateral and bilateral agreements on the export of textiles products, including the requirement that only goods of Hong Kong origin can be exported under Hong Kong export quotas.

The Hong Kong Government operates a comprehensive textiles export control system, which requires licensing of all textiles exports to our restrained markets. In addition textile exports to the United States and European Community, our major markets, have to be accompanied by certificates of origin. Both the licensing and the certificate of origin systems are strictly enforced by both the Trade Department and the Customs & Excise Department. The law provides for penalties of fines and/or imprisonment for offenders convicted of abuses to the control system. The Trade Department also requires the offenders to surrender the misused quota.

In addition to stepping up enforcement work, such as conducting blitz checks at the border and other entry points in addition to regular checks, the reward scheme originally intended to encourage members of the public to provide information on textiles fraud has been extended to cover the illegal transshipment of textiles.

The number of investigations into and prosecutions against textile origin fraud over the last three years are as follows:

	<i>1990</i>	<i>1991</i>	<i>1992</i>	<i>1993 Jan-Mar</i>
(a) Investigation				
No of cases	626	685	639	125
Value of goods involved	\$209m	\$202m	\$245m	\$53m

	1990	1991	1992	1993 Jan-Mar
(b) Prosecution				
No of companies and individuals prosecuted	763	839	940	211
Court fines	\$28m	\$29m	\$37m	\$10m
Imprisonment (Suspended)	2 (7 months)	3 (9 months)	3 (9 months)	- -
(Immediate)	-	-	1 (3 months)	-

Vacant government office premises

19. MR HENRY TANG asked: *Will the Government inform this Council:*

- (a) *how many of the 785 676 sq m of office premises owned by the Government have been left vacant for one year or more; what the reasons are for these premises being left vacant; what the location is and what the size of each of these vacant premises is; and*
- (b) *what plans the Government has in hand to make use of each of these vacant premises?*

SECRETARY FOR THE TREASURY: Mr President,

- (a) Of the Government's current total holding of 785 676 sq m of general office accommodation, only 240 sq m (or 0.03%) has been vacant for more than one year. The accommodation has not been allocated because it is surplus to immediate requirements. 160 sq m is located at the recently completed North District Government Offices in Fanling and 80 sq m is located at the Mui Wo Government Offices.
- (b) The 240 sq m of general office accommodation currently vacant will be allocated for departmental use as and when suitable users have been identified, and subject to the vetting of requirements by the Government Property Agency.

Briefing out of High Court cases to private barristers

20. MRS ELSIE TU asked: *Will the Administration inform this Council:*

- (a) *of the criteria adopted by the Legal Aid Department in assigning High Court cases, including appeal cases from Magistrate's Courts, to barristers in private practice;*
- (b) *of the total number of High Court cases briefed out by the Legal Aid Department in the past year, the respective numbers assigned to local and expatriate counsel; and*
- (c) *whether the Legal Aid Department keeps a briefing list of barristers; if so, the total number on the list and how many of them are expatriates and former government legal officers respectively?*

CHIEF SECRETARY: Mr President,

- (a) In assigning cases to outside counsel, the Director of Legal Aid (DLA) adheres to the overriding principle that the interests of the legally aided client must come first and that the client is best represented legally. That said, the DLA assigns cases as widely as possible among counsel of suitable expertise, having regard to the nature and complexity of the cases and the availability of the counsel. To ensure the operation of an equitable system, the Department has set up a committee, co-opting a representative of the Corruption Prevention Department of the Independent Commission Against Corruption, to monitor the assignment of cases.
- (b) The Department does not make a distinction between "expatriate counsel" and "local counsel", whatever the definition, in the assignment of cases to outside counsel.
- (c) The DLA is required by law to maintain a panel of counsel enrolled on the roll of barristers who are willing to investigate, report and give an opinion upon applications for the grant of legal aid and to act for aided persons. There are at present 471 barristers on the Director's panel. For the reasons explained in (b) above, there is no distinction between expatriate and local barristers for the assignment of cases. The panel includes three former counsel of the Legal Aid Department, 75 former counsel of the Attorney General's Chambers and 16 former Magistrates.

Motion**CRIMINAL PROCEDURE ORDINANCE**

THE SECRETARY FOR SECURITY moved the following motion:

"That the Legal Aid in Criminal Cases (Amendment) Rules 1993, made by the Chief Justice on 23 April 1993, be approved."

He said: Mr President, I move the motion standing in my name on the Order Paper.

Section 9(A) of the Criminal Procedure Ordinance provides that the Chief Justice may, with the approval of the Legislative Council, make rules providing for the granting of legal aid in criminal cases to persons of limited means.

Following the enactment of the Crimes (Amendment) (No. 3) Bill 1992 on 21 April 1993 which abolished capital punishment, the Chief Justice has made a number of consequential amendments to the Legal Aid in Criminal Cases Rules. The purpose of these amendments is to remove all references in the rules to capital charge and to substitute it, where appropriate, with a charge of murder, treason or piracy with violence. Legal aid will continue to be made available to persons of limited means charged with these offences.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

First Reading of Bills

ROAD TUNNELS (GOVERNMENT) (AMENDMENT) BILL 1993

**CROSS-HARBOUR TUNNEL (PASSAGE TAX) (AMENDMENT)
(NO. 2) BILL 1993**

CROSS-HARBOUR TUNNEL (AMENDMENT) BILL 1993

EASTERN HARBOUR CROSSING (AMENDMENT) BILL 1993

TATE'S CAIRN TUNNEL (AMENDMENT) BILL 1993

EMPLOYEES' COMPENSATION (AMENDMENT) BILL 1993

HONG KONG SPORTS DEVELOPMENT BOARD (AMENDMENT) BILL 1993

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

Second Reading of Bills

PRESIDENT: Secretary for Transport, you have five Bills in a series. You might just wish to go straight through from one to the next.

SECRETARY FOR TRANSPORT: Thank you, Mr President.

ROAD TUNNELS (GOVERNMENT) (AMENDMENT) BILL 1993

THE SECRETARY FOR TRANSPORT moved the Second Reading of: "A Bill to amend the Road Tunnels (Government) Ordinance."

He said: Mr President, I move that the Road Tunnels (Government) (Amendment) Bill 1993 be read the Second time.

This is the first of five Bills to be introduced today which provide for automatic toll collection at government and private road tunnels.

The use of automatic toll collection, which is known as autotoll, will increase efficiency and reduce tunnel operating costs.

Under the autotoll arrangement, a motorist first opens an account with the tunnel management company. He is then issued with an electronic tag for mounting on the vehicle windscreen. A vehicle fitted with a valid tag can pass through an autotoll lane without stopping and the motorist's account is automatically debited with the appropriate toll. Motorists will of course have the choice of continuing to pay tolls in cash or by pre-paid ticket.

A camera will be installed in each autotoll lane to record the licence number of any vehicle passing through the toll booths with an invalid tag, no tag, or insufficient balance in the account.

Clause 3 of the Bill enables the Governor in Council to make regulations for the payment of tolls at government tunnels by any method, including autotoll, and for the installation and regulation of autotoll facilities. Clause 2 provides for the production of certificates of testing for autotoll equipment and

for certificates of photographic processing, for use as evidence to prove evasion of toll payment.

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

CROSS-HARBOUR TUNNEL (PASSAGE TAX) (AMENDMENT)

(NO. 2) BILL 1993

THE SECRETARY FOR TRANSPORT moved the Second Reading of: "A Bill to amend the Cross-Harbour Tunnel (Passage Tax) Ordinance."

He said: I move that the Cross-Harbour Tunnel (Passage Tax) (Amendment) (No. 2) Bill be read the Second time.

Clause 4 of this Bill enables passage tax to be collected by autotoll. Clause 3 provides that where the amount debited from an autotoll account is insufficient to cover both passage tax and the toll, then the amount shall be used first to pay the tax and any amount remaining shall be credited towards payment of the toll. Clause 5 imposes a duty on the Cross-Harbour Tunnel Company Limited to report to the Commissioner for Transport the number of passages for which the tax has been paid by means of autotoll.

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

CROSS-HARBOUR TUNNEL (AMENDMENT) BILL 1993

THE SECRETARY FOR TRANSPORT moved the Second Reading of: "A Bill to amend the Cross-Harbour Tunnel Ordinance."

He said: Mr President, I move that the Cross-Harbour Tunnel (Amendment) Bill 1993 be read the Second time. The Bill provides for the introduction of automatic toll collection facilities at the Cross Harbour Tunnel.

The opportunity is taken to raise from \$1,000 to \$2,000 the maximum penalty for contravening Cross-Harbour Tunnel by-laws, bringing it into line with corresponding penalties in the Eastern Harbour Crossing Ordinance and the Tate's Cairn Tunnel Ordinance.

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

EASTERN HARBOUR CROSSING (AMENDMENT) BILL 1993

THE SECRETARY FOR TRANSPORT moved the Second Reading of: "A Bill to amend the Eastern Harbour Crossing Ordinance."

He said: Mr President, I move that the Eastern Harbour Crossing (Amendment) Bill 1993 be read the Second time.

This Bill empowers the New Hong Kong Tunnel Company Limited to make by-laws for the regulation of automatic toll collection facilities at the Eastern Harbour Crossing.

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

TATE'S CAIRN TUNNEL (AMENDMENT) BILL 1993

THE SECRETARY FOR TRANSPORT moved the Second Reading of: "A Bill to amend the Tate's Cairn Tunnel Ordinance."

He said: Mr President, finally, I move that the Tate's Cairn Tunnel (Amendment) Bill be read the Second time.

This Bill empowers the Tate's Cairn Tunnel Company Limited to make by-laws for the regulation of automatic toll collection facilities at the Tate's Cairn Tunnel.

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

EMPLOYEES' COMPENSATION (AMENDMENT) BILL 1993

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

He said: Mr President, I move the Second Reading of the Employees' Compensation (Amendment) Bill 1993.

The Bill seeks to improve the provisions in the Employees Compensation Ordinance relating to the maximum level of compensation and the assessment of permanent incapacity, and also to streamline certain procedures.

At present, compensation for death or permanent incapacity is calculated by reference to the age and monthly earnings of the employee concerned. The amount of compensation payable is subject to a statutory maximum, which is \$620,000 in the case of permanent total incapacity and \$542,000 in the case of death.

A recent analysis revealed that, in 46.7% of permanent incapacity cases, the compensation entitlement had been suppressed by the operation of the statutory maximum. This was particularly serious for the younger employees because of the age factor.

In order to improve the compensation for injured employees and yet retain the spirit of limiting employers' liability in a no-fault compensation system, we propose to remove the statutory maximum amount of compensation and introduce instead a monthly earnings ceiling for the purpose of calculating compensation. Initially, the ceiling is proposed to be set at \$15,000. This level is in line with that used for calculating severance payment and long service payment under the Employment Ordinance. Under this proposal, the maximum level of compensation would be \$1.44 million for permanent total incapacity and \$1.26 million for death. As only 6.6% of the employees entitled to compensation in 1992 earned more than \$15,000 a month, the proposal would enable the great majority of injured employees to receive their full entitlement.

In line with our established practice of revising the levels of compensation every two years, we intend to bring the proposal into effect on 1 January 1994. This should allow sufficient lead time for the insurance industry to make the necessary arrangements.

As regards the assessment of permanent incapacity, the permanent loss of earning capacity suffered by an employee injured at work is currently assessed in accordance with the First Schedule of the Employees' Compensation Ordinance. This Schedule was last revised in 1985. It is now necessary to update it so as to keep abreast with the standards adopted in our neighbouring countries.

We propose to improve the First Schedule in three respects:

- first, by increasing the percentages of loss of earning capacity specified for some injuries;
- secondly, by expanding the coverage to include more injuries; and
- thirdly, by providing a higher percentage of loss of earning capacity for injury to the preferred hand and for injuries involving the loss of two or more fingers.

Part IV of the Employees' Compensation Ordinance requires all employers to take out insurance against their full liabilities under the Ordinance and at common law. It also provides that an injured employee may claim compensation directly against his employer's insurer. However, the present provisions are not clear as to whether or not an injured employee could take proceedings against the insurer without first suing his employer. We propose to make it clear that the employee has such a right under certain circumstances. Amendments are also proposed to clarify an insurer's liability under a policy of employees' compensation insurance.

Finally, the Bill provides for the Commissioner for Labour, instead of the Governor in Council, to amend the Second Schedule of the Employees' Compensation Ordinance which specifies the list of compensable occupational

diseases, and to make regulations relating to operational matters which are technical in nature. This is aimed at simplifying procedures and ensuring a quicker response to changing needs.

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

HONG KONG SPORTS DEVELOPMENT BOARD (AMENDMENT) BILL 1993

THE SECRETARY FOR RECREATION AND CULTURE moved the Second Reading of: "A Bill to amend the Hong Kong Sports Development Board Ordinance."

He said: Mr President, I move the Second Reading of the Hong Kong Sports Development Board (Amendment) Bill 1993.

The Hong Kong Sports Development Board (SDB) and the Hong Kong Sports Institute (HKSI) are two separate and distinct statutory bodies responsible for the promotion and development of sports in Hong Kong. This has created some problems of operation and co-ordination. Having looked at the functions, powers and organization of these two bodies in close consultation with them, the Government considered that it would be in the wider interest of sports promotion and development in Hong Kong to streamline the two organizations and integrate their management structures.

The Hong Kong Sports Development Board (Amendment) Bill 1993 aims to achieve this by repealing the Hong Kong Sports Institute Ordinance and amending the Hong Kong Sports Development Board Ordinance to create a single statutory body with overall responsibility for the promotion and development of sports in Hong Kong and for resource allocation. The Bill will expand the scope and powers of the SDB so as to enable it to take on the existing functions of the HKSI Board, but allowing the latter to retain a separate image and identity. These objectives are mainly achieved through the provisions in clauses 2, 4, 5, 6 and 7 of the Bill.

With the creation of a unified Board, a centralized approach can then be adopted to remove overlapping in certain functions. These are in areas such as finance and administration, personnel management, purchasing, marketing and public relations. Clear lines of reporting and accountability will be established for the unified body and will help to achieve better value for money.

The HKSI's separate image and identity will, however, be recognized by requiring the SDB to establish a separate Management Committee for the management and control of the Institute. This is provided for in the new section 5B in clause 7 of the Bill. The Chairman of the HKSI Management Committee will have to be a member of the SDB, although his appointment will be made separately by the Governor as stipulated in clause 4 of the Bill. This provision

will help to ensure that the HKSI is independently managed by the Management Committee within the broad policy parameters set out by the SDB. The prime function of the HKSI, as specified in the new section 5A in clause 7, will be to train and develop elite athletes. The powers of the HKSI Management Committee are provided for under the new sections 5D, 5E & 5F of clause 7 of the Bill, which also stipulate that in exercise of these powers, the Management Committee will be subject to the overall direction of the SDB.

The HKSI will continue to be funded by its existing Trust Fund, although the Committee of Trustees will henceforth be appointed by the SDB, who may give direction to the Trustees.

I believe the Hong Kong Sports Development Board (Amendment) Bill 1993 will pave the way for the better promotion and development of sports in Hong Kong. It refocuses the SDB as the single overall body responsible for the promotion and development of sports, and provides a new structure for the management of the HKSI and the training and development of elite athletes in Hong Kong. I would like to state that the integration of the SDB and the HKSI under one organizational structure will in no way affect the existing role played by the Amateur Sports Federation and Olympic Committee and the national sports associations. Indeed, it should help to facilitate their efforts in promoting the representation and participation of sports by Hong Kong teams in regional and international competitions.

Mr President, I beg to move.

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

BOUNDARY AND ELECTION COMMISSION BILL

Resumption of debate on Second Reading which was moved on

10 February 1993

Question on Second Reading proposed.

DR YEUNG SUM (in Cantonese): Mr President, for many of us who have been pressing for an independent and politically neutral body to undertake responsibilities for demarcation of boundaries and organization of election matters, the Bill before us is a welcomed piece of legislation. The proposed establishment of a Boundary and Election Commission will go a long way in ensuring impartiality of the electoral process and a fair basis for competition for all candidates.

In examining the Bill, the Bills Committee has made a number of suggestions, many of them are incorporated in the amendments to be moved by the Secretary for Constitutional Affairs at the Committee Stage. I wish to take this opportunity to express my appreciation of the contributions of my

colleagues and parties concerned as well as the positive responses of the Administration.

I shall highlight some of the main issues considered by the Bills Committee.

The Bills Committee is concerned about the integrity of the Commission and that it should be seen to be fair and impartial. Although the Bill has provided certain safeguards to maintain the Commission's political neutrality, Members consider that they can be further strengthened by tightening the disqualification criteria for members of the Commission. Amongst the amendments proposed by Members is an extension from two years to four years the period during which a person actively engaged in politics is disqualified from appointment to the Commission. This is considered necessary to exclude those who have taken an active part in the previous election from being appointed as members of the Commission. Similarly, the period during which a past member of the Commission is disqualified from the political activities specified in the Bill is to be extended from two years to four years to cover the period of the next election. Apart from the related amendments to be moved at the Committee Stage, the Administration has given Members the assurance that background information on the members of the Commission, including their past involvement in community activities, where appropriate, will be released at the time of their appointment.

Another major area of concern of the Bills Committee is the need for public consultation as well as transparency in the deliberations of the Commission. Members consider that the Bill should provide for public consultation in the drawing up of guidelines to be issued by the Commission. This proposal is accepted by the Administration, with exceptions allowed in case of urgency. Furthermore, the Administration has also agreed to another suggestion of Members that the Commission should be empowered to conduct public meetings for hearing representations on the provisional recommendations on constituency boundaries. These meetings are to be open unless there are special circumstances that the Commission considers otherwise.

The Bills Committee has sought clarification from the Administration regarding the checks and balances to be in place. The Administration has confirmed that the whole process of constituency demarcation is designed to be transparent and open to scrutiny. Each report of the Commission on constituency boundaries will be tabled before this Council, and any deviation by the Governor in Council will be readily transparent. The subsidiary legislation to give effect to the decision on constituency boundaries will also be subject to the scrutiny of this Council.

Members have also expressed concern about the implications of the delegation of functions (that is, to hand over some work to other committees) as proposed in the Bill. In response, the Administration has advised that delegation of functions is necessary, as the Commission cannot possibly take on all the

functions itself. To address Members' concerns, amendments will be moved by the Administration to spell out other important functions that cannot be delegated, and to specify that such delegation will not take away the relevant power from the Commission. Besides, important decisions of the Commission will be made at a meeting of all members of the Commission.

The Bills Committee has spent considerable time discussing the statutory criteria for demarcating constituency boundaries. The Bill provides that the Commission should ensure as far as reasonably practicable that the population in each constituency (that is, the population quota) is not greater or less than the average population per constituency by 25%. Views of Members are divided on the proposed 25% margin rule. Some consider that a lower margin rule should be adopted, stressing that geographical constituencies should primarily be divided according to population distribution so as to give equal value for each vote. I am sure Mr Martin LEE who will move an amendment in this respect will elaborate on this.

Other Members of the Bills Committee have, however, indicated support for the 25% margin rule. They are concerned that if a lower margin rule is applied, districts with strong community identity may be split up, thereby arousing resentment from the residents concerned. They consider that geographical constituencies should adhere as far as possible to the administrative districts, and that the Commission should be allowed more flexibility in the demarcation of constituency boundaries to meet future increases in the number of geographical constituencies and the likely fluctuations in population deviation.

In the light of Members' concerns, the Administration has agreed to move amendments to spell out clearly that as the first principle, the population quota should be adhered to as far as possible in the demarcation of constituency boundaries, and that deviation should be allowed only in exceptional circumstances as stated in the Bill.

The Bill also provides for recommendations on the number of elected members in individual district boards to be made by the Commission, subject to the overall total number not being substantially greater or less than 338. I have no doubt the Administration would wish to take the opportunity today to reiterate the advice that it has given to the Bills Committee on the rationale for determining the number of elected district board members and the reason for including such a provision in the Bill.

With these remarks, Mr President, and subject to the amendments to be moved at the Committee Stage, I support the Bill.

MR TAM YIU-CHUNG (in Cantonese): Mr President, the arrangements for the 1994-95 elections in Hong Kong are still being discussed by the Chinese and British Governments. In my view, any legislation regarding our electoral

arrangements should not be enacted until results have been achieved at these talks. I therefore think that this is not an opportune moment for the Government to introduce the Boundary and Election Commission Bill to this Council for Second Reading.

I would like to highlight the fact that the Bill seeks to amend the existing District Boards Ordinance. Section 5A (of the Ordinance) stipulates that the total number of elected members in respect of all the district boards shall not be substantially greater or less than 338, which is calculated in accordance with the guideline of one directly elected seat for every 17 000 persons. At present there are 441 district board members throughout the territory, of whom 140 are appointed, 274 are elected and 27 are from rural committees. The proposed arrangement of increasing the number of elected members to 338 means that there will be 505 district board members altogether, an extra 64 members. However, I am afraid the structure would be too cumbersome if the district boards are to have a total of 505 members. I wonder whether the aforesaid arrangement implies that all appointed membership on the district boards will be abolished in the next term so as to lower the total number of district board members to 365?

Mr President, I support the idea of gradually reducing the number of appointed seats on district boards. But I do not agree to the abolition of all appointed seats once and for all. If the Government thinks that time is running out and legislation has to be enacted as soon as possible, then the electoral arrangements for 1994-95 should indeed have been brought up for discussion in the Sino-British Joint Liaison Group last year. However, the British Government seemed not to be very keen on this subject at that time. It has never discussed it with the Chinese Government. At a time when the Sino-British Governments are conducting talks on the electoral arrangements, the Government all of a sudden introduces this Bill and an unilateral decision on the number of elected district board members for the next term has been made. This leads one to suspect whether it is again attempting to get something done earlier than it should. I am worried that such a move will create troubles for the Sino-British talks and affect their progress.

Mr President, these are my remarks. I hope the Government will clarify this point.

DR PHILIP WONG: Mr President, I rise to endorse what the Honourable TAM Yiu-chung has said. I simply do not think it is right for us to pass any legislation relating to the 1994-95 elections while the Sino-British talks on this subject are in progress. Therefore, I shall vote "no" on this Bill. Thank you.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, I am most grateful to Dr YEUNG Sum and members of the Bills Committee for their time and effort in examining this Bill. Members of the Committee have made

many useful comments and suggestions. The Committee stage amendments which I am going to move reflect the consensus between the Administration and the Bills Committee on the various refinements to the Bill.

This Bill has received a wide measure of support from this Council and the community at large. The object of this Bill is to create an independent statutory authority to take over the Administration's responsibility in demarcating geographical constituency boundaries and organization of elections. An independent and impartial Boundary and Election Commission will greatly enhance the credibility of our electoral process. And I would like to start with this important aspect of the Bill.

During discussion at the Bills Committee, views were expressed that members of the Commission should not only be politically neutral, but that they should also be seen to be so. The Bill as originally drafted provides that a member of the Commission shall not take an active part in elections two years before his appointment, as well as two years after the expiry of his appointment. Members have suggested that this "sanitation" period should be extended to four years before appointment, and four years after the expiry of appointment. Members have further suggested that the Bill should expressly provide that a member of the Commission who becomes actively engaged in politics during his tenure should be disqualified from continuing to hold office. I support these suggestions as they will further enhance the impartiality and integrity of the Commission. I will be moving amendments to this effect at the Committee stage.

The Bill contains a number of provisions specifically to ensure transparency of the Commission in making recommendations on constituency boundaries. The Commission's provisional recommendations will be published and the public will be able to send written representations to the Commission within a statutory public consultation period. Having regard to suggestions by the Bills Committee, the Administration agrees that the Bill should be amended to expressly provide that the Commission may conduct public meetings to receive representations, and such meetings be normally held in open sessions. The Administration further agrees that the Commission should conduct public consultation when drawing up guidelines relating to the conduct of, or procedures at, an election. I will be proposing amendments on these areas.

On the statutory criteria for demarcating constituency boundaries, a key concern of Members is the population size of the constituencies. Whilst the principle of equal representation for equal number of people is no doubt an important consideration, it must be carefully balanced against other criteria which are no less important when delineating constituencies. These include geographical features, community identities, and local ties. The need to achieve a sensible balance is all the more important given the uniqueness of Hong Kong being a small, compact place with a dense population which is distributed vertically. We need to put in place a system that works, and that can accommodate future increases in the number of geographical constituencies as

well as changes in population distribution. It is therefore essential to provide the independent Commission with the necessary flexibility that it needs to balance the various competing, and sometimes conflicting, criteria in drawing up constituency boundaries.

For these reasons, the Administration does not believe it would be practicable to subject the Commission to a narrow margin of population deviation, say 15%, which I understand will be proposed by Mr Martin LEE at the Committee stage. The results of our detailed trial exercise done at the request of the Bills Committee clearly demonstrate the consequence of the rigidity associated with a narrow margin of population deviation, that is, arbitrary demarcation with serious disruption to many well-established local communities. Such disruption would inevitably create confusion and complaints among the affected residents. This, I must say, will do little to help the development of our representative institutions. By contrast, although a 25% margin of deviation will still require the re-drawing of constituency boundaries in line with the changes in the pattern of population distribution over time, the frequency of that happening, as well as the extent of disruption to community ties, will be considerably smaller.

However, to meet Members' concern, I will propose amendments to the Bill to provide that whilst the maximum permissible margin of population deviation will remain 25%, as the first principle the population quota should be adhered to as far as practicable. In other words, the Commission would be obliged to make its best endeavour to achieve an equal population size among the constituencies where at all possible. When making recommendations to the Governor, the Commission will have the discretion to exceed the maximum margin of population deviation on grounds of community identities and preservation of local ties. As a further safeguard, the Commission will need to give an explanation each time it recommends that the maximum margin should be exceeded.

According to clause 24 of the Bill, a report of the Commission's recommendations on constituency boundaries submitted to the Governor will be tabled before this Council. Some Members have questioned whether this provision will apply to a report returned by the Governor to the Commission under clause 23 of the Bill. The Administration's intention is that each and every report on constituency boundaries submitted by the Commission, including any returned to it by the Governor under clause 23, has to be tabled before this Council so that Members will be fully aware of its content. I will be proposing amendments to clarify this legislative intent.

Some Members have also suggested that where the Governor in Council rejects the Commission's recommended constituency boundaries, it would have a statutory obligation to make public its reasons. While there can be no doubt that the Administration will fully explain the reasons for rejecting any of the Commission's recommendations, we have grave reservation on such a statutory requirement, given the proceedings of the Executive Council are confidential.

In any event, there will be sufficient checks and balances against arbitrary decisions: the public will be consulted on the Commission's provisional recommendations; the Commission's recommendations will be tabled before this Council; and the subsidiary legislation which gives effect to the decision of the Governor in Council will be subject to the scrutiny of this Council.

Finally, the Bill provides that the number of elected district board members for the next term will not be substantially greater or smaller than 338. This is to give the district boards a viable and effective size of elected membership in the light of the boards' evolving duties and roles, and so as to enable the elected members to better serve their constituents. The provision will not affect the appointed membership of the district boards. From a practical point of view, this provision is essential as it forms the basic parameter which the Commission must work within when delineating the 1994 district board constituency boundaries. The Commission is required, under clause 18 of the Bill, to submit its recommendations on district board constituency boundaries by 31 December 1993. Without a reasonably clear idea on the number of district board elected seats, the Commission simply cannot proceed with its work and meet the 31 December 1993 deadline.

Mr President, the 1994-95 elections are an important step in the further development of our representative institutions. The Boundary and Election Commission Bill sets out the legal framework which enables the Commission to make the necessary arrangements for these elections. The early enactment of the Bill is therefore essential for the Commission to make a timely start.

Thank you.

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

Bill read the Second time.

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

PILOTAGE (AMENDMENT) BILL 1993

Resumption of debate on Second Reading which was moved on 5 May 1993

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).

TELEPHONE (AMENDMENT) BILL 1992**Resumption of debate on Second Reading which was moved on 16 December 1992**

Question on Second Reading proposed.

MR STEVEN POON: Mr President, as the Telephone (Amendment) Bill 1992 is closely related to the Telecommunication (Amendment) Bill 1992 which is also due for resumption of debate on Second Reading at this sitting, I shall comment on them both.

The two Bills seek to amend provisions of the Telephone Ordinance and the Telecommunication Ordinance in order to implement a package which was developed following discussion with Hong Kong Telecommunications Limited, the holding company for the Hong Kong Telephone Company and Hong Kong Telecom International as follows:

- (a) replacement of the Hong Kong Telephone Company's former Scheme of Control, which lapsed on 31 March 1991, by a system of incentive regulation known as price capping;
- (b) reduction by Hong Kong Telecom International of its IDD charges;
- (c) replacement of the Hong Kong Telephone Company's exclusive franchise, on its expiry in 1995, over the local fixed-wired telephone service by a non-exclusive licence;
- (d) bids invited for the provision of competing fixed-wired networks; and
- (e) a requirement on the Hong Kong Telephone Company and Hong Kong Telecom International to allow interconnection by newly licensed fixed-wired networks and to allow wireless telecommunication networks to interconnect directly with Hong Kong Telecom International.

The Bills were introduced into this Council on 16 December 1992. A Bills Committee of 14 Members was formed and commenced scrutiny of the Bills on 3 March 1993. Altogether we held eight meetings including six with the Administration. We met with representatives in the telecommunication field and considered 25 submissions from 12 interested organizations. It is evident from these figures that the Bills have given rise to public concern and the Committee has to put in extra efforts to ensure that the rights and interests of the public are protected. As Chairman of the Committee, I must thank my colleagues for their hard work, the Administration for their speedy response and the interested organizations for their contributions. Without the close co-operation of all parties, it would not have been possible to complete scrutiny of

the Bills within a short space of three months in order to enable early implementation of the package referred to above.

Mr President, I now come to the major issues considered by the Committee.

The main issue considered is undoubtedly the price-capping system. The Committee noted that under the system any variation in the average level of the Hong Kong Telephone Company's local telephone services charges must be contained within an upper limit of 4% below the rate of inflation to be in force for three years. In order to ensure that any rebalancing of charges to remove current cross subsidies will take place gradually and that residential telephone charges do not increase at any unreasonably rapid rate within the limit of the overall price-capping, two sub-caps have been agreed with the Hong Kong Telephone Company. One will limit increases in the charges for telephone line connection to 4% below the inflation rate. The other will limit increases in the residential telephone line rental charge to the rate of inflation. In tandem with the implementation of price-capping system, an undertaking has been given that Hong Kong Telecom International will reduce charges for International Direct Dialling services by an average of 8% and an average of 2% in each of the following two years.

The Committee has expressed concern as to whether the levels of price-capping and sub-cap are justified. The Administration explains that the CPI-4 overall cap is set with regard to the profitability of the Hong Kong Telephone Company and to the historical rate of efficiency gain achieved by the company. The CPI-4 target will be a challenging one as it will need to achieve efficiency gain of 4% p.a. over the next three years to maintain its existing level of profitability. The sub-cap of CPI-0 for residential line rentals has been set to protect consumers from increases in rentals which exceed the rate of inflation. The Administration argues that adequate room should be allowed for the Hong Kong Telephone Company for rebalancing of charges to remove current subsidies. The Committee is not fully satisfied with the Administration's explanation due to lack of relevant financial details which cannot be disclosed without the agreement of the company concerned. As details of price-capping system will be contained in subsidiary legislation which will be submitted to this Council after the Bills are passed, the Committee agrees to further consider the issue when scrutinizing the subsidiary legislation, in the light of any additional information to be provided by the Administration. In this connection, I would like to mention that a Subcommittee has already been formed for this purpose and at its first meeting the Subcommittee requested the Administration to renegotiate with the Hong Kong Telephone Company on the level of sub-cap for residential rental charge on the basis that it should be CPI-4% instead of CPI-0%.

One point on which the Committee has expressed grave concern is the lack of financial disclosure on the part of the Hong Kong Telephone Company and Hong Kong Telecom International. Since these two companies are private

subsidiaries of a public company, Hong Kong Telecommunications Limited, they are not obliged to publish their accounts separately. The Committee considers that the disclosure of key financial information pertaining to the operation and profitability of those of their services which are covered by exclusive franchise or licence is necessary to safeguard public interest. I consider that the Hong Kong Telephone Company and Hong Kong Telecom International should at the minimum be required to publish their financial statements as if they were separate listed companies. The Administration has assured the Committee that these concerns are fully understood and discussions on the issues with Hong Kong Telecommunications Limited will be pursued shortly. They are confident that an agreement will be reached with the Company on arrangements which will satisfy their regulatory requirements and provide an appropriate degree of transparency to the public. After careful consideration, the Committee has accepted this explanation.

Another point of concern raised by the Committee is the requirement for directors and staff of the Hong Kong Telephone Company to be "Commonwealth citizens" as there is no such restriction for Hong Kong Telecommunications Limited, the holding company. Moreover, the words carry a colonial connotation. The Administration has accepted this concern and agreed to delete all such references in the Telephone Ordinance. I shall move the necessary amendment at the Committee stage.

There is also concern that the provision which obliges connection to "any part of" the telephone system operated by the Hong Kong Telephone Company to other telecommunication services is vague and can extend to allow access to any aspect of the Hong Kong Telephone Company's business. The Administration explains that the intention is that the point of interconnection may, for example, be a wire junction box at a residential building, within an exchange switch, at a computer interface or related to a software function. Flexibility will be required to meet the practical circumstances of interconnection and to encourage competition. The objective is to allow the interconnecting parties to reach an agreement on the terms and conditions of interconnection through commercial negotiation. The Telecommunication Authority will intervene only when the negotiation fails to produce a fair and effective agreement. Accordingly, a number of alternatives to replace the words "any part of" are considered. After detailed discussion, the Administration proposes to delete the words without any substitution. The Administration has confirmed that the proposal will still safeguard the legislative intent since the words "such terms and conditions" in the same section will give sufficient power to the Telecommunication Authority to determine the point of interconnection if so necessary. The Committee agrees with the amendment. It will be moved by the Administration at the Committee stage.

Finally, the Committee considers that in order to protect private rights, owners/occupiers should receive a reasonable notice of intention to enter upon their land for the purpose of placing and maintaining telecommunication lines and so on. Moreover, the Committee is not satisfied that the scope of

compensation to affected owners/occupiers should be reduced to physical damage only. Subsequently, the Administration agrees to amend these provisions to include the giving of reasonable notice to owners/occupiers and to ensure that compensation would not be restricted to physical damage. I shall again move the necessary amendments at the Committee stage.

Apart from the amendments mentioned above, the Committee has agreed with the Administration on other amendments which are purely technical but are considered necessary for improving the drafting of the relevant provisions. These amendments will also be moved by the Administration at the Committee stage.

Mr President, on 3 June last year, I moved a motion in this Council to urge the Government to develop a comprehensive telecommunications policy and to introduce second local fixed-wired telecommunications networks in 1995 when the current licence of the Hong Kong Telephone Company expires. I am pleased to see the Administration has taken up this call and noted the various suggestions of my fellow legislators. The two Bills represent a major milestone of telecommunications liberalization in Hong Kong and I urge the Government to take the momentum of this first step and to implement the necessary liberalization procedures for the overall benefit of Hong Kong.

With these remarks, I support the Bills.

MR LAU CHIN-SHEK (in Cantonese): Mr President, last year the Administration reached an agreement with Hong Kong Telecommunications Limited on the future development of telephone and telecommunication services, including the substitution of a price-capping system for the profit control scheme, the introduction of competition into the market of local fixed-wired network services, and the reduction of IDD charges. Basically, all such measures are to be welcomed, and I will therefore support the Bill concerned.

However, it should not be taken for granted that the introduction of the price-capping system and competition will necessarily be beneficial to consumers without first examining in detail whether the implementation of the new control system will really be favourable to consumers. As a matter of fact, it can clearly be seen from the controversy about the ceiling for future telephone services charges that the introduction of competition and charges control is definitely not a panacea. To really safeguard the interests of the people of the lower income group it is necessary to continue public monitoring of the public utility companies concerned.

The Administration has been emphasizing that the main objective of implementing a charges control system is to encourage the company to actively increase its productivity such that both the company and the consumers can benefit. In this connection, I want to ask: Will it be fair and reasonable to the 1.7 million residential telephone subscribers in Hong Kong (especially those

from the lower income group) that the percentage of increase in residential line rentals should be inflation minus 0% (or 2%) while the overall maximum rate of charges increase for the services of the Telephone Company is inflation minus 4%?

As a matter of fact, even with the most conservative way of calculation, the average annual increase of residential line rentals in the past 10 years is inflation minus 2.4% (see note 1 for details). Therefore, there is no reason why the 1.7 million residential subscribers should now pay even more under the new control system. It is totally contrary to the original intention of encouraging the company to increase productivity by means of a price-capping system in order to benefit subscribers. Obviously, this proposal, though unfavourable to residential line users, can help the Telephone Company to face open competition in future in that it can increase its competitiveness by lowering the commercial line rentals since it will be commercial line users whose patronage will be the main target for competition. This situation will be yet more unfair to the residential line users.

The Administration has more than once indicated that under the current pricing system, the residential telephone service is being run in deficit, and if this situation continues, the quality of service may be lowered and that will be even more unfavourable to consumers. I am very much annoyed by such an argument! In fact, there is no information that clearly shows that the local residential telephone service is being run in deficit. On the contrary, I believe that if it had not been for the 1.7 million residential line subscribers making IDD calls, the overall profit of the Hong Kong Telecommunications Limited would not have been so high. Therefore, whether the IDD service is subsidizing the local telephone service is a problem of "whether there was chicken first or egg first". It is different from the situation of bus routes where it can be seen which is subsidizing which. But even if there is subsidy, that will not be unreasonable because that is beneficial to the consumers in general and in accordance with the principles of public utility services. It will however be unreasonable to say that the standard of residential telephone services will be lowered if the percentage of rental increase is not inflation rate minus 0%. I think the Administration definitely has the responsibility to take effective measures (including the setting of service standards) to ensure that the quality of services provided by the Telephone Company will be maintained in any situation.

Besides, I query why the Administration, being the representative of the interests of the public, has not asked the Hong Kong Telecommunications Limited, during the discussions with it last year, to disclose the information relevant to public interests. Quite the contrary, the Administration has always used the pretext of maintaining "commercial confidentiality" to deprive the subscribers and the public of their right to know. The Administration's way of doing it is regrettable!

Mr President, I appreciate the Secretary for Economic Services' effort in persuading the Telephone Company to disclose the relevant information and lower the percentage of rental increase. But it is clearly not enough just to adjust the increase of residential line to inflation rate minus 2%! I hope that the authority concerned and the Telephone Company can bear in mind the interests of subscribers and further lower the percentage of rental increase for residential lines as soon as possible, otherwise I will have to move amendments to the subsidiary legislation concerned.

Since the new price-capping system has removed the existing procedure of obtaining the approval of the Legislative Council for effecting a price increase, the maximum level of rental increase must be set with due care. I am also worried that in the meantime when the old profit control system was abolished (at the end of March 1991) and a new control system is not yet established, the Telephone Company can have a profit increase of "no limits"! As a matter of fact, before 1991 when the profit control scheme was still in force, the profit of the Telephone Company could not exceed 16% of its shareholders' equity. But in 1991-92, the investment return rate of the Hong Kong Telephone Company (excluding Hong Kong Telecom International) was more than 20%, much higher than that of the previous years (since the profits control system was already abolished in 1991-92, there was no need to credit the profits, however high, into the development fund). I think the Administration should immediately take effective measures such that the profits of the Telephone Company will not be increased without limit during this "vacuum period". I suggest that the authority concerned, in reconsidering the charges ceiling, should endeavour in the direction of further lowering the amount of rental increase, and ask the Telephone Company to retain the amount of profits in excess of 16% of investment return for the purpose of benefiting the subscribers by way of discount in the future.

Mr President, I so make my submission. Thank you.

Note 1: Rental profile of residential telephone line in last 10 years:

Year	Rental
1982	\$33
1983	\$38
1985	\$43
1989	\$48
1991	\$56

In the past 10 years (1982 to 1992), the monthly rental of a residential telephone line increased from \$33 to \$56, which represented a total increase of 69.7% and an average annual increase of 5.4%. But during the same period, the average annual inflation rate of Hong Kong was 7.8%. Therefore the annual rental increase of residential telephone line has been 2.4% below inflation rate.

MR FRED LI (in Cantonese): Mr President, the current controversy over price capping is somewhat like the Sino-British talks on political reforms. There are two subcategories in the agreement reached between the Government and the Hong Kong Telecommunications Limited. But many members of the Legislative Council panel concerned hardly had any way of knowing the foundation on which the agreement was reached. Commercial confidentiality was cited by the Government as the reason for the complete lack of disclosure of information whenever we asked for it. Just now the Honourable LAU Chin-shek has made a number of points which I do not wish to repeat here. I only wish to stress several questions I had raised within the panel and which are so far yet to be answered by the Government.

The government view that residential line rental should be capped at inflation rate minus zero has been founded on three grounds:

- (i) consumers will be protected as there will be no substantive increase if it be capped at no higher than inflation rate and, at worst, equal to inflation rate;
- (ii) it is hoped that a higher rate of increase may reduce cross subsidy by other services because the residential lines have been operating at a loss for a long time; and
- (iii) consumers will benefit from competition to which the Hong Kong Telephone Company will be subject if a second or third network is allowed into the residential line market.

However, these three grounds are hardly justifiable.

(1) The average increase in line rentals over the last decade is inflation rate minus 2.5%. It will be retrogressive if the rate is altered to inflation rate minus zero. Compared with that of the last 10 years, the rate is indeed raised. The consumer is therefore accorded little protection at all.

(2) The allegation of loss is in fact based on figures as appearing in the accounts. We do not know the actual loss, for the Government has insisted that this is commercial secret. But to my knowledge, there are 1.7 million residential line subscribers in Hong Kong (the Honourable LAU Chin-shek also mentioned this earlier) of which 60% are registered as IDD users (that is, International Direct Dial users). The more households connected to the telephone exchange, the greater the potential number of people using IDD. And IDD is basically a major source of profit for the Hong Kong Telecommunications Limited. Therefore the argument that loss is great because the monthly cost for connecting each residential unit to the telephone exchange now is \$56 does not hold water. The calculation should not be done this way. Let us not forget that the Hong Kong Telephone Company has developed a variety of services lately such as the Call Waiting and Forward and Homefax Tools (that is, a fax machine installed at home) of the Starline service. These are all very profitable services

available through the residential network. Profits yielded by these services must go under the residential line service. Without the residential line, there will not be these services which make profits for the Hong Kong Telephone Company. Therefore the figures as appearing in the accounts cannot be construed this way.

(3) According to market analysis, there cannot possibly be a second or third residential-based network that could challenge Hong Kong Telephone Company on the market in the next three years. It is because Hong Kong Telephone Company has become the largest and the most predominant telecommunications company. It has already laid umerous cables underground over the years. Any new entrant cannot possibly get a foothold in the residential line market, let alone compete. Therefore, fundamentally speaking, a second or third entrant into the market cannot benefit, in terms of competition, from the rate of increase be it CPI-0 or CPI-4. Having regard to there three reasons, the Government's argument that CPI-0 is in the best interest of consumers is hardly convincing.

Based on the above observation, I think the next debate will soon unfold because once these two amendment Bills are passed into law, the respective subsidiary legislation will be scrutinized by the Legislative Council. I sincerely hope that the Government will hold discussions with Hong Kong Telecommunications Limited as quickly as possible. The irony is that the further the implementation of the respective subsidiary legislation is delayed, the more money will the Hong Kong Telephone Company make because the IDD charges have not been reduced so far. I know that the company is making \$20 million in extra profit monthly because of the delay in passing this Bill. This is basically against the interest of consumers. Given that time is of the essence, I hope that both parties will as soon as possible reach an agreement which will be supported by Legislative Council Members, so that the general public of Hong Kong will benefit from it.

I so submit, Mr President.

SECRETARY FOR ECONOMIC SERVICES: Mr President, I would like to start by thanking the Honourable Steven POON and members of the Bills Committee for their painstaking and diligent scrutiny of the Telephone (Amendment) Bill 1992 and the Telecommunication (Amendment) Bill 1992 over the past three months. I am particularly grateful to members' assistance for according priority to this exercise thus enabling early implementation of the package of measures which we announced last year.

Members of the Bills Committee have made clear their support for the main thrust of the Administration's policy proposals, namely, the introduction of competition to the local fixed network and the replacement of the Hong Kong Telephone Company's former profit control scheme by a system of price capping. As Mr POON has pointed out, enactment of the Bills now before this

Council will mark an important milestone on the road towards further liberalization of our telecommunication markets.

Mr POON has urged us to keep up the momentum. We will. We have already made progress in implementing our policy proposals over the past few months. We are committed to the process of liberalization and we are determined not to let any grass grow under our feet.

I would just like to cite some of the examples which can substantiate what I have said. In September last year we invited those interested in operating competing local fixed network services to submit proposals. We have received seven bids, several of which include overseas participation, a level of interest which surprised many. I view this as a significant vote of confidence in Hong Kong's policy for telecommunications. A careful assessment of the bids is now underway and our aim is to award licences during 1993.

In late 1992 we commissioned a consultancy on how best to manage necessary changes to Hong Kong's telephone numbering system. The views of the public and of the industry are now being sought before final decisions are taken.

We have also been taking forward preparations for the establishment of the new office of the Telecommunications Authority which will take over responsibility for regulating the industry. I intend to submit the necessary staffing and financial proposals to the Finance Committee next month with a view to having the new office up and running from July.

Turning to the Bills and to the points made by Members, Mr POON has ably outlined the background to the Committee stage amendments which will shortly be put to Members. I fully endorse those amendments.

Mr POON has drawn attention to two areas of particular concern to Committee members. The level of the sub-caps within the overall price-cap of Consumer Price Index minus 4% which has been agreed with the Hong Kong Telephone Company and the need for adequate financial disclosure on the part of the Hong Kong Telephone Company and Hong Kong Telecommunications International.

I would like to first turn to the second point. Members have made clear the Committee's view that the minimum acceptable level of disclosure is that which would apply were the companies to be separately listed. I take note of this position. Our aim is to ensure publication of accurate, meaningful and easily understood financial data on exclusive services in a form appropriate to the nature of the business and to the particular regulatory arrangements being applied. We have been in discussion with Hong Kong Telecom on this issue and I can announce today that the Company has agreed to publish profit and loss results, together with the capital employed for the full range of services provided by the Hong Kong Telephone Company. This is a higher level of

disclosure than that provided for under the previous scheme of control. We are now finalizing details on the scope and manner of disclosure with the Company.

I would now like to turn back to price regulation. Mr LI, Mr POON and Mr LAU have raised concern over price capping. We believe we have convinced this Council of the merits of price capping as a form of regulation for the industry. Price capping delivers substantial benefits to consumers in restraining overall increases below inflation and in promoting efficiency. A price cap is transparent, easy to understand and it is a form of price regulation tried, tested and successfully used in countries which are liberalizing their telecommunications markets. Where concern arose, they centred on the level of the sub-cap ceiling to be applied to the residential line rental.

As Mr POON has said, a subcommittee of the House Committee has now been established to consider the price-cap regulations to be made under section 24 of the Telephone Ordinance. I look forward to working further with the subgroup and I am confident we shall be able to work out arrangements which will be acceptable to all. I would just like to make the point that in setting the sub-cap we must ensure that the benefits of our telecommunications reform package, the entire package, are spread evenly throughout the community.

We are committed to promoting efficiency in the delivery of services. At the same time I suggest we should work towards the gradual elimination of cross subsidies, and I emphasize the word "gradual". Whatever the short-term attractions of mandating the Hong Kong Telephone Company to provide residential lines at below operating costs, it would make this more difficult for competing networks to enter the market in 1995. If that happens the benefits of competition may be confined to telephone users in the business sector.

Also, I suggest we should not look at the sub-cap in isolation. It forms part of an overall package of regulatory reforms. From the consumers' viewpoint, perhaps the most attractive element is the weighted 12% IDD reduction which will take effect with the implementation of price capping and which will bring Hong Kong's international charges down to the lowest in the world. To the industry, equally significant, are the reforms announced for the international telecommunications sector, including the liberalization of our value added service regime and the ability of companies to self provide international telecommunication circuits in future for intra-corporate traffic.

I would like now to turn to the amendments that I intend to move at Committee stage. The first amendment to clause 7 of the Telephone (Amendment) Bill, I think Mr POON has referred to that and I shall say no further. We also propose to amend clause 14 of the Bill by adding section 21(1), after the words "Sections" to replace reference in that section to the Postmaster General with reference to the Telecommunications Authority.

The other Committee stage amendment relates to the Telecommunication (Amendment) Bill. Clause 7 of the Bill empowers the Telecommunications

Authority to determine the terms and conditions of interconnection between various specified categories of telecommunications operators. The proposed amendment includes specific reference to the future subscription television operator as being one of the parties covered.

With these remarks, Mr President, I commend to Honourable Members the Telephone (Amendment) Bill 1992 and the Telecommunication (Amendment) Bill 1992, subject to these amendments to be moved at Committee stage. Thank you.

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

Bill read the Second time.

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

TELECOMMUNICATION (AMENDMENT) BILL 1992

Resumption of debate on Second Reading which was moved on 16 December 1992

Question on Second Reading proposed.

MR STEVEN POON: Mr President, as mentioned in my speech earlier this afternoon, I support the Bill.

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

Bill read the Second time.

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

INTERPRETATION AND GENERAL CLAUSES (AMENDMENT)

BILL 1993

Resumption of debate on Second Reading which was moved on 28 April 1993

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

Bill read the Second time.

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

Committee stage of Bills

Council went into Committee.

BOUNDARY AND ELECTION COMMISSION BILL

Clauses 1, 4, 9, 11, 14, 15, 19, 22, 25 and 26 were agreed to.

Clauses 2, 3, 5 to 8, 10, 12, 13, 16 to 18, 20, 23 and 24

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Chairman, I move that the clauses specified be amended as set out in the paper circulated to Members.

The amendments to clause 2 are largely technical refinements to improve the definitions of "election" and "function".

Clause 3 is amended so that Judges of the Court of Appeal, in addition to High Court Judges, will be eligible for appointment as Chairman of the Commission. This will allow a larger pool of candidates and greater flexibility in the appointment. The amendment will also expressly provide that the Chief Justice should be consulted on the appointment.

To enhance the neutrality and integrity of the Commission, the disqualification provisions in clause 3 will be tightened as foreshadowed in my speech during the Second Reading debate.

The proposed clause 5(da) will facilitate the Commission in taking a more active role in dealing with complaints and irregularities relating to an election, poll or count.

Clause 6 is amended to specify the subject matters on which guidelines may be issued by the Commission, and to require the Commission to consult the public when drawing up the guidelines. The amendment will also require the Commission to take prompt action in dealing with any complaint relating to an issued guideline.

The amendments to clause 7 provide that the Commission may postpone or adjourn an election, poll or count for not more than two days on the ground of a material irregularity connected with an election. The Commission will be empowered to make regulations on the reporting of such material irregularities.

The amendment to clause 8 puts beyond doubt that the Commission must include any complaints it received during an election in its report to the Governor concerning that election. There is also a technical refinement to the Chinese terms for "general election" and "ordinary election". Similar technical amendment is proposed for clause 17.

The amendments to clause 10 restrict the power of the Commission to delegate important functions, and put beyond doubt that the Commission can still exercise its power over matters delegated.

Clause 12 is amended to extend the post-membership sanitation period from two to four years, and to disqualify a member from appointment as an election agent or subscription to a nomination form during his tenure in the Commission and the four years immediately afterwards.

The proposed clause 13(2) confers protection on the Commission from actions for defamation, and to extend that protection to any comments made by the Commission when referring public complaints to a law enforcement authority under clause 5(da).

The amendments to clauses 16 and 17 are proposed to accommodate the wishes of some Members that there should be provisions to explicitly provide that these two clauses shall apply only to geographical constituency elections. The Law Draftsman has advised that these amendments are in fact unnecessary: when read in context, there can be no doubt that clauses 16 and 17 apply only to geographical constituency elections. Nonetheless the Administration is prepared to make the amendments to remove any lingering concern Members may have.

The amendment to clause 18 is consequential upon the amendments to clause 21 which I will explain later.

Clause 20 is amended to extend the public consultation period from 28 days to 30 days, and to provide that the Commission may conduct public meetings, which should normally be open sessions, to receive representations on its provisional recommendations.

Clause 23 is amended to put beyond doubt that a decision to return to the Commission its report on constituency boundaries shall be made by the Governor in Council, and not the Governor alone. It will also make clear that there is no limit on the number of times a report may be returned by the Governor in Council for the Commission's further consideration.

The amendment to clause 24 makes clear that all reports on constituency boundaries submitted to the Governor, including reports that are returned to the Commission under clause 23, shall be tabled in this Council.

Mr Chairman, I beg to move.

*Proposed amendments***Clause 2**

That clause 2 be amended —

- (a) by renumbering it as clause 2(1).
- (b) in subclause (1) -
 - (i) in the definition of "election" by adding before "section 8" -
"the expressions "general election" and "ordinary election" in";
 - (ii) by deleting the definition of "function" and substituting -
""function" (職能) includes a power and a duty;";
 - (iii) by adding -
""election agent" (選舉代理人) has the meaning assigned to it by section 2 of the Corrupt and Illegal Practices Ordinance (Cap. 288);".
- (c) by adding -

"(2) Any reference in this Ordinance to the performance of a function includes a reference to the discharge of a duty or exercise of a power as the case may require."

Clause 3

That clause 3(3)(b) be amended, by adding after "High Court" -

"or a Justice of Appeal and shall be appointed in consultation with the Chief Justice".

That clause 3(5)(b) be amended —

- (a) in subparagraph (ii) by deleting "or" at the end.

- (b) by adding -
- "(iia) in the opinion of the Governor, actively engaged in politics; or".

That clause 3(5)(c) be amended —

- (a) by deleting "has been -" and substituting -
- "has, within the period of 4 years immediately before the date of appointment -".
- (b) in subparagraph (i) -
- (i) by adding "been" before "nominated";
- (ii) by deleting "within the meaning of section 2 of the Corrupt and Illegal Practices Ordinance (Cap. 288)".
- (c) in subparagraph (ii) by adding "been" before "an".
- (d) in subparagraph (iii) -
- (i) by adding "been" before "a";
- (ii) by deleting "or" at the end.
- (e) in subparagraph (iv) -
- (i) by adding "been" before "a" where it first appears;
- (ii) by deleting the comma at the end and substituting a semicolon.
- (f) by deleting everything after subparagraph (iv) and substituting -
- "(v) subscribed in any capacity to a nomination paper as regards an election; or
- (vi) in the opinion of the Governor, been otherwise actively engaged in politics;".

That clause 3(5)(d) be amended, by deleting "a period of 2 years" and substituting "the period of 4 years immediately".

That clause 3(5)(e) be amended, by deleting "the Chief Justice, a Justice of Appeal, judge of the High Court or District Judge" and substituting "a judge of the High Court or a Justice of Appeal".

Clause 5

That clause 5 be amended, by adding —

- "(da) without affecting the generality of section 6(2), bring to the notice of the appropriate authority or person with or without comments -
- (i) any complaint received by it; or
 - (ii) any occurrence which it considers a material irregularity, relating to an election, poll or count;"

Clause 6

That clause 6 be amended, by deleting subclause (1) and substituting —

- "(1) The Commission may issue guidelines -
- (a) relating to -
 - (i) the conduct or supervision of, or procedure at, an election;
 - (ii) the activities, in connection with an election, of -
 - (A) a candidate;
 - (B) an election agent or any other person assisting a candidate; or
 - (C) any other person;
 - (b) without affecting the generality of paragraph (a), relating to election expenses or the display of publicity materials in connection with an election; or
 - (c) relating to the procedure for making any complaint referred to in subsection (2).
- (1A) The Commission shall consult the public in relation to the guidelines referred to in subsection (1), in such manner as it may determine, unless it considers that such consultation is not practicable due to the existence of an urgent need to issue, revoke or amend a guideline."

That clause 6(2) be amended —

- (a) by deleting "may consider" and substituting "shall consider as soon as reasonably practicable".
- (b) by deleting "take such steps" and substituting "make such decision or take such action".

That clause 6 be amended, by deleting subclause (3).

Clause 7

That clause 7(1) be amended —

- (a) in paragraph (c) -
 - (i) in subparagraph (viii) by deleting "and" at the end;
 - (ii) in subparagraph (ix) by adding "and" at the end;
 - (iii) by adding -
 - "(x) the making of a report to the Commission by any person specified in the regulations, regarding any occurrence considered by such person as an irregularity relating to an election, poll or count;".
- (b) in paragraph (f) by adding after "nature" -
 - "or by an occurrence which appears to the Commission to be a material irregularity relating to the election, poll or count".
- (c) in paragraph (g) by adding after "danger" -
 - "or by an occurrence which appears to the Commission to be a material irregularity relating to the election, poll or count".
- (d) in paragraph (j) by adding "of" after "effect".

That clause 7(2)(ii) be amended, by deleting "shall be not later than 14 days" and substituting -

"in the case of a postponement or adjournment by reason of an occurrence which appears to the Commission to be a material irregularity relating to an election, poll or count, shall be not later than 2 days, and in any other case not later than 14 days,".

Clause 8

That clause 8(1) be amended, by deleting everything after "particular case," and substituting -

"make to the Governor a report -

- (i) on matters relating to that election in respect of which the Commission has any function under this Ordinance or any other enactment; and
- (ii) which shall, without affecting the generality of paragraph (i), include a report on any complaint made to the Commission in connection with that election."

That clause 8(1) be amended —

- (a) in paragraph (a), by deleting "一般選舉" and substituting "普通選舉".
- (b) in paragraphs (b) and (c), by deleting "普通選舉" and substituting "一般選舉".

That clause 8(5) be amended —

- (a) in the definition of "general election", by deleting "一般選舉" and substituting "普通選舉".
- (b) in the definition of "ordinary election", by deleting "普通選舉" and substituting "一般選舉".

Clause 10

That clause 10 be amended —

- (a) in subclause (1) -
 - (i) by adding "issue guidelines under section 6(1), or" before "make";
 - (ii) by adding "a duty to make a report under section 8 or" after "section 7,".
- (b) by adding -

"(3) A delegation under this section shall not preclude the Commission from performing the function so delegated."

Clause 12

That clause 12 be amended, by deleting subclause (1) and substituting —

"(1) Subject to subsection (2) -

- (a) a member during his term of office shall be disqualified from -
 - (i) being nominated as a candidate in respect of an election;
 - (ii) being appointed as an election agent; or
 - (iii) subscribing in any capacity to a nomination paper as regards an election; and
- (b) a person who has ceased to hold office as a member shall be disqualified during the period of 4 years beginning on the date he ceases to so hold office from -
 - (i) holding office as a member of a public body within the meaning of section 16(1);
 - (ii) being nominated as a candidate in respect of an election;
 - (iii) being appointed as an election agent; or
 - (iv) subscribing in any capacity to a nomination paper as regards an election."

Clause 13

That clause 13 be amended —

- (a) by renumbering it as clause 13(1).
- (b) by adding -

"(2) Without affecting the generality of subsection (1), it is declared that for the purposes of the law of defamation, any comment made under section 5(da) or the publication of any matter relating to a complaint made under section 6(2), in any communication, report or statement, in writing or otherwise, shall be absolutely privileged."

Clause 16

That clause 16(1) be amended, in the definition of "population quota" —

- (a) in paragraph (a), by deleting "elected members specified in" and substituting "members that may be elected to the District Boards pursuant to";
- (b) in paragraph (d) by adding "in respect of geographical constituencies" after "Council" where it secondly appears;
- (c) by deleting "in respect of or".

Clause 17

That clause 17 be amended, by adding "in respect of geographical constituencies," after "or (d)".

That clause 17 be amended, by deleting "普通選舉" and substituting "一般選舉".

Clause 18

That clause 18(1)(e) be amended —

- (a) by deleting "section 21(1)(a)(i)" and substituting "section 21(1)(b)".
- (b) by deleting "section 21(2)" and substituting "section 21(2C)".

Clause 20

That clause 20 be amended —

- (a) in subclause (1) by deleting "28" and substituting "30".
- (b) in subclause (2) by adding at the end -

"and specify in such notice an address to send any representations in writing for the purposes of this section".

- (c) by deleting subclause (4) and substituting -

"(4) Any person may make representations to the Commission as regards the proposed recommendations within the period of 30 days beginning on the date a notice under subsection (2) is published in the Gazette.

(4A) Representations under subsection (4) may be made in writing or at any meeting held under subsection (4B).

(4B) The Commission may hold meetings for the purpose of receiving representations under this section and any such meeting shall be open to the public except where the Commission considers it desirable that a meeting should not be open to the public.

(4C) The Commission may adopt such procedures as it may determine as regards a meeting held under subsection (4B) and shall notify the public in such manner as it thinks fit of the date, time and place of any such meeting."

Clause 23

That clause 23 be amended, by deleting the clause and substituting —

"23. Return of report

(1) The Governor may, after the Governor in Council has considered a report submitted under this Part in respect of a particular election, return the report for further consideration by the Commission of any recommendation contained in it.

(2) Where a report is returned under this section, the Commission shall make another report to the Governor, as regards the election concerned, within such period, not exceeding 3 months, as specified by the Governor.

(3) The Governor may return under this section the first report submitted in respect of a particular election or a further report submitted following the return of a report.

(4) Section 18 shall apply as regards a report made under subsection (2) subject to necessary modifications and as the circumstances may require.

(5) In this section, any reference to the return of a report includes a reference to the return of a part of a report or a map or maps submitted with a report, and this section shall be construed and have effect accordingly."

Clause 24

That clause 24(2) be amended, by deleting "a" where it first appears and substituting "any".

Question on the amendments proposed, put and agreed to.

Question on clauses 2, 3, 5 to 8, 10, 12, 13, 16 to 18, 20, 23 and 24, as amended, proposed, put and agreed to.

Clause 21

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Chairman, I move that clause 21 be amended as set out under my name in the paper circulated to Members.

For the reasons I have explained earlier, the Administration believes that for practical reasons the Commission should have the discretion to deviate, having regard to community identities and local ties, from the population quota by 25% when drawing up constituency boundaries. To meet Members' concern, however, clause 21 is amended to expressly provide that, as the first principle, the Commission shall ensure that the population per seat is as near as practicable to the population quota. This provision will help ensure that any deviation from the population quota is made only when absolutely necessary, having regard to the other demarcation criteria.

Mr Chairman, I beg to move.

Proposed amendment

Clause 21

That clause 21 be amended, by deleting subclauses (1) and (2) and substituting —

"(1) In making recommendations for the purposes of this Part the Commission shall -

- (a) ensure that the population in each proposed constituency in respect of a public body (divided by the number of members to be elected in respect of that constituency in the election next following the making of the recommendations) is as near the population quota for that public body as is practicable; and

- (b) where it is not practicable to comply with paragraph (a), ensure that the population in such proposed constituency (divided by the number referred to in paragraph (a)) does not exceed or fall short of the population quota for the public body concerned by more than 25% of that quota.
- (2) In making such recommendations the Commission shall have regard to -
- (a) community identities or the preservation of local ties; and
 - (b) physical features such as size, shape, accessibility and development of the relevant area or any part thereof.
- (2A) In making such recommendations the Commission shall ensure that -
- (a) in the case of an election referred to in section 17(b) or (c), each proposed constituency is a combination of 2 or more whole constituencies proposed in respect of an election referred to in section 17(a); and
 - (b) in the case of an election referred to in section 17(d), each proposed constituency is a combination of 2 or more whole constituencies declared in the immediately preceding order under section 3(1)(c) of the Electoral Provisions Ordinance (Cap. 367).
- (2B) In making such recommendations the Commission shall have regard to -
- (a) in the case of an election referred to in section 17(a), the existing boundaries of Districts, if proposals under section 19(1) have not been sent to the Commission; and
 - (b) in the case of an election referred to in section 17(b) or (c), the existing boundaries of the Urban Council area within the meaning of the Urban Council Ordinance (Cap. 101) and the Regional Council area within the meaning of the Regional Council Ordinance (Cap. 385) in addition to proposals (if any) sent under section 19(1).

(2C) The Commission may depart from the strict application of subsection (1)(a) or (b) only where it appears to it that a consideration referred to in subsection (2) renders such a departure necessary or desirable."

CHAIRMAN: The question is: That clause 21 be amended as proposed by the Secretary for Constitutional Affairs. Mr Martin LEE has also given notice to move an amendment to this clause. I shall first call upon Mr LEE to speak on the amendment proposed by the Secretary as well as his own amendment, but shall not ask Mr LEE to move his amendment unless the Secretary's amendment has been negatived. If the Secretary's amendment is approved that will by necessary implication mean that Mr LEE's proposed amendment is disapproved.

MR MARTIN LEE: Mr Chairman, the term "gerrymandering" has an interesting history. It originated in United States politics, deriving from the surname of Governor Elbridge GERRY of Massachusetts.

In 1812, Governor GERRY, in order to enhance the chances of his party winning the then forthcoming elections, took a map and divided the state into electoral constituencies designed to eliminate his opponents, the Federalist Party, at the polls. One of the electoral constituencies was so contorted that it looked like a salamander. It thus gave rise to the expression "Gerrymander."

The modern-day practice of gerrymandering is a persistent problem. This is how it works. If two adjacent electoral constituencies are both dominated by Party A, say, by 55% each, both of Party A's candidates would be expected to be elected. But Party A could well lose one of the two seats if the boundary between those constituencies is redrawn and the supporters of Party A are concentrated into one of the two constituencies so that Party A's candidate will have 80% support in one constituency, but only 30% support in the other constituency. The net result is that Party A will win only one seat — instead of two.

Unless laws are set up to ensure fairness, gerrymandering inevitably sets in and does great damage to a political system because it violates the most basic tenet of democracy: the right of citizens to equal representation.

Mr Chairman, in an open and democratic society, free and fair elections are a matter of course. And while Hong Kong has not always had a democratic society, since the 1991 elections, we have made great strides toward achieving democratic and accountable government.

The political situation in Hong Kong and the record of gerrymandering abuses in other democratic countries make clear the need for the amendment I have moved today.

Mr Chairman, the principal difference between my amendment and the Administration's amendment is that I propose that the margin of permissible deviation in drawing electoral constituencies be 15%, instead of 25%, as proposed by the Administration.

Though the demarcation of constituencies initially appears to be a narrow question of 10 percentage points, this issue has broad implications for the legitimacy of our elected representatives and the integrity of our electoral institutions.

My amendment seeks to preserve the principle of "one person, one vote," by specifying that in the drawing of the geographical constituencies for the 1995 Legislative Council elections, the Boundary and Election Commission should ensure that the population in any proposed constituency does not exceed or fall short of the population quota by more than 15%.

Mr Chairman, it must be obvious to all that every Hong Kong citizen's vote should have the same weight. It must be equally obvious that all electoral constituencies have equal population as far as possible. But by the Administration's proposal, one constituency could have 25% more than the population quota, while its adjacent constituency has 25% less, with the result that the discrepancy between these two adjacent constituencies could be as large as 66.66%.

Moreover, section 21(2) of the Bill allows for even further deviations from the Administration's proposed 25% discrepancy, where the Commission considers it "necessary or desirable to do so." Thus even with a 15% margin of deviation as proposed by me, the Commission has all the flexibility it needs.

The Administration favours the 25% margin of deviation because this would allow the constituencies to embrace the present administrative districts. I can see why the Administration favours this arrangement. But this is tantamount to sacrificing the basic principle of equality of vote for administrative convenience.

Some Members of this Council have expressed the view that they want certain districts, like Wan Chai, to be kept intact, so that all the people living in Wan Chai will be represented by a single legislator. But why? The Commission must make the ultimate decision on the drawing of boundaries for a specific constituency, and it may well be that the Commission will indeed keep Wan Chai intact, even if the margin of deviation is set at 15%. In any event, even if Wan Chai were to be split into two halves, it would only mean that there would be two legislators to serve the people of Wan Chai instead of one.

I have given Wan Chai as the example because it falls within the jurisdiction of Hong Kong Island East, and Mr MAN Sai-cheong and I are the two incumbents in this constituency. Surely, if anybody is to be prejudiced by this, it is either Mr MAN or I. But we both feel that on matters of principle, we

should ignore personal advantages. As legislators, it is our most fundamental responsibility to minimize the potential for political abuses and unfairness in elections not only now, but also after 1997.

Mr Chairman, if we permit a system that guarantees that some Hong Kong citizens have votes worth much more than others, the "one person, one vote" principle will be irrevocably damaged.

Since the drawing of fair electoral boundaries has been widely debated by other governments around the world, there are a number of international precedents for the amendment I propose today. Great Britain, the United States, Canada and Australia, among many other countries, have long had strict standards that must be followed when drawing electoral constituencies.

In the United States, for example, several landmark Supreme Court cases dealt with the right to vote and to have that vote count. In establishing the "one person, one vote" doctrine, the United States Supreme Court declared:

"To the extent that a citizen's vote is debased, he is that much less a citizen. The weight of a citizen's vote cannot depend on where he lives. A citizen, a qualified voter, is no more nor less so because he lives in the city or on the farm Citizens, not history or economic interests, cast votes [P]eople, not land or trees or pastures, vote."

Likewise, British law states that "the electorate of any constituency shall be as near the electoral quota as is practicable," in order to guard against violations of the principle of voting equality. Australian law also mandates that "in no case shall the quota [of electors] be departed from to a greater extent than one-tenth more or one-tenth less." And Canadian law states that "the population of each electoral district shall as close as reasonably possible correspond to the electoral quota."

In Australia and the United States, 10% is the maximum permissible deviation. Some states in the United States even insist on guidelines of no more than a 1% deviation in population. Certainly, the small size of Hong Kong makes a 15% limit quite easy to accommodate in practice, especially when compared with these much larger countries.

What all of these governments have in common is the determination that the equal value of votes should be the prime consideration in the demarcation of boundaries. And none of them has the equivalent of section 21(2) of the Bill, which allows the Commission to exceed the margin of permissible deviation.

Clearly, any drawing of district boundaries produces political results. Population groups are divided or combined in ways which will certainly affect the balance in the Legislative Council. Politicians naturally seek to gerrymander electoral boundaries, as far as they can do so, to remain in power.

Governor PATTEN has often reiterated his policy that there be "fair, open and acceptable arrangements for the elections in Hong Kong in 1994 and 1995." But the Administration's position that Hong Kong should have a margin of deviation of 25%, plus a further deviation under section 21(2), is sharply at odds with the Governor's statement.

The Administration has decided — counter to the decisions in democracies around the world — that the equal value of votes should not be the prime consideration in drawing electoral boundaries. This decision puts the Administration in an awkward situation. Once you leave the equality of votes behind, which of the many other considerations — such as geography, demography, economic and social groups, ancient traditions, or respect for incumbents of long experience — should take precedence?

The answer is that once you have abandoned the "one person, one vote" principle, you are on a slippery slope, with nothing as a guide but competing political interests.

I agree with the Administration that demarcation of constituency boundaries should not be decided solely on a single criterion. That is why I propose a 15% margin of deviation, a percentage that is more than large enough to take the many other important factors into account. But in the end, numerical equality of population between constituencies is still the best defence against gerrymandering or political abuse of the electoral system. The Administration, should it choose to put political interests or administrative convenience over the interests of Hong Kong citizens, will do grave damage to the principles that underpin democracy.

Mr Chairman, I firmly believe that the only reliable way to resist political pressures to produce a specific result is to adhere to the principle that all votes should be equal. In voting on the amendments today, I hope those of us in this Chamber who will stand for election in 1995 will not be affected by considerations of our own interest in getting elected or re-elected.

since all UDHK legislators will stand for re-election in 1995, my party is of course greatly affected by how boundaries are drawn. But however much we would like to maintain the *status quo* so as to enhance our own chances of being re-elected, our first and last consideration must be the voters of Hong Kong. We must ensure that our decision today will create confidence in the elections and in the results of those elections. And we must appreciate that we may well be doing Hong Kong a great disservice by getting all of us re-elected if our voters are not being fairly or equally represented.

On a final note, this week — despite the almost constant threat of Khmer Rouge violence — the people of Cambodia are turning out in great numbers to participate in their first free elections in more than 20 years. The fact that Cambodian citizens are willing to risk their lives to participate in democratic elections must have a message for us here today for the amendments we debate

today will go to the very heart of democracy: the right to vote and to have that vote count. I hope Members will join with me in guarding this principle, and vote for my amendment. But since the Administration's amendment will be put to the Council first, I urge Members to vote against it, for it is only when the Administration's amendment is negated that my amendment will be put to the Council.

CHAIRMAN: Members may, in their speeches, express their views on the amendments proposed by the Secretary for Constitutional Affairs as well as Mr LEE.

MR ANDREW WONG (in Cantonese): Mr President, clause 21 of the Bill lays down the criteria for demarcating constituency boundaries. The amendment moved by the Secretary for Constitutional Affairs (which is at odds with the amendment proposed by Mr Martin LEE) just now and that to be moved by Mr LEE are almost identical in both contents and wordings. The only difference lies in clause 21(1)(i) which provides for the maximum percentage of deviation from the population quota when drawing up constituency boundaries. The Secretary for Constitutional Affairs proposed 25%, a margin which he considers as appropriate. On the other hand, Mr Martin LEE held that it should be lowered to 15%. In other words, the difference is a matter of 25% and 15%. I fully agree with what Mr Martin LEE said just now in respect of his arguments on gerrymandering (I would rather call it "jelly-shape" demarcation). However, his arguments have nothing to do with the bone of contention: with regard to the proposed margins of 25% and 15%, which is better? The crux of the gerrymandering issue lies in where the demarcation power goes. At any rate, even if the margin of deviation is lowered to zero, that is, 0% deviation from the population quota, any Executive Chief in the future may still gerry mander the electoral constituencies. As a matter of fact, if passed, the Bill will empower an independent commission to make proposals, in the light of some of the principles now under discussion, to the Administration for consideration and put to this Council in the form of subsidiary legislation for endorsement. In view of this, the passage of the Bill by this Council today to become law will end people's worries about gerrymandering. I, therefore, think that the issue of gerrymandering is not the crux of today's debate.

I trust that the proposed amendment to clause 21(1) which provides that the population per seat is as near as practicable to the population quota may resolve completely many of the principle-related issues raised by Mr Martin LEE. The amendment is actually identical to the relevant law in the United Kingdom. Mr LEE has certainly touched on this but tactfully evaded the point that there is no provision in the British law on any margin of population quota deviation. I must point out that, in the case of the United Kingdom, things, as a whole, turn out to be quite satisfactory after the demarcation of boundaries by the boundary commission. In Australia and the United States, there is a 10% limit, or, in other words, a maximum permissible deviation of

10%. But these two countries may be the exceptions. In Canada (Mr LEE has tactfully mentioned it just now), the principle is that the population of each electoral district shall, as close as reasonably possible, correspond to the electoral quota. However, a deviation of 25% is permissible. In this connection, we should get the full picture of the story. Certainly, Mr LEE has a very strong argument: Hong Kong is a small place and this makes it possible to draw the electoral boundaries in the way as he proposed; as for countries with a vast territory, a larger margin of deviation should be allowed. However, I feel that if the deviation margin is rigidly set at, say, 0% or narrowed to 10% (Mr Martin LEE proposed 10% in his private bill moved in 1991 and the margin for two adjoining districts will be 5%), the electoral constituencies, whose boundaries are demarcated in this manner, will become iron-shaped instead of jelly-shaped. It will be a rigid arrangement, having no regard to other alternatives. In doing so, time will come when a single block of flats may be separated into two halves with the upper portion belonging to constituency A and the lower portion constituency B. There is every likelihood that such scenario will surface. Of course, Mr LEE is not suggesting that deviation from the 15% margin is completely out of the question. But I would like to point out that we must be realistic as we are just about to establish the independent Boundary and Election Commission.

Under the present arrangement, may the margin of deviation be set at 25% or 15%, exceptional arrangement is allowed in certain cases, if necessary. The relevant provisions can be found in clause 21(2): The Commission may depart from the strict application of clause 21(1)(a) or 21(1)(b) where it considers it necessary or desirable to do so. The Commission may also depart from the strict application of the subsection when it comes to making recommendations. Under such circumstances, I am afraid that if the margin of deviation is to be lowered further, there may lead to more exceptional cases (that is, irregular constituencies). Chances are that such exceptional cases may outnumber the regular ones no matter at what level we set the margin, be it 25%, 15%, 10% or 5% (the lower the margin of deviation, the more likely the occurrence of exceptions). This will not be a desirable situation at all.

In fact, I feel that the current arrangement in the United Kingdom is basically sufficient. It is true that we do not have an independent boundary and election commission. Yet all we have to do is to give the commission now we establish clear and unequivocal instructions, that is, to ensure that the population per seat is as near as practicable to the population quota. The relevant piece of law in the United Kingdom is the House of Commons (Redistribution of Seats) Acts 1986. The relevant provision states that: the electorate of any constituency shall be as near the electoral quota as is practicable. It is just so simple. Mr LEE also mentioned this provision just now and I think that such a provision is already good enough. As a matter of fact, the relevant legislation in Hong Kong is more stringent, not less, than that of the United Kingdom.

Mr Chairman, I am afraid that I cannot support Mr Martin LEE's amendment motion. I fully support the amendment moved by the Secretary for Constitutional Affairs.

MRS PEGGY LAM (in Cantonese): Mr Chairman, I rise to support the motion of the Secretary for Constitutional Affairs which he moved at the Committee stage of Bills to amend clause 21 and I oppose Mr Martin LEE's points of argument that he put forward just now. First of all, I want to make it clear that I come from Wan Chai district. Although not an elected legislator, I often echo the sentiment of Wan Chai residents to this Council because the residents think that no one speaks for them. Just now Mr Martin LEE mentioned Wan Chai district, so I would like to take this opportunity to say something about Wan Chai district, too. If one really has Wan Chai residents' interests at heart and represents them, one should pay attention to their opinions and realize that they have a strong sense of belonging towards Wah Chai.

Now I would like to return to the issue under discussion. During a meeting held on 23 April 1993, the ad hoc group on the Boundary and Election Commission Bill discussed and debated the related issues in detail and added some conditions to the original Ordinance. The majority of Members who attended the meeting expressed their support for the 25% margin of deviation as stipulated in the Bill. As Mr Andrew WONG has already expounded clearly why we should support the 25% margin of deviation, I do not intend to belabour the points.

Yet, I would like to point out that Hong Kong has been demarcated into 19 districts ever since the Government implemented the District Administration Scheme in 1982. Why did the Government do this? It was so demarcated out of consideration that the public had in the past no sense of belonging towards their own districts and indeed Hong Kong at large. For this reason, after the introduction of the Scheme, unflinching efforts have been made to encourage members of the public to take part in more district-level activities. After years of efforts, the public has developed a feeling of affection and belonging towards their own districts. Now, I am afraid, some districts will be re-demarcated beyond recognition if we rashly reduce the 25% margin of deviation. This is unfair to the residents and the Government's efforts over the years will go down the drain. This is obviously impractical. To establish a local community, apart from the population consideration, we also have to take into account other factors such as the maintenance of community relationship, the residents' sense of belonging as well as the characteristics and history of the community. Furthermore, we should not forget that the working population in some districts is especially large at day time and the community has to provide them with very important services. For this reason, we think the demarcation of districts cannot be solely determined by the number of electors. We should consider other criteria as well and make flexible arrangements.

Mr Chairman and honourable colleagues, I hope Members of this Council could consider the aforesaid points when they cast their votes in a moment. I definitely support all the points put forward by Mr Andrew WONG. Thank you.

DR TANG SIU-TONG (in Cantonese): Mr Chairman, the Honourable Martin LEE has just proposed amendments to clauses 21(1) and (2) of the Boundary and Election Commission Bill. The grounds in support of his amendments relate solely to the value of the votes, which grounds I find myself unable to agree.

Mr Andrew WONG has clearly refuted the arguments made by Mr LEE. I shall therefore just talk about the situation in Hong Kong. The Bill presented by the Administration proposes that the margin of population deviation in each constituency should not exceed 25% of the population quota. Such a proposal has been thoroughly debated in the Bills Committee in which a 15% margin was proposed but was negated by the majority. I respect the proposal put forward by the Honourable Member as being perfectly within his right to bring up again in today's Committee stage proceedings even though it had been negated in the Bills Committee. However, I feel that I should say something about the discussion held then and explain why 25% is more appropriate than 15%.

- (1) Some members of the Bills Committee requested the Constitutional Affairs Branch to draw up for reference electoral boundaries maps based on the 15% margin as proposed. After studying these maps carefully, members of the Committee found that if such a delineation method was used, originally integrated communities, Wan Chai for example, would be split into three, as a result of which the community in question would lose its identity and local ties. The disintegration of a well-established community would be contrary to the purpose of electing local representatives.
- (2) The Administration and members of the Bills Committee admitted that in delineating constituencies, one should take into consideration the community identities, local ties, sense of belonging as well as the physical features of the area in question or any part thereof, because the retention of such features forms the basis for social integration.
- (3) Both the Administration and the Bills Committee agreed that there should be even distribution of population among the electoral constituencies, and that the 25% deviation margin would be just a way for the Boundary and Election Commission to deal with matters in a flexible manner so that an integrated community would not be split up and torn to pieces. The 15% margin of deviation proposed just now had been put to test and proven to be not feasible, nor have I heard newer or better justifications in support of this argument today. As for the value of the votes, it is beyond doubt

that the value of each vote should be equal, and this is acceptable to us. However, when we look at elections in Hong Kong today, can we say that Councillors returned from functional constituencies each with an electorate of a few thousand people are inferior by several grades to Members returned by popular election from constituencies each with an electorate of tens of thousands of people? In so saying, would it not be indirectly denigrating the value and status of our colleagues from the functional constituencies? From the standpoint of the value of votes just mentioned, is there a difference in terms of grade between a Member elected with 2 000 votes and another elected with 1 000 votes? Does it mean that we have to grade our Members according to the number of votes they get?

It is clear to all of us that the aim of a district-based direct election is to elect someone who can represent the local community. Such a representative should be closely connected with the local residents, be sufficiently familiar with the local situation, have a sense of belonging to that community and enjoy great popularity among the residents. He/she should also have adequate knowledge of the affairs of Hong Kong. If boundaries are to be drawn purely on the basis of population quota, the constituencies thus delineated may include parts of different administrative districts. For example, parts of Sham Shui Po, Wong Tai Sin and Kowloon City can be grouped and combined to form a single constituency. Under such circumstances, local people virtually will have no chance of winning in an election, because very few people are able to enjoy popularity simultaneously in different administrative districts. Under such circumstances, it will be possible for members of political parties to play the game of "the carpetbagger" in the guise of the "paratrooper" with the support and influence of the political parties to which they belong as well as the publicity launched by the mass media. This will no doubt deprive independent candidates of the chance to win the election. Obviously, this amendment is proposed solely to further the interests of political parties and the personal gains of certain people.

Mr Chairman, with these remarks, I support the amendment moved by the Administration. Thank you.

CHAIRMAN: Mr CHEUNG Man-kwong, you wish to speak?

MR CHEUNG MAN-KWONG: Yes, Mr Chairman.

MR CHEUNG MAN-KWONG (in Cantonese): I thank you, Mr Chairman, for allowing me to speak without giving prior notice. I would like to respond to a few points made earlier by other Members which, I think, should be clarified or would otherwise render the voting result unfair.

- (1) I find Dr TANG Siu-tong's argument advanced just now that a 15% margin of deviation will split the Wan Chai constituency into three misleading. In fact, during the Bills Committee's discussion about the 25%, 15% or 10% margins of deviation, it was understood by all that they were only hypothetical criteria for the drawing of constituency boundaries. The independent Commission will draw the electoral constituencies in accordance with factors like geographical features and size of population at that time. So it cannot be definitely sure that Wan Chai will be split into three constituencies. For this reason, I find it not only inappropriate to use the argument of Wan Chai being split into three constituencies to stir up people's feelings about the fragmentation of their community in order to refute the amendments proposed by Mr Martin LEE, but it will also mislead many Members who have not attended the Committee's discussion.
- (2) We should know that the 25% margin of deviation is not a rigid upper limit, because this 25% is only a figure proposed in the Boundary and Election Commission Bill for setting a limit. If the Administration still cannot draw the boundary lines by using this limit, it will then handle the situation flexibly, but nobody knows how much flexibility will be applied. Let me take a simple example. In a constituency hypothetically drawn by the Administration where there is a 25% margin of deviation and flexibility has been applied, there are 380 000 voters. But in another constituency which has a margin of deviation below 25%, even with the flexibility applied by the Administration, there are only 200 000 voters. Just the difference of 180 000 voters between these two constituencies will suffice to constitute another constituency. In such circumstances, can it be said that each vote carries the same value?
- (3) Dr TANG has also argued that the functional constituencies have an even smaller number of voters. I can clearly say that the election system of the functional constituencies is not a fair one. I admit that even for my own functional constituency, which is the largest one, its election is also unfair. The fairest election will be direct election conducted on the basis of one person one vote with each vote carrying the same value. We cannot use the example of an unfair election system to argue for the Bill before us today.
- (4) Dr TANG has said that the acceptance of Mr Martin LEE's amendments will lead to an unnecessary division of constituencies and the consequent fragmentation of communities. I find such an argument inconsistent with the development of our election system.

It is well known that under the existing election system there are only 18 directly elected seats. In the next election, there will most likely be 20 directly elected seats. But ultimately, a day will come when all 60 seats will be directly elected. So when it comes to drawing the boundaries of constituencies in future, division is an unavoidable trend and so is the gradual division of large constituencies into smaller ones. Today someone has taken Wan Chai as an example and said that that district will be fragmented. But in fact, all the districts and constituencies, no matter whether they be in Hong Kong Island, Kowloon or the New Territories, will be gradually divided into smaller ones with the increase of directly elected seats. So to use the division of constituencies and the fear of it as the reasons for raising objection today is an unnecessary promotion of regionalism. I think that it will be detracting from the wisdom of our voting population to say that such divisions are advantageous to large political parties and to party politics but disadvantageous to independent candidates. The public will vote for a candidate not simply because he belongs to a certain political party. Quite the contrary, they may sometimes even not vote for him. For example, if the performance of the United Democrats of Hong Kong should become poor one day, then the voters would vote against them. So whether a candidate, be he a political party member or an independent candidate, can win votes is not dependent on membership of any political party, but mainly on the performance of his party or himself and on whether he really deserves the votes.

Mr Chairman, I disagree with Dr TANG's point of view, and I support Mr Martin LEE's amendments.

CHAIRMAN: Does any other Member wish to speak?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Chairman, I thank Mr Andrew WONG for stating so very eloquently the theoretical and practical arguments against Mr LEE's amendment. I also thank Mrs Peggy LAM and Dr TANG for their arguments and for setting out so clearly the importance of preserving and enhancing district identity and they spoke from their experience. Thus all I need to say is to emphasize again the need to strike a balance between equal representation of an equal number of people on the one hand, and on the other hand other demarcation criteria which are no less important. The Administration believes that a 25% margin of deviation from the population quota, together with the amendment I earlier proposed to clause 21, represents a sensible and practicable balance.

Contrary to what Mr LEE has said, other overseas countries, such as Canada, do have provisions similar to our clause 21(2c) in their electoral laws which allow the boundary commission to exceed the margin of population deviation. A lower margin of deviation, such as that proposed by Mr LEE, will unduly tie the hands of the Commission, resulting in serious disruption to

established communities. The Administration is therefore unable to support Mr LEE's amendment.

CHAIRMAN: As we are in Committee, a Member under Standing Order 28 may speak more than once. I understand Mr LEE wishes to deal with some of the points raised against his proposals.

MR MARTIN LEE: Mr Chairman, I shall be brief. Let me thank Mr CHEUNG Man-kwong for having dealt with so many fallacious points raised against me even though they seemed to be greatly appreciated by the Secretary for Constitutional Affairs.

In reply to what Mr Andrew WONG said, I would just like to point out that gerrymandering, of course, is the act of bringing about unfair results in elections by drawing a funny line across constituencies. Can we imagine what would have happened if Governor GERRY had been given the sort of flexibility which is now being proposed by the Administration in the year 1812? I think if we could give 25% more or 25% less than the electoral quota in drawing those lines, then the shape of that particular constituency could be as shapely as a Coca Cola bottle but is not as ugly as a salamander, because it would have given that extra flexibility which, unfortunately, Governor GERRY did not enjoy in 1812. So perhaps the word would no longer be "gerrymander" but it would be "gerrycola".

As for the speech made by my honourable colleague, Mrs Peggy LAM, she is, of course, the chairperson of the Wan Chai District Board. But as far as representation in this Council is concerned, I have to remind her that it is only Mr MAN Sai-cheong and I who represent Wan Chai. And indeed if Mrs LAM also lives in that area she is also represented by Mr MAN and me in this Council. If we are not seen to be doing a good job for the people of Wan Chai — which is what Mrs LAM seemed to be insinuating — then let those people vote against us if we should stand again, and if Mrs LAM were to stand for direct election in the district of Wan Chai in 1995, let the people elect her. But until that time, I am afraid Mr MAN and I represent the people of Wan Chai.

Question on Secretary for Constitutional Affairs' amendment put.

Voice vote taken.

CHAIRMAN: The Committee will proceed to a division.

CHAIRMAN: Would Members now please proceed to vote?

CHAIRMAN: One Member appears not to have registered.

MR TAM YIU-CHUNG (in Cantonese): Mr Chairman, I have only pressed the "Present" button. I do not intend to cast my vote.

CHAIRMAN: The system works in the sense that we show the number of persons present. So Mr TAM should have been shown as present. But we show only 44 and there seem to be 45, by head count. Well, I will not defer the display any further. Do Members have any queries? If not, the results will now be displayed.

The Chief Secretary, the Attorney General, the Financial Secretary, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr PANG Chun-hoi, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Dr LEONG Che-hung, Mr Jimmy McGREGOR, Mrs Elsie TU, Mr Peter WONG, Mr Vincent CHENG, Mr Timothy HA, Mr Eric LI, Mr Fred LI, Mr Steven POON, Dr Samuel WONG, Mr Howard YOUNG, Mr WONG Wai-yin, Dr TANG Siu-tong and Mr Roger LUK voted for the amendment.

Mr Martin LEE, Mr SZETO Wah, 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 James TO, Dr YEUNG Sum, Miss Christine LOH and Ms Anna WU voted against the amendment.

Dr Philip WONG abstained.

Mr TAM Yiu-chung indicated his presence.

THE CHAIRMAN announced that there were 27 votes in favour of the amendment and 16 votes against it. He therefore declared that the amendment proposed by the Secretary for Constitutional Affairs was approved.

CHAIRMAN: The Committee has now agreed that clause 21 be amended as proposed by the Secretary for Constitutional Affairs. I will not call Mr LEE to move his amendment.

Question on clause 21, as amended, proposed, put and agreed to.

New clause 9A Appointees of the Commission

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

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Chairman, I move that a new clause 9A as set out in the paper circulated to Members be read the Second time.

The new clause 9A is needed in order to allow our legal officers to represent appointees of the Commission who are not civil servants on matters arising from the performance of their official functions. These appointees, unlike members of the Commission and the Chief Electoral Officer, are not covered by existing legislation which deals with representation by legal officers. The new clause will not restrict the appointees from seeking representation by persons other than our legal officers.

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

Clause read the Second time.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Chairman, I move that new clause 9A be added to the Bill.

Proposed addition

New clause 9A

That the Bill be amended, by adding —

"9A. Appointees of the Commission

A member of the staff provided under section 9(3) or any person appointed by the Commission shall be regarded as a public servant for the purposes of the Legal Officers Ordinance (Cap. 87)."

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

Schedules 1 and 2

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Chairman, I move that schedules 1 and 2 be amended as set out in the paper circulated to Members.

*Proposed amendments***Schedules 1 and 2**

That schedule 1 be amended —

(a) in section 1 -

- (i) in subsection (4) by adding "as soon as practicable" after "shall";
- (ii) by adding -

"(8) Where a member ceases to hold office due to disqualification pursuant to section 3(5)(b)(iia) or (c)(vi) of this Ordinance, the cessation shall be deemed to operate from the date of the notice under subsection (7)."

(b) in section 2 -

- (i) in subsection (3) by deleting "At" and substituting "Subject to subsection (6), at";
- (ii) by deleting subsection (6) and substituting -

"(6) Any decision relating to -

- (a) the issue of guidelines under section 6(1) of this Ordinance; and
- (b) the making of -
 - (i) regulations under section 7 of this Ordinance;
 - (ii) a report for the purposes of section 8 of this Ordinance; or
 - (iii) recommendations for the purposes of Part V of this Ordinance (including provisional recommendations),

shall be made at a meeting of all the members (excluding any member who is unable to perform the functions of his office as described in section 1(5)) of the Commission for the time being."

Schedule 2

That schedule 2 be amended —

(a) in item 1 by adding -

"(pa) In section 29(1)(a) add -

"(iii) any material irregularity relating to that election or poll or count in respect of that election; or".

(b) in item 2 by adding -

"(va) In section 30(1)(a) add -

"(iii) any material irregularity relating to that election or poll or count in respect of that election; or".

Question on the amendments proposed, put and agreed to.

Question on schedules 1 and 2, as amended, proposed, put and agreed to.

PILOTAGE (AMENDMENT) BILL 1993

Clauses 1 to 13 were agreed to.

TELEPHONE (AMENDMENT) BILL 1992

Clauses 1, 2, 4 to 6, 8 to 13, 15 and 16 were agreed to.

Clause 3

MR STEVEN POON: Mr Chairman, I move that clause 3 of the Telephone (Amendment) Bill 1992 be amended as set out under my name in the paper circulated to Members.

As mentioned in my speech at the resumption of the Second Reading debate, the scope of compensation to affected owners/occupiers should not be restricted to physical damage only. The deletion of clause 3 will remove this restriction from the Bill. A similar amendment will be proposed to the Telecommunication (Amendment) Bill.

Mr Chairman, I beg to move.

Proposed amendment

Clause 3

That clause 3 be amended, by deleting the clause.

Question on the amendment proposed, put and agreed to.

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

Clauses 7 and 14

SECRETARY FOR ECONOMIC SERVICES: Mr Chairman, I move that clauses 7 and 14 of the Telephone (Amendment) Bill 1992 be amended as set out under my name in the paper circulated to Members.

Having regard to Members' comments on the broadness of the powers of the Telecommunications Authority under the Bill, clause 7 is now amended with the deletion of the words "any part of".

The proposed amendment to clause 14 adds section 22(1) to the list of sections in the Telephone Ordinance where reference to the Postmaster General is to be replaced by reference to the Telecommunications Authority. This is preparation for the establishment of the new regulatory body for telecommunications.

Mr Chairman, I beg to move.

Proposed amendments

Clause 7

That clause 7 be amended, in the proposed section 25A, by deleting "any part of".

Clause 14

That clause 14 be amended, by adding "22(1)," after "Sections".

Question on the amendments proposed, put and agreed to.

Question on clauses 7 and 14, as amended, proposed, put and agreed to.

New clause 2A Section substituted

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

MR STEVEN POON: Mr Chairman, I move that the new clause 2A as set out under my name in the paper circulated to Members be read the Second time.

For the reasons given at the Second Reading debate, it is proposed that the requirement for directors and staff of the Hong Kong Telephone Company to be "Commonwealth citizens" be removed. The new clause will have the effect of deleting all such references in the Telephone Ordinance.

Mr Chairman, I propose to move.

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

Clause read the Second time.

MR STEVEN POON: Mr Chairman, I move that clause 2A be added to the Bill.

Proposed addition

New clause 2A

That the Bill be amended, by adding —

"2A. Section substituted

Section 4 is repealed and the following substituted -

**"4. Company to remain registered under
the Companies Ordinance (Cap. 32)**

(1) The company shall remain registered under the Companies Ordinance (Cap. 32).

- (2) The directors shall be bona fide resident in Hong Kong."."

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

TELECOMMUNICATION (AMENDMENT) BILL 1992

Clauses 1 to 3, 5, 6 and 8 to 10 were agreed to.

Clause 4

MR STEVEN POON: Mr Chairman, I move that clause 4 of the Telecommunication (Amendment) Bill 1992 be amended as set out under my name in the paper circulated to Members.

The proposed amendment will ensure that the private right of owners/occupiers of land are protected in that they should receive reasonable notice of intention to enter upon their land. As in the case of the Telephone (Amendment) Bill 1992, the restriction to physical damage for compensation will also be removed.

Mr Chairman, I beg to move.

Proposed amendment

Clause 4

That clause 4 be amended, by deleting everything after "amended" and substituting —

"by repealing "shall do as little damage as possible and full" and substituting -

"shall -

- (a) give reasonable notice to the owner of any land or to the person in control of any land of his or its intention to enter upon that land; and
- (b) do as little damage as possible, and full"."

Question on the amendment proposed, put and agreed to.

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

Clause 7

SECRETARY FOR ECONOMIC SERVICES: Mr Chairman, I move that clause 7 of the Telecommunication (Amendment) Bill 1992 be amended as set out under my name in the paper circulated to Members.

The proposed amendment ensures that the future subscription television operator licensed under the Television Ordinance will be brought within the scope of this clause which gives the Telecommunications Authority powers to determine terms and conditions of network interconnection.

Mr Chairman, I beg to move.

Proposed amendment

Clause 7

That clause 7 be amended, in the proposed section 36A(3)(a), by adding "or, deemed to be licensed by the Governor in Council under this Ordinance by virtue of section 8(3) of the Television Ordinance (Cap. 52)" after "34".

Question on the amendment proposed, put and agreed to.

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

INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) BILL 1993

Clauses 1 and 2 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

BOUNDARY AND ELECTION COMMISSION BILL

TELEPHONE (AMENDMENT) BILL 1992 and

TELECOMMUNICATION (AMENDMENT) BILL 1992

had passed through Committee with amendments and the

PILOTAGE (AMENDMENT) BILL 1993 and

INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) BILL 1993

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

PRESIDENT: I will take the Boundary and Election Commission Bill separately from the other four Bills. The question is that the following four Bills be read the Third time and do pass:

PILOTAGE (AMENDMENT) BILL 1993

TELEPHONE (AMENDMENT) BILL 1992

TELECOMMUNICATION (AMENDMENT) BILL 1992 and

INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) BILL 1993

Question on the four Bills put and agreed to.

Bills read the Third time and passed.

PRESIDENT: The question is that the following Bill be read the Third time and do pass:

BOUNDARY AND ELECTION COMMISSION BILL

Voice vote taken.

DR PHILIP WONG: Mr President, I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Would Members now please proceed to vote?

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

The Attorney General, the Financial Secretary, Mrs Selina CHOW, Mr Martin LEE, Mr NGAI Shiu-kit, Mr PANG Chun-hoi, Mr SZETO Wah, Mr Andrew WONG, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Dr LEONG Che-hung, Mr Jimmy MCGREGOR, Mrs Elsie TU, Mr Peter WONG, Mr Albert CHAN, Mr Vincent CHENG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Timothy HA, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr Steven POON, Mr James TO, Dr Samuel WONG, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong, Miss Christine LOH, Mr Roger LUK and Ms Anna WU voted for the motion.

Mr TAM Yiu-chung and Dr Philip WONG voted against the motion.

THE PRESIDENT announced that there were 41 votes in favour of the motion and two votes against it. He therefore declared that the motion on the Third Reading of the Boundary and Election Commission Bill was carried.

Bill read the Third time and passed.

Members' motions

PRESIDENT: I have accepted the recommendation of the House Committee as to time limits on speeches and Members were informed by circular on 22 May. The mover of the motion will have 15 minutes for his speech including his reply and another five minutes to reply to proposed amendments. Other Members, including movers of amendments, will have seven minutes for their speeches. Under Standing Order 27A, I am required to direct any Member speaking in excess of the specified time to discontinue his speech.

SINO-BRITISH TALKS

DR YEUNG SUM moved the following motion:

"That this Council urges the British and Hong Kong Governments to make known to the people of Hong Kong the agenda and progress of each round of Sino-British talks during the course of their negotiation on the electoral arrangements for the 1994/95 elections so as to increase the transparency of the Sino-British talks and to alleviate the worry of the people of Hong Kong about the secrecy of the talks between China and Britain."

DR YEUNG SUM (in Cantonese): Mr President, I move the motion standing in my name in the Order Paper. Mr President, the course of the Sino-British talks has been like the weather. Sometimes, the sun shines. Sometimes, it rains.

Changes are frequent and unpredictable. One feels lost as in a thick fog. The result is not only a volatile stock market but a population of Hong Kong more worried about the future. And there are three different reactions among colleagues in this Council to the jitters. In the first case, the reaction has been based on how the Chinese side reacts. When the Chinese side took the position of calling Governor Chris PATTEN's constitutional package a "three violations" package, some colleagues threw their weight behind such a position and voiced their support unreservedly. In the second case, some colleagues have reacted by putting forward new political reform initiatives that are in line with the Basic Law. They have done so despite the fact that at one time they themselves called for amending the Basic Law and would not support convergence for the sake of convergence. Their rationale is that "If you cannot beat them, join them". And they hope that they may gain some political mileage from their move. In the third case, some colleagues have reacted by remaining steadfast and putting up a good fight on just grounds. They face tension and uncertainty with composure, equanimity and restraint. For them, the occasion is an opportunity to win democracy for the people of Hong Kong.

Mr President, for Hong Kong, this is the best of times and the worst of times. It is the worst of times because China and the United Kingdom may, in their mutual interests, make a deal behind the backs of the people of Hong Kong. They may put their own interests over the interests of the people of Hong Kong, whose demand for democracy will thus be disregarded, as will also be their right to participate. It is the best of times because the people of Hong Kong may be able, by adhering firmly to their position in their fight for democracy, human rights, rule of law and freedom, by displaying that they are their own master and give full play to the idea of "Hong Kong people ruling Hong Kong", and by uniting as one body, to hold fast to their position and to strive for the opportunity to govern Hong Kong and for other rights. At a public forum the other day, a member of the audience was applauded for saying that she would rather be a colonial subject than a subject of a dictatorial government. After listening to her, I felt heavy in my heart. I believe that those who share her view will be unhappy to live under the dictatorial rule of the Chinese Government. They feel that, under current British colonial rule, even though democracy is limited, they at least can live in freedom and lead a peaceful life. Their applause was from the bottoms of their hearts. Personally, I think that the unequal treaties cannot be extended indefinitely and must come to an end sooner or later. And so does colonial rule. But there will be no democracy, rule of law or respect for human rights under the Chinese regime. No wonder the people are worried about the future of Hong Kong. This is perfectly understandable. However, I want to point out that we cannot entrust our future to foreigners for ever. We cannot count on them for ever to protect our human rights and liberties. Nor is Governor PATTEN an exception, though he is hailed abroad as a pro-democracy fighter. He is sent from the United Kingdom and accountable to the British Prime Minister. He inevitably tends to attach greater importance to the interests of the United Kingdom. I believe that, when the interests of China, the United Kingdom and Hong Kong are in conflict, the interests of the United Kingdom will come first in his heart

while the interests of Hong Kong is secondary. To be sure, who he is does not always decide what he will consciously do. But will Governor PATTEN protect the interests of the people of Hong Kong? Time will tell.

Mr President, in face of the prospects, I would like to use the occasion of the present debate to put forth to the Chinese and the British Governments the demand for "Hong Kong people ruling Hong Kong". The Chinese and the British Governments must throw away their pre-formed views, co-operate in the interests of the people of Hong Kong, implement the Sino-British Joint Declaration and the reasonable parts of the Basic Law, set up a democratic political system and let the people of Hong Kong take part in the governing of Hong Kong. They should let the people of Hong Kong elect their own representatives democratically, representatives who will manage Hong Kong affairs on their behalf. Such representatives who are elected democratically by the people of Hong Kong should of course be accountable to the people of Hong Kong. This is the sure way to establish a credible government with legitimation. The early establishment, through Sino-British co-operation, of a system of government in fulfillment of the promise of "Hong Kong people ruling Hong Kong" will help to groom qualified Hong Kong people for governing Hong Kong. It will also further enhance the civic awareness of the people of Hong Kong.

Democracy can be established in Hong Kong, and qualified persons for governing Hong Kong groomed only when there is co-operation between China and the United Kingdom. This is very important to China, to the United Kingdom as well as to Hong Kong itself. The Chinese Government will then be able to remove the worry of the people of Hong Kong about the future; its international image will be greatly improved and its international status will be firmly established. Clearly, the success of the "one country, two systems" concept will produce positive and beneficial effects on the Chinese Government. The British Government will be able to get rid of its stain of colonial history and retreat with honour. As for the people of Hong Kong, they will be able to face their future with a fresh outlook. They will stand up together to assume their responsibilities. They will work together along the principles of democracy, freedom, human rights and rule of law and build a Hong Kong that enjoys a high degree of autonomy within the framework of the "one country, two systems" concept, to make significant contribution to the Chinese people and to Chinese history.

Mr President, the Sino-British talks on Hong Kong's political system are integral to my demand put forward above for "Hong Kong people ruling Hong Kong". In line with the principle of "Hong Kong people ruling Hong Kong", the people of Hong Kong should have the right to be informed of, the right to participate in, and the right to make decisions about the Sino-British talks on Hong Kong's political system. The present debate stresses the right to be informed. The points I have just made is to make it clear that the Hong Kong people's right to be informed of the talks on Hong Kong's political system must be based on the principle of "Hong Kong people ruling Hong Kong" with "a

high degree of autonomy". The right to be informed primarily requires that China and the United Kingdom make public the agenda and progress of each round of talks. Making the agenda known to the people of Hong Kong means telling them what are discussed between the two countries. If they know the agenda now, they will be able to tell later what progress the talks have made. Progress of the talks means three things: what consensus has been reached, what differences remain and what problems are yet to be solved. My motion does not require the Chinese and the British Governments to tell the people of Hong Kong everything, big or small, about the talks, as such a request would probably be unrealistic. However, I feel that the request to make public the agenda and progress of every round of talks is fair, reasonable and legitimate. I hope that all colleagues in this Council will support the motion and work to make the Sino-British talks transparent.

Dr TANG Siu-tong's amendment strikes me as a superfluous request. He only wants the outcome of the talks to be announced after these talks have achieved results. Actually, if an agreement is reached between China and the United Kingdom, we can be quite certain that the Government of Hong Kong will introduce it to the Legislative Council for its endorsement. I would be surprised if the Hong Kong Government refrains from doing so when the time comes.

Mr President, colleagues from the United Democrats of Hong Kong will speak on the following topics: Hong Kong people's worry about, and dissatisfaction with, the talks, possible sell-out of the interests of the people of Hong Kong, misgivings about democratic development and the importance of the talks.

Mr President, with these remarks, I beg to move.

Question on Dr YEUNG Sum's motion proposed.

PRESIDENT: Dr TANG Siu-tong 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.

DR TANG SIU-TONG moved the following amendment to Dr YEUNG Sum's motion:

"To delete all the words after "This Council urges the British and Hong Kong Governments" and substitute the following:

"to publish in full the outcome of the Sino-British talks on the future development of Hong Kong's political system once these talks have achieved results so as to attain the maximum level of transparency and

dispel unnecessary speculation on the Sino-British talks by the people of Hong Kong."

DR TANG SIU-TONG (in Cantonese): Mr President, I rise to move an amendment to the Honourable YEUNG Sum's motion as set out in the Order Paper.

While the whole population of Hong Kong was waiting, China and the United Kingdom finally resumed their talks in late April. I very much hope that the talks will lead to an agreement soon, thus resolving a political dispute that has dragged on for eight months. The purpose of the Honourable YEUNG Sum's motion is to increase the transparency of the talks. The spirit of his motion merits support. The talks this time have a bearing on the interests of the entire population of Hong Kong. We need to have the right to be informed. We need the highest degree of transparency for the talks. Since the future of Hong Kong became an issue 10 years ago in 1983, the British and the Hong Kong Governments have had what can be called "numerous previous convictions". The views of the people of Hong Kong over the issue have not been fully considered or accommodated; they have merely become a bargaining chip for the United Kingdom. Therefore, I fully agree that the people of Hong Kong should have the right to be informed of what goes on in the present talks, lest they be sold out by the British Government once more.

We need to have the right to be informed of what goes on in the present talks. But when are we to be informed? How much are we to know? My amendment will primarily answer these two questions. To put it simply, the key words of my amendment are "once" in the phrase "once these talks" and "full" in the phrase "publish in full". I think that it is appropriate that the agenda and outcome of the talks should be published immediately and in full once these talks are over. The talks this time involve very complex and difficult problems. If these problems are to be resolved, if an agreement is to be reached, the two sides must be cool, rational and conciliatory. The motion, as moved, calls for an announcement after each round of talks. This will undoubtedly turn the talks into some kind of a public debate, the outcome of which will be either "yes" or "no". But the talks are not as simple as that. The two sides must bargain, find out what are important and what are not and accommodate each other. Turning the talks into a debate will reduce the chances of reaching an agreement. Besides, any stalemate in the talks will then fuel unnecessary speculation, cause unnecessary panic and shock waves and subject the two parties to the talks to criticism and pressure. This will impede the talks. More seriously, unless each side finds a graceful way to back down, it will ruin the talks. Now, three rounds of talks have been held. Though nothing has been announced about the agenda or about what progress has been made, no particular sign of panic has been in evidence. On the contrary, during the period from 11 April, when the resumption of the talks was announced, to 24 May, that is, during the month when three rounds of talks were held, the Hang Seng Index moved higher and higher, setting one new record after another, rising by 858 points from 6 418 to

7 276. This shows that the people of Hong Kong are very optimistic about the talks.

During the past few days, I conducted in my constituency a telephone survey and a questionnaire survey, so as to sample the views of residents and district board members on the issue that is the subject of today's motion. 157 of the 450 respondents, or 34.9% of all respondents, thought that the outcome of the talks should be announced in full once these talks were fruitful. 129 of them, or 28.7% of the total, thought that an announcement should be made after each round of talks. 164 respondents, or 36.4% of the total, gave no views. True, these were not fully scientific surveys. Still, they showed that respondents generally favoured a peaceful atmosphere for the talks and did not want to see the talks ruined.

How much of the outcome of the talks should be published? I request that it be published in full. I stress the word "full." I do not want a filtered announcement dealing with a particular issue. The talks this time will probably touch on other important issues, such as the convergence of the executive branch of government. The wording of the motion, as moved, gives the British and the Hong Kong Governments a chance to play word games. It allows them to publish the outcome of the talks selectively, revealing the outcome on some issues while concealing the outcome on others. I learnt from the media that a Legislative Council colleague of ours, the Honourable Frederick FUNG, visited Beijing first and then London in the past days. Mr LU Ping, Director of the Hong Kong and Macau Affairs Office of China, made a promise to him to publish the outcome of the talks in full once they were over. But Mr Douglas HURD, British Foreign Secretary, refused to make a similar undertaking. Why? It appears that we are indulging in wishful thinking if we assume that the British Government will make a full announcement after the talks are over. At least, Mr HURD has refused to make such a promise. The matter of the seven diplomatic letters exchanged between China and the United Kingdom is still fresh in everybody's mind. Those who were Executive Council Members at the time are now gagged by the rule of confidentiality. This has indirectly helped the British Government to conceal the truth. There is nothing that they can do. But we the people of Hong Kong can do even less. The public opinion collected by the Survey Office of the Hong Kong Government, as well as the results of debates in this Council, are all facades. They are used by the British Government as bargaining chips. The United Kingdom has deceived us once. It will probably try to deceive us again. But we do not want the same thing to happen again. Nor will we give the United Kingdom another chance. Therefore, there are loopholes in the wording of the motion as moved and it must be amended so that the loopholes may be filled.

As representatives of the people, we must do more than heed their reasonable views. We must also act as guiding lights when major principles are at issue. We must lead the public onto the right track. Some colleagues misunderstand my reason for proposing the amendment. They think that I will be glad to be kept in the dark by the British Government. I must stress that

nobody wants to be sold out. Still less may the overall interests of the 6 million people of Hong Kong be sold out or impaired. My purpose in proposing the amendment is to seek the maximum degree of transparency for the talks and to make sure that the talks will proceed smoothly.

Mr President, with these remarks, I move the amendment.

Question on Dr TANG Siu-tong's amendment proposed.

MRS SELINA CHOW (in Cantonese): Mr President, on 17 May, the day before his sudden collapse, our good friend and colleague, Stephen CHEONG, raised among us Legislative Council Members of the Liberal Party the question whether or not we should move an amendment to today's motion by adding "only if such disclosure would not jeopardize the satisfactory conclusion of the Sino-British talks". This suggestion by Stephen fully reflected his concern for Hong Kong during the transition. Stephen, like many other people of Hong Kong, deeply felt on the one hand the importance we attach to and the concern we have for the current talks because it is our political system that these two sovereign states are discussing. The talks will have a significant impact on our development. We are of course keen to know the progress of these talks. But on the other hand, we treasure these talks that have started for they were not easy to come by. That they have started is the result of efforts put in by many parties. Besides the great majority of Hong Kong people hope the talks will succeed in arriving at a set of arrangements acceptable to China, Britain and Hong Kong people. I believe the people of Hong Kong would not wish to see anything happen that would jeopardize the talks.

Colleagues from the Liberal Party discussed the motion and Stephen's suggestion from a number of angles. In the end, we unanimously agreed not to move an amendment, for we believe what the motion urges for is justified. We also believe this Council owe it to Hong Kong people to express their wishes. In fact, after each round of talks there were news announcements by China and Britain separately or informal, unattributed briefings where news was given to the media. As an alternative, would it not boost our confidence in the talks if a spirit of co-operation were manifested to meet Hong Kong people's demand for more information? We also trust that the Chinese and British sides are sincere in finding common ground. Therefore, on the premise that the talks need to be kept in strict confidence in order to ensure success, we need not harbour any reservation, because to ensure that the talks be conducted smoothly and at the same time to maintain accountability to the people of Hong Kong involve a very delicate balancing act — one which can only be decided on by the Chinese and British sides who shall be responsible. Although this Council and the Government are obliged to fight on behalf of Hong Kong people for the greatest degree of transparency, we have decided against moving an amendment after balancing the pros and cons as above described. Stephen also agreed to the decision.

Initially, we did not find much to disagree with in the amendment to be moved by Dr TANG Siu-tong. However, on examination by all Council colleagues from the Liberal Party, we found that we would be stifling the demand for transparency were we to support Dr TANG's amendment motion. When microscopically examined, what Dr TANG proposes is something that will happen as a matter of course because the Chinese and British sides have reiterated that the talks will not be secret talks. And at the same time if the talks do turn out to be a success it will mean that both sides have reached a consensus and the arrangements agreed upon by them will then be tabled at this Council in the form of a Bill for scrutiny, debate and enactment as law. In other words, the amendment moved by Dr TANG is not necessary.

For the reasons mentioned above, the Liberal Party opposes Dr TANG's amendment and supports the original motion moved by Dr YEUNG Sum.

MR MARTIN LEE (in Cantonese): Mr President, "arranged marriage" has long become antiquated and obsolete. Marriages based on "the orders of parents and the words of match-makers" have long passed into history. Even in old China, even before "free love" became popular, parents would often act with a high degree of transparency in arranging their children's marriages. Children would be allowed to participate in the choosing of their spouses. Children would not be kept in the dark when spouses were chosen for them. That was why parents would arrange occasions when their children might "meet and look at" their prospective spouses. They would then ask their children for their views, so as to find out if "Cupid's tinsel shaft got them". Finally, they would go through the token motion of "making the decision" for them. Through such a procedure, parents reduced the likelihood of their children "feeling sorry for themselves for the rest of their lives" and made sure that their children would be happy.

The people of Hong Kong expect the same from the ongoing Sino-British talks on Hong Kong's political system. We hope that the talks will be open and will be transparent enough to enable the people of Hong Kong to tell what progress is being made. In a public opinion survey conducted at the beginning of this month, nearly 60% of the responding citizens said that the transparency of the Sino-British talks should be increased and that they should not be kept secret. Nearly 70% of the responding citizens said that they would not accept any secret agreement. I believe that Members (with the single exception of the Honourable TANG Siu-tong) are not surprised at such a finding. The people of Hong Kong are worried about their own future. They want to be informed of Hong Kong's political development. They want to participate in the making of the decisions. All of this is the most natural. It is within the right of the people of Hong Kong. I really cannot imagine that anybody can show a justifiable cause to take away this right from us. Nor can I think of any justifiable cause for us to surrender this right!

Therefore, about the Honourable TANG Siu-tong's proposed amendment to the motion, I can only say that it is "perplexing". As we all know, both China and the United Kingdom have already promised that they will immediately announce any agreement reached once the talks are over. So the amendment makes no sense at all. It will only waste this Council's valuable time.

Mr President, so far, China and the United Kingdom have held three rounds of talks. But we can only speculate on the agenda and progress of the talks and do so only on the basis of indications from minor posturing and so-called leaks from "informed sources". Media reports said two days ago that, according to Executive Council Member Sir William PURVES, the Sino-British talks had touched on the through train issue. But New China News Agency Deputy Director Mr ZHANG Junsheng said yesterday that the talks were confidential, and he wondered how an Executive Council Member had found out about the agenda of the talks. Thereupon, Sir William said that it was all a misunderstanding. Who, then, was right and who was wrong? We really cannot tell.

If the talks are really as confidential as Mr ZHANG Junsheng said that they are, then we should worry and feel perplexed indeed.

We should worry because even the Executive Council is not informed, as it was before, about progress in the talks. For the people of Hong Kong, this is a big step backward. The Executive Council does not know. The Legislative Council does not know. The public knows even less. Nobody in Hong Kong knows except the one or two officials who participate in the talks. How can such talks represent the people of Hong Kong? How can the people of Hong Kong accept their outcome?

What should surprise us is that China and the United Kingdom seem to be engaged in a "mystification contest". He who says the least will win the "grand prize for confidentiality". It will be honourable to be secretive. Judging from what is happening now, China and the United Kingdom seem to be "running neck to neck". They should both be champions. But the people of Hong Kong have already made it clear that they want a "transparency contest". They also hope to be able to give away a "grand prize for candour". Therefore, what China and the United Kingdom are doing now does not have the support of the people of Hong Kong.

Also, we absolutely disagree with those who argue that a higher degree of transparency will ruin the talks. This is a misleading argument. We just want to know clearly and directly what issues the two sides are talking about and what progress they are making. In this way, the people of Hong Kong will be able to talk about the talks and offer comments on them. If the Sino-British talks are above board and wholly based on the interests of the people of Hong Kong, will they be impeded by an announcement that their agenda are about how the Election Committee should be constituted, how the functional constituency elections should be held and what arrangements should be made for the through

train? Will the atmosphere of the talks be poisoned by an early announcement that consensus has been reached on certain principles and arrangements and that these principles and arrangements need to be discussed no further? Who, then, will benefit the most from confidentiality? Why are the talks so shielded from "exposure"? Will exposure kill them?

Mr President, if such a situation continues, how can we be confident that any agreement reached has not been reached at the expense of the interests of the people of Hong Kong? How can such an agreement be credible enough to merit acceptance by the people of Hong Kong?

The wheel of history is rolling forward. Social thinking should advance in tandem. Politically, the time for "arranged marriage" has passed. Secret talks are things of the past. They will never be suitable for Hong Kong again. Therefore, since it is not an honour to win the championship for confidentiality, the people of Hong Kong will have no admiration for the winner.

Mr President, I so submit. The United Democrats of Hong Kong support the Honourable YEUNG Sum's motion and oppose the Honourable TANG Siu-tong's amendment.

MR SZETO WAH (in Cantonese): Mr President, three rounds of Sino-British talks on the electoral arrangements for the 1994-95 elections have already been held and the fourth round will commence the day after tomorrow. Thus far, we know neither the agenda nor if any progress has been made in the previous three rounds of talks. We only heard a participant in the talks describe the talks as "good". Whom are the talks good for? For China, the United Kingdom or the 6 million Hong Kong people? We do not know the answer either. Will there be the fifth, sixth or seventh round after the fourth round of talks? When will the talks finish and how much information can we glean from these secret talks? We have no answer to these questions, too. In fact, both the Chinese and British Governments know the answers and only the 6 million Hong Kong people whose fate is to be determined are being kept in the dark.

Both the Chinese side and the British side emphasize that the talks now underway are carried out on the basis of the "three accords". As I see it, however, such secret talks are not conducted along the line of the "three accords" and worse still, there are at least "two breaches": breaching the Sino-British Joint Declaration and the Basic Law. Both the Sino-British Joint Declaration and the Basic Law provide that Hong Kong people will enjoy a high degree of autonomy except in foreign and defence affairs. The electoral arrangements for the 1994-95 elections are neither defence nor foreign affairs. Then why are Hong Kong people not only deprived of the right to participate but even the right to know? This is not a high degree of autonomy but a high degree of deception and betrayal.

"Being open, fair and acceptable to Hong Kong people" are the three major principles repeatedly emphasized by the Governor, Mr PATTEN. As a Chinese saying goes, "Evaluating one's words by one's deeds", let us take these three major principles as a yardstick to assess the three rounds of Sino-British talks which have just been held. Three rounds of talks have been concluded but so far there is no official announcement and we only know that they are "good". Can the talks be regarded as "open"? Hong Kong people find it unacceptable to be kept in the dark and denied the opportunity to participate, and express their opinions, in the discussions, not to mention the outcome of the talks. Both China and the United Kingdom have pledged that Hong Kong people can enjoy a high degree of autonomy except in defence and foreign affairs. Yet, now both Governments try to work out the electoral arrangements for the 1994-95 elections behind closed doors, which are neither defence nor foreign affair. Can this be regarded as "fair"?

The amendment proposed by Dr TANG Siu-tong is quite baffling. The focus of the talks is the electoral arrangements for the 1994-95 elections and not for the year 2049 or 2059. Does he know how much time we still have before the 1994-95 elections? We are not talking about 30 or 40 years as if the arrangements were for the year 2049 or 2059? Does he know that the piece of legislation has to be put to this Council for endorsement before the 1994-95 elections? Does he know that the Government has to introduce a bill to this Council and, with the Council's blessing, it will then become an ordinance? Does he know that the Government has to make public in full the outcome of the Sino-British talks on the 1994-95 elections when the Bill is introduced to this Council? This is the necessary legislative procedure in Hong Kong and has nothing to do with the so-called maximum level of transparency. It is common knowledge to any ordinary citizen who has paid some attention to public affairs.

Now time is running really short for completing the legislative procedure of the 1994-95 electoral arrangements. By the time the Sino-British talks achieve certain results, the two Governments must make public the results. If not, when will they do so? In that stage, China and the United Kingdom must make the announcement and even though Dr TANG Siu-tong's amendment may not be agreed to in the Council, they must make the announcement. In this connection, I am afraid the amendment cannot serve any purpose at all. I wonder if the amendment is just a means to justify the secret talks between China and the United Kingdom about which Hong Kong people are being kept in the dark. At the time when the outcome of the talks is announced, will Hong Kong people still have to make "unnecessary speculations"? What is unnecessary is indeed such a proposed amendment to be included on the Hansard.

With these remarks, I support Dr YEUNG Sum's original motion and oppose Dr TANG Siu-tong's amendment proposal.

THE PRESIDENT'S DEPUTY, MRS ELSIE TU, took the Chair.

MR TAM YIU-CHUNG (in Cantonese): Madam deputy, Sino-British relation has turned sour since the Governor proposed in his policy address a package of political reforms last year, which is unfavourable to the smooth transition of Hong Kong. The confidence of Hong Kong people towards their future has also been shattered. Now that the British and Chinese Governments have agreed to return to the negotiation table to settle their disputes over the political system, it sheds some light on the problem.

Naturally, the people of Hong Kong are concerned about the progress and results of the talks. It is because much difficulties had been surmounted before the two sides agreed to solve the problem through negotiation. Besides, the Sino-British talks have undergone quite a lot of twists and turns. As the talks are progressing smoothly, the community places high hopes on them. They hope that the row which has lasted for more than half a year would be ended. They do not want to see the break-down of the Sino-British talks, with each side going her own way, thus intensifying the political crisis. It is likely that the Sino-British talks will continue. The third round of talk has just been completed, and the fourth round is going to begin shortly. Although no concrete results have been achieved so far, both sides have shown sincerity in solving the problem. There is no indication that they intend to delay the progress of the talks.

The motion calls for the disclosure of the agenda of the Sino-British talks. I think members of the public are fully aware that the agenda is about the 1994-95 electoral arrangements. As for the progress of talks, both China and Britain have already agreed to keep the contents of the talks confidential. I am afraid people will not be satisfied if what is given by the two Governments is a brief description with hollow words. In fact, recently when representatives of both sides were asked of the progress of talks, their answers were also phrased in such a way. However, if we want them to disclose the progress of talks in detail, then the reason why results cannot be achieved would certainly be made public. This will expose the area where divergence exists between the two sides.

Madam deputy, members of the public will be anxious and frustrated if these diverging views were made public. Moreover, if the differences between Britain and China have not been settled before they were made public, it would lead to disputes between the supporters of each side. This will turn into a war of words, thus further widening the gap between the two sides. It will be more difficult for both sides to make progress and come to an agreement. The hope of solving the problem at an earlier date will therefore vanish.

I think it is the wish of the majority of the people in Hong Kong to see the two sovereign powers settle as soon as possible their political disputes at the negotiating table. Under the present circumstances, to disclose the progress of

talks in detail will make it more difficult for the two sides to come to an agreement. After weighing the pros and cons, I support the amendment motion moved by Dr TANG Siu-tong, that is to make known the outcome of the Sino-British talks once these talks have achieved results.

Madam deputy, with these remarks, I support the amendment motion and oppose the original motion.

MR RONALD ARCULLI: Madam deputy, the motion we are debating can be divided into two parts. The first urges the British and Hong Kong Governments to disclose to the people of Hong Kong, and not just the Executive Council, the agenda and progress of the talks round by round. This is the substance of this debate. The second part sets out the reasons why such disclosure is being sought. That this debate was considered necessary belies the concern that Hong Kong has on whether we will again be presented with a *fait accompli*. Furthermore, the amendment proposed to the motion in a curious way actually reinforces this concern but we believe that the amendment proposed is flawed. As for another *fait accompli* some will say that the Hong Kong Government will not do that because at the end of the day this Council will be charged with the responsibility of enacting the requisite laws. If this Council did not like the final proposal, whatever that might be, it would be open to this Council to amend it or indeed reject it.

Madam deputy, quite a lot has been said since constitutional proposals were made in October 1992 by the Governor in his policy speech. Indeed, it is rare that there has been so much public debate on one single topic and quite rightly so because Hong Kong's constitutional development is inextricably tied to the electoral arrangement for 1994-95. Others might say that against this background the British and the Chinese Governments must be clear about the different views that have been expressed over the past months. The task falls on them and indeed on the Hong Kong Government to come to agreement on proposals that will be broadly acceptable to the people of Hong Kong. They have chosen to tackle this task with virtually no disclosure on either the agenda or the progress of the talks. By so doing they risk suspicion and mistrust. They must know that a substantial majority of Hong Kong people would want to be told what is going on but that also Hong Kong would want to know that the talks would conclude with an agreement and that they would not want to risk putting the success of the talks in jeopardy.

Madam deputy, I would like now to say a few words on the proposed amendment.

The Liberal Party does not feel the amendment can be supported for a very simple reason: we do not subscribe to the view that the governments involved in the talks should be told expressly that Hong Kong should not be told what is going on with the talks. That having been said we want to put on record

that whilst we do not support the amendment we caution the Government against a repeat of what happened with the exchange of the seven letters.

Madam deputy, members of this Council may have different views on the effect of any disclosure on the talks but I would be surprised if any of my colleagues would not want the talks to conclude with an agreement broadly acceptable to the people of Hong Kong. It is with this objective in mind that the Liberal party supports the motion.

DR LEONG CHE-HUNG: Madam deputy, may I first say that I welcome the two sides, Britain and China, which have untied their deadlock over plans for democratic reforms in Hong Kong by getting to and sitting around the negotiating table. This move has lowered obviously the diplomatic temperature between Britain and China, obviously to the benefit of Hong Kong.

Three rounds of talks have so far lapsed and yet Hong Kong people are still blindfolded and knew nothing that has happened behind closed doors.

One thing for sure is that so far there is no indication from either side, publicly at least, that they are prepared to back down or to compromise.

Yet, replying to a press question recently, the Governor said and I quote: "I do not think you would expect me to talk in detail about what has been happening in the talks because the whole community wants to give them the best chance of succeeding and that requires a certain restraint on all sides and that they should be held as confidentially as possible."

So, Madam deputy, confidentiality reigns, alas, for the success of the talks.

But what is the political connotation of the word success? Is it success in compromising with China? Or is it success in pulling wool over Hong Kong people's eyes so that Britain can again sell Hong Kong people down the river?

As both sides are preparing for the fourth round of talks, to begin on Friday, we, the legislators, and members of the public, are kept in complete darkness as to whether or not any accommodation has been sought on any one of the issues of constitutional development, such as the composition of the functional constituencies, election committees and the voting method for riding the through train.

Bitterness abounds in Hong Kong. How much more faith can we have in the British Government? How much does it care for Hong Kong's view except in times of convenience to launch an opinion war against China? It is true Hong Kong people should wake up to the fact that whilst our Governor has repeatedly emphasized that the future electoral arrangements must be open, fair and acceptable to the people of Hong Kong, Her Majesty's Government has

chosen, even after three rounds of talks, to put a complete impregnable veil of secrecy over the issues of talks, including even the agenda, let alone the progress.

How sincere is Britain behind the Governor's promise?

A stroll down memory lane would perhaps tell us what Britain had done to belie her commitments.

Let us start off with the Joint Declaration.

According to customary international law, a country must grant her subjects, including those in a colony, full citizenship. The Joint Declaration has apparently violated this law. Hong Kong born and naturalized British subjects will become BN(O) after 1997 and lose the right for full British citizenship.

The violation of international law on nationality was fully realized in the amendment made in the early 1980s to the Nationality Act. BDTC status was tailor-made for Hong Kong people. It was a deliberate policy to cast Hong Kong people out of Britain's sphere of responsibility.

The latest realization of Britain's hand-washing move is the current BN(O) issue. By resorting to administrative measures of imposing deadlines for application, Britain wants to further deprive Hong Kong people of their right of citizenship.

And Hong Kong people NEVER NEVER have a say in any one of these so very important issues that affect their future.

More, that agreement (the Joint Declaration), which was formulated behind closed doors, has generated more and more problems, instead of being a once-for-all solution for Hong Kong.

Is it fair for us, who have gone through all the ups and downs and have shared the bitterness in the development of Hong Kong, to be deprived of the luxury of information in an earlier phase of possible changes that concern our well-being in the future?

Hong Kong people, who had at the outset given Britain a generous benefit of doubt, continued to stomach big pain in the past 10 years, labouring under a delusion that she would eventually care about us one day, only to be betrayed time and again.

And Hong Kong people are trapped like cattle on board the through train to the other side of 1997.

Madam, Hong Kong people deserve better.

I want Britain to honour her words. Now that she says the outcome of the talks must be open, fair and acceptable to Hong Kong people, let her do truly what she says. This can only be achieved by opening up the talks to Hong Kong people so that we, Hong Kong people, could contribute to the very success of the 1994-95 election arrangements so vital to our system which is so important for our tomorrows.

Experiences have told us that any deal reached behind closed doors on Hong Kong would not be acceptable to Hong Kong people and would be bound to create problems, instead of the other way round.

Let us have a say on our fate.

Let Hong Kong people know what is happening in the talks. This is perhaps one of the last acid tests of Britain's sincerity.

Madam deputy, it is not an issue of whether we can or cannot know. Rather, it is an issue of whether we should or should not know. And the answer must be in the affirmative.

With these remarks, Madam deputy, I hope we would eventually plant a seed that could grow into a democratic oak for the future of Hong Kong.

I support the Honourable YEUNG Sum's motion.

MR JIMMY McGREGOR: Madam deputy, I recognize the concern which the Honourable YEUNG Sum has expressed over the lack of information on the progress of these important talks. They will, after all, directly affect the way Hong Kong will be governed after 1995 and the extent to which the democratic content of the system of government here will be enhanced and encouraged. It is a sad feature of the transfer of sovereignty from Britain to China over this self-made and perfectly capable city state of Hong Kong that the people and their chosen representatives are not to any extent consulted on matters which are of crucial importance to their lives and future.

When one thinks of the tremendous differences between the political systems represented by the two sovereign governments and the very large differences between the economic and social systems in China and Hong Kong, it is small wonder that the 6 million people whose future is being debated in distant Beijing are nervous about the outcome.

This is not a new sensation for Hong Kong people. They were not consulted by either government during the difficult negotiations which produced the Joint Declaration. There were consultations of a sort between China and the selected representatives of the Hong Kong people over the drafting of the Basic Law. But here too the system of consultation left much to be desired and a good deal to be interpreted as time goes along.

However, in true Hong Kong fashion we have made the best out of sometimes poor alternatives and we have so far not done too badly, at least in terms of economic and social progress. I think it would be reasonable to suggest that Hong Kong's economy and the sophistication of our society are far ahead of their Chinese counterparts. Hong Kong people recognize this and wish to maintain their hard earned lifestyle. It is not unreasonable for them to seek to do this by the literal application of the promise that Hong Kong people shall run Hong Kong with a high degree of autonomy. Clearly this acceptable proposition can only eventuate if the system of government here allows the people of Hong Kong to ensure that their interests are looked after by their chosen representatives. The talks in Beijing are therefore of extreme importance to all those who live here and possibly to many who do not. If a satisfactory solution agreeable to Hong Kong people can be found, the result will be an economic boom stronger and lengthier than we have ever experienced before. I am not talking about the stock market although that will certainly reach new heights. I am speaking about growth in investment based on rising confidence here and abroad, bringing about a very large expansion in our trading and industrial co-operation with China. There is almost no limit to that particular scenario. It is also not difficult to draw the conclusion that continued rapid expansion of the Chinese economy, with the positive effect that this will have on the social conditions of the Chinese people, will inevitably encourage further moderation in the Chinese political system.

We have a lot at stake and we do not know how the talks are going. I am sorry to say however that it is entirely unlikely that these two sovereign governments, having agreed to hold discussions on such important and far reaching issues, will accept the proposition that information on the agenda and current state of play should be made public. They will do nothing of the kind. No doubt they have already agreed that nothing will be said during the talks without mutual consent. If they are still arguing there will not be any mutual consent. If one side says more than it should, the other side could stop talking altogether and nothing would be gained.

It is unfortunate that the sort of urging that this Council can convey to the two governments will have the same effect as the sound of a fly in an elephant's ear during a monsoon storm. It is not likely to be heard.

I have no doubt that the British side would like to issue information. Perhaps the Chinese side also would like to issue information. But the two statements might at this stage be diametrically opposed. How would that help? It would not help us at all. It might well have the opposite effect.

I am not concerned about the lack of information on positions in the talks so far. I am greatly concerned that agreement shall be reached and that Hong Kong is quickly made aware of it. Also this Council is asked by the British and by Governor PATTEN to say what we think of the outcome. This process must surely begin by the end of next month in my view.

Since the Honourable YEUNG Sum is sincere and he is a good friend of mine and clearly believes in Santa Claus, I am going to support his motion but I can say, hand on heart, it has the same chance as a snowball in hell of being accepted by either side.

Thank you.

MR CHEUNG MAN-KWONG (in Cantonese): Madam deputy, the Sino-British talks on Hong Kong's future political system are a secret deal, from which the entire population of Hong Kong is excluded and which deprives them of the right to make decisions and the right to be informed.

Firstly, on the ground, cited by China and the United Kingdom, that the talks are between sovereign powers, the more than 5 million people of Hong Kong, as well as their representative body, the Legislative Council, are excluded from the talks. Public opinion is prevented from influencing the Sino-British talks through this Council.

Next, on the ground that the talks between China and the United Kingdom are in progress, an indefinite hold is put on the 1994-95 elections Bill. The Bill will not be introduced to this Council. Later, when agreement is reached between China and the United Kingdom, a *fait accompli* will be presented to this Council. This will turn this Council, against its will, into a rubber stamp.

Thirdly, the influence of the Chinese and the British Governments is brought to bear. This Council rejected a motion on the holding of a referendum, a motion to let the future political system be decided by referendum. The people of Hong Kong are deprived of their right to make the supreme and final decision in favour of a democratic political system.

Now, citing the principle that the talks must be confidential, China and the United Kingdom deprive the people of Hong Kong of their right to be informed. The people of Hong Kong are kept in the dark about the Sino-British talks on Hong Kong's political system, about the talks that affect the future and the fate of our community. The people of Hong Kong are like being lost in a thick fog.

Madam deputy, we are all human beings. Who has the right to deprive us of the rights to which we are entitled, including our right to be informed and our right to make decisions? Who has the right to decide our fate and our future for us? Neither JIANG Enzhu nor Robin McLAREN was elected by us. Why do they have the right to represent me and the other people of Hong Kong numbering between 5 and 6 million?

Madam deputy, we are fed up. Every day, I turn on the TV and I see JIANG and McLAREN talk about the weather, quote a proverb or two or a classical passage or two, or smile or frown. I then try to figure out, from the

subtle hints thus dropped, what the future will be like and whether I should feel happy or sad on that particular day.

Madam deputy, we are fed up. Every day, I open the newspaper and I read the reports from informed sources. I then try to figure out the kind of situation that we are in and what trouble and danger lie ahead. Then, on the following day, all the reports may turn out to be fabrications. We find ourselves duped again.

Today, many colleagues say that we the people of Hong Kong are now "being kept in the dark". The Chinese phrase is "sealed in a drum." I will try to interpret this phrase literally. A group of people are put into a drum, which is then sealed. It is dark, hot and crowded inside. They cannot see the outside world. Even more unfortunately, people on the outside beat the drum with great force. The sound is deafening to the group inside the drum. Their suffering is beyond description. They do not know how long the drum beating will continue. They do not know what their fate will be. The people of Hong Kong are people inside the drum. Caught between China and the United Kingdom, they grieve over their suffering and helplessness.

Madam deputy, the Honourable YEUNG Sum's motion today is that the Chinese and the British Governments should be urged to make known the agenda and progress of each round of talks. Its purpose is to win the right to be informed for the people of Hong Kong and to end their suffering from being "sealed in a drum." It can be said that the right to be informed is a very basic right. Even with this right to be informed, we still can only try to influence the decision between China and the United Kingdom through the media, through this Council. The right to make decisions will still lie in the hands of the Chinese and the British Governments.

Yet, surprisingly, even such a fair and reasonable request, such a restrained request, is being opposed by the Honourable TANG Siu-tong. Dr TANG on one hand wants the Sino-British talks to have a high degree of transparency so as to make speculations unnecessary. But, on the other hand, he thinks that China and the United Kingdom can continue their talks in secrecy provided that the final outcome, when reached, is made known to the public. Madam deputy, his point is a contradiction in itself. If he thinks that a high degree of transparency is so important, why is it not necessary during the course of the talks? Why is it necessary only after the talks have produced results? China and the United Kingdom said long ago that the outcome of the talks, once achieved, would be published. The Honourable TANG Siu-tong has waited till now to put forth a so-called "request" that is guaranteed to be met. Is such a request not superfluous?

Madam deputy, it is the duty of the popularly elected Legislative Council Members to defend the rights of the people, including their right to be informed and their right to make decisions on major issues. Now, the Honourable TANG Siu-tong's motion, if passed, will be like helping the Chinese and the British

Governments lawfully to deprive the people of Hong Kong of their right to be informed and to keep them "sealed in a drum". This is something that no Legislative Council Member can accept. I believe that it is not acceptable to the entire population of Hong Kong, including the residents of Tuen Mun and Yuen Long, to which he belongs.

The Honourable TANG Siu-tong said a moment ago that the right to be informed is important but the question is how much. He presumably must have heard of the Chinese saying about the irreversibility of "cooked rice". When should we be informed? If we are informed only after the Sino-British talks have produced results, then, when this happens, "rice is already cooked". When the lid is removed from the rice pot, one may find the rice under-cooked, over-cooked or whatever. Will the people of Hong Kong be asked to eat it as if nothing were wrong? Rightful information then becomes belated information, does it not? What more can we do when we are informed of such an outcome?

The Honourable TANG Siu-tong said a moment ago that the British Government deceived us before by not informing us of the seven diplomatic letters. Actually, however, as he, too, may be aware, the seven diplomatic letters were not written by the United Kingdom to itself but were written between the Chinese and the British Governments. Why has the Chinese Government not become an object of censure? Is the Chinese Government not equally censurable, along with the British Government, for having deceived us? If so, why can we not have the right to be informed in a timely manner of the agenda of the talks? Therefore, I feel that I cannot support the Honourable TANG Siu-tong's amendment today. I will support the motion as moved by the Honourable YEUNG Sum.

THE PRESIDENT resumed the Chair.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, today's debate is the fifth round of debate since the Governor, Mr PATTEN introduced his political reform package in his policy address on 7 October 1992. There may be another two to three or even five rounds of debate in the future. As a matter of fact, we must realize that the China and the United Kingdom must adhere to the "three accords" as referred to by the Chinese side in their handling of the political reform package, namely, the Sino-British Joint Declaration, the Basic Law and the seven diplomatic exchanges between the Foreign Ministers of the two Governments. The "three accords" are not the unequal treaties which were forced upon the Chinese Government by foreign powers in the past. They are three new ones.

In actual terms, the focal point of our debate is mainly on one word — "convergence". Should it be unnecessary for the two Governments to reach an agreement on convergence for the 1997 transition period, the British and Hong Kong Governments will have absolute right to make their own

arrangements for the 1994-95 elections without having to consult anybody. This is the so-called "non-convergence theory". Now that China and the United Kingdom are holding talks on the arrangements for the 1994-95 elections. This is a clear indication that the two Governments would observe the "three accords". And I venture to suggest that Members who supported Governor PATTEN's package on 14 October 1992 and 11 November 1992 must ask themselves whether their support is a good bet. It is very likely that they would be disappointed. Should the proposed political package of which they sing the praise be rejected, it is understandable that Members concerned would surely feel obliged to fight for the Patten package they have pledged support. Failing to do so, they would be regarded as clearly having been misled or that some of the Members have made a wrong political choice (this is indeed a very obvious foregone conclusion). If convergence is to be achieved, both the Chinese and the British Governments should hold consultations and discussions, taking into account the divergent conceptions and views.

Today's motion debate may be called the fifth round of debate. Practically speaking, this debate is unnecessary. It is obvious that the self-proclaimed liberal group, that is, the United Democrats of Hong Kong (UDHK) is being led by the nose by Governor PATTEN. If colleagues from the UDHK have got the guts, they should act as the pioneers and to create history, and they need not walk in the last Governor's shadow. (He considers himself to be the last Governor in Hong Kong. Therefore Mr Frederick FUNG called him the last Governor. But I personally feel that he may not be the last Governor of Hong Kong.) Members of the UDHK should have its own clear-cut stand and serve the interests of the public, rather than dwelling on insignificant issues. The public would be misled if they put forward impractical motions time and again in order to show loyalty to the Governor. And members of the public are none the wiser after the holding of such motion debates, with their vision of the future becoming even more obscure. This will do nothing good to the resumption of communication at a later stage.

Dr TANG Siu-tong's position and arguments may not be lucidly presented when he moved his amendment motion. Nevertheless, I trust that he is doing it out of pragmatic considerations. In contrast, those who insist on achieving their impossible dream is now in a situation whereby, by analogy, they are unable to tear down a wall themselves but are trying to urge the public to pound the wall. It is really very cruel. I am sure that Dr TANG Siu-tong's amendment motion is going to be negated. However, even if it is negated, he is still a pragmatic man and brave enough to face the reality. At least we know that he, as a legislator, has followed his conscience and moved the amendment motion. I am going to give my full support to his amendment motion which is doomed to fail. In fact, what we should do at the moment is to tell all Hong Kong people, in particular those who are listening to this debate on the air, the truth that the various tactics employed by the British Hong Kong Administration before 1997 are entirely not in the interests of Hong Kong people. As for the Chinese Government, it will become Hong Kong's sovereign state after 1997. China has formulated the Basic Law. If we have doubts on the Basic Law and have no

confidence in the promise of "one country, two systems", I suggest that all of us face up to the challenges posed by history after 1997. Should anything undesirable be found at that time, all of us in Hong Kong should then stand up to fight for our own interests. I truly believe that everything will be fine and in compliance with our interests and aspirations by then.

In view of this, being a Member of this Council, I hope that some people should not mislead the public again in this debate. Hong Kong people know well enough our own situation. It is undeniable that Hong Kong people have the right to express their own views. However, I would like to urge the people once again to have a full understanding of our own situation and conditions rather than being influenced by the views of certain political groups. They should not lower their guard against being misled by the impractical views put forward by those political groups which have only their own interests at heart.

Thank you, Mr President.

REV FUNG CHI-WOOD (in Cantonese): Mr President, three rounds of talks have been held on the arrangements for the 1994-95 elections between China and the United Kingdom. Hong Kong people do not know exactly what have been discussed and what views have been put forward in the Sino-British talks. They can only make speculations. And they are not in a position to judge the credibility of the reports by the media because the media's reports may not be accurate as they are also based on rumours. Although no one is to be held responsible if the reports are found to be no more than hearsay, it may mislead members of the public who are extremely concerned over the talks. However, it may turn out that people's worries about the possible great discrepancy in views between China and the United Kingdom on certain issues are misplaced as a consensus has already been reached. Or maybe the Chinese and British Governments are discussing something very important. But the hard fact is that the public is totally kept in the dark.

We appreciate that such talks have to remain confidential to a certain extent. But confidentiality is not tantamount to keeping the public in the dark. If the contents of the talks do not concern the people of Hong Kong, it is all right if they are not informed of the contents. But if the contents are directly related to them and are important enough to affect the future of Hong Kong as a whole, why should they be kept in the dark? Why are they not informed of whether the through-train arrangement has been discussed or not and the views of the two Governments on that? Has the Governor's political reform package ever been put on the agenda? Is there any truth in some reports that up to the present nothing concrete has been discussed after three rounds of talks? Or is it true that both sides have actually reached some sort of agreement in secret?

The present Sino-British negotiations or talks are like two parents holding discussions on choosing a wife for their son. They do not ask their son to join the discussions. They are of the opinion that since they have brought him up,

they certainly know what type of wife he likes. They are also of the view that their son has no right to make such a decision because they are his parents and are still his guardians. (However, they forget that their son is already a grown-up.) And they are afraid that their son does not have sufficient experience in life and may make a wrong choice.

Mr President, if the parents are choosing a piece of furniture or a flat for him, the son may simply accept his parents' advice. But when it comes to choosing his own wife, it is unreasonable that he has no say at all. The contents of the Sino-British talks are not as simple as the terms of a contract or franchise rights, they are directly related to Hong Kong's future political system, which has a bearing on the freedom, the human rights, the rule of law and the economy of Hong Kong in the future. To hold the Sino-British talks behind close door and keep the public in the dark is extremely unacceptable to us.

Mr President, we merely want to have a fair deal. Now we can only speculate on the issues raised in the Sino-British talks, the decisions made and whether Hong Kong people's interests are represented. It is totally unacceptable if the transparency of the talks is not to be enhanced. Furthermore, the outcome of the talks will be made public only when the talks finally conclude. I wonder if such an arrangement is to render it impossible for the general public to express their views on the nitty-gritty of the talks or influence the decision-makers. Or is it so arranged that no amendment can be made to the agreements reached in the talks and this Council has to accept it all?

Mr President, we must not leave our destiny in other's hands if we want Hong Kong people to have more confidence in their future after 1997 and take a positive role in building Hong Kong. We should let Hong Kong people enjoy the right to know and the right to participate. I earnestly urge that the agenda and progress of each round of Sino-British talks be made known to the people of Hong Kong after each round of talks. It is up to the people of Hong Kong to comment on whether what has been disclosed is sufficient or not. But at least there should be a communique after each round of talks.

With these remarks, I support the motion.

MR FREDERICK FUNG (in Cantonese): Mr President, China and the United Kingdom have begun their bilateral talks on Hong Kong's 1994-95 electoral arrangements. Yet the people of Hong Kong have never been specifically informed of the agenda of the talks, even though the electoral arrangements will affect their life style and the pace of democratization in Hong Kong. Some groups, such as the Association for Democracy and People's Livelihood (ADPL), have perhaps gleaned, from their visits to London or Beijing, bits of information about what progress has been made in the negotiations. The mass media have perhaps dug up some "inside information", thanks to the diligence of their reporters. However, such information is sketchy and fragmentary and its reliability is yet to be proven. Amidst such flurries of

information, it is really difficult for the people of Hong Kong to gain a clear idea about how the talks are progressing. They are prone to making meaningless speculations.

Dr TANG Siu-tong's amendment will not help to end these speculations. ADPL and I think that, in order to alleviate the worry of the people of Hong Kong about the secrecy of the Sino-British talks and increase their trust in China and the United Kingdom, it is reasonable and judicious that the agenda and progress of each round of talks should be made known. The views of the people of Hong Kong have never engaged the serious attention of China or the United Kingdom. Denying them even a little bit of information about what progress is being made will undoubtedly make them even less interested in offering comments.

Dr YEUNG Sum's motion carries a message akin to the consistent position of ADPL and myself: Making the agenda of the talks known will enable the people of Hong Kong to express their views on specific issues before it is too late. When ADPL and I met Mr LU Ping, Director of the Hong Kong and Macau Affairs Office, he said that he understood that the people of Hong Kong wanted to know what was being discussed between China and the United Kingdom about the electoral arrangements. Then he told us that the discussions were mainly about such issues as the functional constituency elections, the direct elections, the electoral committee and the through train arrangements, and that the people of Hong Kong might in fact comment on such issues at any time. However, ADPL and I think that an announcement of the agenda of the Sino-British talks will provide the focal point for the discussions in the sense that people may then deal with an issue or two at a time. The people of Hong Kong, with a better understanding of the issues under discussions, will then take a greater interest in the public debate. This would indirectly teach a civic lesson to the public. This will be a pure and unadulterated boon for Hong Kong.

What about announcing the progress of the talks? Some think that such announcements will cause the underlying conflicts between China and the United Kingdom to come to the surface and lead to microphone diplomacy, which will poison the atmosphere of the talks. ADPL and I think that such a view reflects its proponents' distrust of both China and the United Kingdom. They are afraid that neither China nor the United Kingdom is sincere about the talks and that both will use the announcements of the progress as bargaining chips. Yet it is precisely our distrust of both China and the United Kingdom that makes the announcements necessary. The announcements can be made in all kinds of ways. If the two sides exercise restraint, use neutral phraseology and refrain from any inflammatory language, so-called microphone diplomacy will not ensue. The announcements will increase the transparency of the talks. And the people of Hong Kong will not feel as though they were kept in the dark.

When ADPL and I visited London, we learnt something from the British that the compendium of proposals on electoral arrangements, prepared by the

Hong Kong Government, had already been tabled at the Sino-British talks. I think that such initiative should be encouraged. But there is room for improvement. In addition to announcing the agenda and progress in the course of the negotiations, China and the United Kingdom may agree on a mechanism for systematically gathering the views of the people of Hong Kong. How to monitor the changing views of the people of Hong Kong is indeed a very important question. These changing views must be monitored. The people of Hong Kong know the best what kind of political system they want and their own feeling about the changing development of the talks. I have the following suggestions to make about how to gather the views of the people of Hong Kong:

- (1) Scientific, objective and representative public opinion surveys should be conducted on outstanding issues in the course of the Sino-British talks to gauge the views of the people of Hong Kong.
- (2) The views of individuals and concerned groups should be gathered and processed by representatives at three-tier boards/councils (the Legislative Council, the two municipal councils and the district boards) and then conveyed to the United Kingdom through the Hong Kong Government. These views can then be tabled at the talks for consideration.

Lastly, ADPL and I earnestly hope that there will never be any more secret deal between China and the United Kingdom. At our meeting with Director LU Ping, he said that China would not arrive at an agreement with the United Kingdom at the expense of the interests of the people of Hong Kong. Chris PATTEN has said time and again that the talks will be open, fair and acceptable to the people of Hong Kong. When I saw Douglas HURD, he said that China and the United Kingdom would be discussing Hong Kong's 1994-95 electoral arrangements. And there would be no other agenda, so there would be no secret deal. Yet, even if the same tune is harped upon every day, every month and every year, I believe that nobody is going to buy it. The people of Hong Kong will believe in words only when they are translated into actions. I would like now to tell honourable colleagues about some recent statements made by officials of the British and the Hong Kong Governments.

I read in the papers that Mr Michael SZE, the Secretary for Constitutional Affairs, upon leaving Beijing after the third round of talks, told reporters that, to ensure the success of the talks, it would not matter if the Hong Kong Government lost some face because of something that it did. And he added that it certainly would not matter if an individual lost face.

During ADPL's visit to London, British Foreign Secretary Douglas HURD told us that he did not think that the people of Hong Kong should be consulted before China and the United Kingdom reached any agreement. According to Douglas HURD the work of consulting the people of Hong Kong was to follow the announcement of an agreement. And the agreement would be tabled at Legislative Council. When the time came, the people of Hong Kong

would be informed of the agreement and be asked to discuss it. But the point, just as some Members have noted, is that it will all be a *fait accompli* by then. Nor did Douglas HURD answer the question of when the agenda of the talks would be announced.

According to a newspaper report this morning, Sir Percy CRADOCK, former foreign affairs adviser to the British Prime Minister, said that, since last month, British policy towards China over the handling of Hong Kong affairs had returned to the situation such as that during the 1982-1992 period, meaning that differences with China would again be resolved through secret negotiations. The above statements have really given the people of Hong Kong a cause for concern. They are afraid that meetings behind closed doors may easily become secret talks or lead to a secret deal. I am not opposed to good relations between China and the United Kingdom. But a cloak of mystery over the talks will make the people of Hong Kong more distrustful of China and the United Kingdom and will further disappoint them. The seven secret diplomatic exchanges are still fresh in our memory. Secret talks are now even less acceptable.

I would like to conclude my speech today by quoting the statements of two people. Director LU Ping at one time told ADPL that he agreed that the people of Hong Kong should be consulted before China and the United Kingdom reached any agreement. He agreed that the agenda of the Sino-British talks on Hong Kong's 1994-95 electoral arrangements should be made public at a later date. When we met Mr Jeremy BRAY, vice chairman of the China Affairs Group of the British Parliament, during our visit to the Parliament, he wondered why the British side did not oblige the people of Hong Kong as China indicated that it would not raise any objection on that front, given that there was to be no secret deal from the Sino-British talks and the United Kingdom was not about to sell out the people of Hong Kong.

I hope that the two statements quoted above will make the Hong Kong Government and the British representatives do some soul searching. We hope that the fourth round of talks will devote some time to discussing the question of what informal mechanisms can be used by China and the United Kingdom to consult the people of Hong Kong.

In view of the above, I support the motion.

MISS EMILY LAU (in Cantonese): Mr President, talks about Hong Kong's future began with Governor MacLEHOSE's visit to China in 1979. Fourteen years have passed since then. During these 14 years, the Chinese and the British Governments held numerous rounds of secret talks and disposed of the fate of the 6 million people of Hong Kong under the counter. In January this year, to everybody's surprise, British Foreign Secretary Douglas HURD announced, "Gone are the days when the Chinese and the British Governments decided the future for the people of Hong Kong through secret talks." These words are still ringing in our ears. The Chinese and the British Governments resumed their

talks last month. Now, after three rounds of talks, the people of Hong Kong are still totally uninformed of the agenda. If the British Government is intent on keeping the people of Hong Kong in the dark, why then the British Foreign Secretary's hypocrisy? In contrast, the Chinese Government has been more straightforward. It has made clear from day one that the outcome of the talks, if any, must be accepted in full by Legislative Council, which must not change one iota.

Mr President, during the past few weeks, the British Government (including Governor Chris PATTEN) stated on many public occasions that the through train arrangements were very important. They even said that it was the bottom line. Personally, I worry greatly that the British Government may ask for the through train arrangements as a trade-off for concessions on electoral arrangements for Hong Kong's 1994-95 elections. In other words, the United Kingdom might yield on these arrangements in return for the Chinese Government's agreeing to the through train arrangements. As far as I am concerned, Mr President, such a trade-off is unacceptable. I do not feel that Hong Kong should sacrifice its democratic aspirations in exchange for so-called "smooth transition". Still less do I agree that the eligibility of Members of this Council who have been returned through popular elections should be determined by a Beijing-appointed body.

Apart from stressing the through train consideration, Mr President, some officials of the Hong Kong Government have also indicated that agreeing to talk surely presupposes a willingness to make concessions. Why talk at all otherwise? The Government of course has a good grasp on the inclinations of Members of this Council. Even if the Government now "changes tack" and alters the PATTEN constitutional package beyond recognition before tabling it at this Council, it may still secure enough votes to have it passed. Actually, Mr President, we all know that the reforms contained in the PATTEN constitutional package are absolutely far from enough. I call it "one drop" of democracy. I believe that many people will not accept it if even this "one drop" of democracy is to be compromised.

Mr President, the Governor's policy address delivered in this Council on 7 October last year mentioned electoral arrangements for Hong Kong's 1994-95 elections. He has since reiterated that those are just proposals. Still, I believe, and the Government may admit, that the Governor's package is the Government's commitment to the people of Hong Kong. I believe that serious damage will be done to the Government's prestige and credibility if the package is now tabled at the Sino-British talks only to have it drastically altered by the Chinese Government. Should it be the case, I hope that the Government will not shirk its responsibility with the pretense that "whatever we decide will have to be tabled at the Legislative Council for a vote". I hope that the Government will bear this point firmly in mind. For it should be held responsible for its actions and it cannot wash its hands of it and say, "Our talks are over. And this is the outcome. How you vote on it is your responsibility." I believe that the people of Hong Kong and indeed the whole world will not be fooled.

Mr President, the people of Hong Kong know nothing about the agenda of the Sino-British talks. They can only rely on media reports and speculations. On Monday, one report said that the British Government had given up the fight for more than 20 directly elected seats in the 1995 Legislative Council. Personally, I was of course not surprised, because I had never thought that the British Government would try very hard any way. Nor did I see in the Governor's package last October that he would ask for more than 20 such seats in 1995. So it did not surprise me if the British Government gave up trying. Yet I want to ask: If they have really given up even on such an important issue, when will the British and the Hong Kong Governments let the people of Hong Kong have an explanation? When will they tell? Will they finish their talks with the Chinese Government, table the *fait accompli* at this Council and then ask us to take it or leave it? If we leave it and if we lose the vote, we will then stand condemned through the ages. Is this really the situation that they want?

Furthermore, Mr President, the Government has reiterated its hope, which is that a bill on the 1994-95 elections will be tabled at the Legislative Council for passage within this legislative year. Now that judging from the recent responses given by the Secretary for Constitutional Affairs, it seems to me that the end-of-July deadline has been abandoned. I hope that, in his reply later on, he will unequivocally tell the people what the present position of the Government is. At the same time, I hope that he will also inform the people whether the Hong Kong Government keeps its words. Is it true that everything is subject to discussion in talks with other parties? Is it true that everything can be compromised?

Mr President, the people of Hong Kong do not have the right to decide their own fate. This is very tragic. It is very shameful of the Chinese and the British Governments to act jointly to deny the people of Hong Kong a say over their own future. I want to tell the Chinese and the British Governments that the people of Hong Kong will not sit idly by while being bullied! I also hope that the Chinese and the British governments will not go too far. I hope that they will understand the exasperation and worry of the people of Hong Kong and quickly make the agenda of their talks known in full to the people of Hong Kong. They must accept that it is the people of Hong Kong themselves who should decide the final arrangements for Hong Kong's 1994-95 elections.

With these remarks, I support the motion.

MR ERIC LI (in Cantonese): Mr President, there is a saying that goes, "If you suspect somebody, do not use his service. If you use somebody's service, do not suspect him." Hong Kong, at this critical juncture in the Sino-British talks, needs the service of a lot of people. Whom can we use? Whom can we trust? Hong Kong people's views over political reform have in this year been divided by China and the United Kingdom. Politicians, in their own interests, take sides. In other words, if they do not rally around the Chinese flag, then they

must join the British camp. It is hard for the people of Hong Kong to adjust themselves quickly to this political phenomenon. The vast majority of the people of Hong Kong do not like to see China have the upper hand, still less the United Kingdom have the upper hand. I believe that what they want the most is a Sino-British agreement as a result of a process in which there is no winner or any martyr. To reach such an agreement, the only people who can be used to participate in the Sino-British talks are Hong Kong's civil servants, who have no immediate political interests at all. If the people of Hong Kong have to choose a negotiator from among Mr Michael SZE, the Honourable Martin LEE and the Honourable Allen LEE, I believe that most of them, critical as they may be of the Government, will still choose Mr SZE. Well then, in a political environment in which suspicions abound, how much will the people of Hong Kong trust him?

I think that, as the question at issue is momentous and highly sensitive, Hong Kong people's worry is understandable. Their worry will not diminish even if the agenda and progress are announced before and after each round of talks. This situation will remain unchanged until the talks have come to a more or less full conclusion. While the talks are going on, the people of Hong Kong will focus their attention on whether the atmosphere of the talks is good and whether the differences, in practical terms, are getting narrower. Their perception on these two fronts is enough to make the stock market fluctuate sharply. Anybody conversant with negotiations knows that a negotiator can sometimes gain three points by conceding two points. Before a more or less full agreement is reached, to encourage China or the United Kingdom to make postures will, in the present atmosphere of political divisiveness, not only impede progress in the talks but, on the contrary, increase the worry of the people of Hong Kong, further polarize them and provoke more worrying political confrontation.

All right, then, suppose that the British and the Hong Kong Governments cannot be trusted at all during the talks. Will the people of Hong Kong really have anything to lose? Some will perhaps say that they will pay no heed to our views and sell us out on the democracy issue. In Hong Kong, where the media are well developed and where there is freedom of expression, how can the Chinese or the British Government suppress or distort people's views? As for democracy, it is evolving in Hong Kong in a process that began with no democracy at all and that is now allowing democracy to grow. It is like a process of earning an interest with no principal. How much principal do we have that the United Kingdom may lose for us?

For the people of Hong Kong, the only justifiable criticism to make is that the United Kingdom, being our present sovereign power, has the moral obligation to do its best for us and to win the largest measure of democracy for us. If the question is as simple as that, then we must not forget that the Executive Council is already representing us in closely monitoring the negotiations or that, finally, when an agreement is reached between China and the United Kingdom, the momentary secret will be divulged. If the outcome is

unsatisfactory, this Council will be responsible for manning the last and the most important guard post. An open debate will be held. In the light of the wishes of the public, Members of this Council will then veto or amend the Sino-British agreement. At this point, honourable colleagues probably have come to the realization that I do not believe that unilateral announcements by the United Kingdom can tell us more about the negotiations or alleviate the worry of the people of Hong Kong. Nor do I believe that the Hong Kong Government or the British Government can get around the Executive Council and the Legislative Council and give effect to an agreement that is unacceptable to the people of Hong Kong and that sells out our political and economic interests. Therefore, I have reservations about the real effects of the original motion. This, however, does not mean that I support Dr TANG Siu-tong's amendment. For I think that the British and the Hong Kong Governments can do better than what the amendment calls for. The amendment will urge the Government to publish the outcome of the talks in full once these talks have achieved results. But I feel that the better way, when initial substantive results are achieved in each round of talks, is not to make public these results immediately but to let China and the United Kingdom, through their respective channels of consultation, find out for themselves how acceptable these results are to the Legislative Council and to the people of Hong Kong. The people of Hong Kong will then have a chance to make comments while the parties to the talks will have room to manoeuvre for the purpose of alleviating the worry of the people of Hong Kong about the secrecy of the talks and enabling a final agreement to be reached that can be implemented smoothly.

Mr President, I oppose the amendment. I also oppose the original motion. Such a position can best reflect the wishes of the people of Hong Kong, who want to remain rational and neutral about the Sino-British row. My decision also shows that I do not want to be forced to make a choice out of the two. Should I make a choice, this would only amount to political posturing that looks good but serves no real purpose.

These are my remarks. Mr Roger LUK and several other independent Members indicate that they support my conclusion.

MR FRED LI (in Cantonese): Mr President, Meeting Point supports Dr YEUNG Sum's motion and opposes Dr TANG Siu-tong's amended motion. Obviously, Dr TANG calls for publishing in full the results of the Sino-British talks, once results have been achieved. I think if an agreement has been reached, the Chinese and the British Governments will publicize it without having to be told, for the British side has to submit the agreement in the form of a bill to this Council for consideration. This has nothing whatsoever to do with transparency. I am sure when both sides have reached an agreement, members of the community will not make any unnecessary speculation. As pointed out by Dr TANG, they will then give their response by saying that they accept, welcome or feel very sorry about the agreement.

In the latter half of the transition period, if the Chinese Government continues to take advantage of its sovereign status to decide things for the people of Hong Kong and bars them from taking part in the formulation of the future political system under the pretext of "three-legged stool conspiracy", it is indeed showing no respect for the opinions of Hong Kong people.

Meeting Point is of the opinion that the electoral system for 1994-95 does not fall into the category of defence or foreign affairs. It should be regarded as an internal affair. As a result of the June 4 incident and the effects produced by Governor Chris PATTEN's political reform package, the political awareness of the public has been greatly enhanced. It is fairly obvious that they tend to support the quest for a more democratic political system. It will no longer be possible for the Chinese and the British Governments to take advantage of their sovereign state status to deny the participation of Hong Kong people and prevent them from expressing their views.

The Chinese and the British Governments did make some secret deals more than a year ago. One typical example was the deal on the Court of Final Appeal, but it was eventually negated by this Council. I am sure there is a lesson to be learnt from this. The Legislative Council is no longer a rubber stamp. The Chinese and the British Governments should stop pressurizing legislators into supporting agreements reached by them. The Legislative Council should attach greater importance to public opinion. If the process leading to an agreement between the two sides is kept confidential all the time and even the agenda and progress of the talks are withheld from the legislators, then how can it guarantee that we will vote for the agreement? Meeting Point urges the Chinese and the British Governments to respect the wishes of the people of Hong Kong so that there will be no repeat of the Court of Final Appeal incident. I would like to quote what Miss Emily LAU has just said, that is the British Foreign Secretary Mr HURD once declared in public that the practice of the Chinese and the British Governments making secret deals was gone. He said this out of his own accord, not being forced by us. His words brought a moment of joy and won some applause. Regrettably, his words have not been honoured so far. I hope Dr YEUNG Sum's motion would be passed today so that these words could be honoured as early as possible.

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

MR ANDREW WONG (in Cantonese): Mr President, I rise to oppose Dr TANG Siu-tong's amendment. I also oppose the original motion as moved by Dr YEUNG Sum.

As many Members have noted, Dr TANG Siu-tong's amendment is superfluous. Surely, China and the United Kingdom will make public in full the outcome once the talks have produced results. It is redundant to ask for this. For the bill in question will certainly be tabled at the Legislative Council. Any way, it will be impossible to keep the outcome secret by pretending that the talks

have produced no results if results have in fact been produced. This being the case, then, firstly, it will be hard to guarantee that the Legislative Council will endorse the agreement and this, in turn, will make it difficult for the two parties to the talks to give effect to the agreement. Secondly, the news that no result has been achieved will send a shock wave through Hong Kong.

It seems that Dr TANG Siu-tong's amendment will send a message, which is that Hong Kong, the Legislative Council and the people of Hong Kong will be ready to accept any agreement reached between China and the United Kingdom, to accept a *fait accompli* concocted between China and the United Kingdom, an "arranged marriage" in the words used a moment ago by Mr Martin LEE or, to use a more nasty term, the irreversibility of "cooked rice". Dr TANG Siu-tong's amendment has nothing to do at all with the transparency of the talks. Yet where the people of Hong Kong are concerned, it will enable China and the United Kingdom to completely ignore their views.

The motion as moved by Dr YEUNG Sum will undoubtedly help to increase the transparency of the talks. But talks are talks. The talks are not held in this Chamber or in the conference room of any public body. The talks are between two Governments, two groups of people or two parties. If the discussion is partly disclosed to the public before the talks have produced results, this will happen not because the negotiators recognize Hong Kong people's right to be informed but because either side thinks that that will help them to make their position clear. The same happens in international talks all the time. Dr YEUNG Sum and Mr Martin LEE are aware of this. If things get out of control, then the chances of the two parties or two countries working together to settle the issues will be completely ruined.

The wording of Dr YEUNG Sum's motion allows ample scope of interpretation. But it can also be described as vague. Mr Jimmy MCGREGOR bluntly took exceptions to it, though he still supports the motion. I, too, can support the motion, either because of the principle of transparency or because of personal friendship. But I value even more my friendship with Mr Stephen CHEONG. I miss the amendment that he intended to introduce but did not. The overriding principle behind that amendment was to make sure that the talks would not come to a standstill. Dr YEUNG Sum's motion, if passed, will require the British and the Hong Kong Governments to announce the agenda and their position before each round of talks. (As a matter of fact, in any international talk, the agenda may be expanded at any time subject to mutual consent.) Furthermore, the two sides will be required to announce the progress after each round of talks, to make public what results, if any, have been achieved, or, if no results have been achieved, to say what problems have arisen, what the positions of the two sides have been, what their differences have been and so forth. Should this motion be passed, it will result in, a typical "gang fight". Not only will there be a fight between China and the United Kingdom, but there will also be a fight among the people of Hong Kong themselves.

Mr President, I support Dr YEUNG Sum's general principle of a high degree of transparency. But, where the Sino-British talks on the question of Hong Kong are concerned, the higher principle is that the negotiations should be consistent with the wishes and the interests of the people of Hong Kong. Mr President, when this Council debated a motion moved by Miss Christine LOH on 11 November last year, Mr CHIM Pui-chung, Mr Jimmy MCGREGOR, Mr Frederick FUNG and I myself all introduced amendments. On that occasion, I advised everybody against bickering, and I said that, if the principle of consistency with the interests and wishes of the people of Hong Kong was adhered to, then the talks had to be kept confidential though they should not be secret talks. We should not mix up the two. By secret talks, I mean talks whose outcome will not be published and there will be no announcement to be made about whether talks will be held or whether they have been held. Such secret talks and secret deals are not acceptable to the people of Hong Kong. Mr President, what we seek is that both China and the United Kingdom will heed our wishes and that the outcome of the talks, when reached, will not be the final outcome but a tentative outcome about which the people of Hong Kong are to be consulted. I am in favour of such an arrangement. Therefore, I think we should hold some referendums or population-wide surveys to canvass people's views. However, on 21 April, this Council already rejected Mr SZETO Wah's motion about holding a referendum. At the time, I supported that motion. The consultation methods mentioned by Mr Frederick FUNG and Mr Eric LI also have merits.

Mr President, I oppose Dr TANG Siu-tong's amendment. I also oppose the motion as moved by Dr YEUNG Sum. My position has the support of several honourable colleagues including Mr Vincent CHENG and Mr Simon IP. They do not necessarily agree with every bit of my argument. But, generally speaking, they find both the motion and the amendment unacceptable. Mr President, I now appeal to all honourable colleagues in this Council, particularly to Mr Jimmy MCGREGOR and Mr Frederick FUNG, who spoke a moment ago to express views which I find similar to mine, to think again before casting their votes.

Mr President, with these remarks, I oppose both the amendment and the motion itself.

MR STEVEN POON (in Cantonese): Mr President, ever since Governor PATTEN put forward the political package in his policy address in last October, Hong Kong has been experiencing immense social disquiet. Over these six months, Hong Kong people have seen endless rows between China and the United Kingdom and, as a result, they feel anxious, perplexed and helpless.

After so many twists and turns, we are happy to see that China and the United Kingdom agree to reopen negotiation and to resume dialogue in the spirit of co-operation. To Hong Kong people, the fourth round of the Sino-

British talks to be held tomorrow or later in this week is a piece of positive and promising news.

In fact, it is beyond doubt that only through co-operation can the Chinese and British Governments safeguard Hong Kong people's overall interests. The Sino-British Joint Declaration betokens the co-operation between the two Governments. Furthermore, quite a number of provisions in the Basic Law are formulated on the basis of the pledge of co-operation made by China and the United Kingdom. Without the pledge, it is virtually impossible to provide in the Basic Law that Members of the Legislative Council returned in 1995 under the rule of the Hong Kong Government may, if they meet certain conditions, become members of the first legislature of the Hong Kong Special Administrative Region.

As regards the composition of the legislature of the Hong Kong Special Administrative Region in 1997, the Basic Law has laid down some principle-related provisions. Now what China and the United Kingdom should do is to work out the details of arrangements for putting into practice these principle-related provisions so as to ensure Hong Kong's political system, on the basis of Sino-British co-operation, a smooth transition in 1997. The Liberal Party trusts that convergence of political system and smooth transition are of paramount importance to Hong Kong.

However, while it is so pleasing to see the reopening of Sino-British talks, we have some misgivings about the negotiation. We are worried whether any agreement can be reached through the talks and the agreements, if any, can serve the best interests of Hong Kong people. Worse still, we are worried whether there is any secret deal. This is, after all, an agreement which will bear on Hong Kong people and I think both China and the United Kingdom should not turn a blind eye to Hong Kong people's anxieties.

I believe that the talks should be kept strictly confidential or they may provide an open forum for an exchange of abuses instead of negotiation. Yet, I think Hong Kong people will not accept any secret deal.

To ease Hong Kong people's anxieties about the negotiation, the Chinese and British Governments, I think, should give them an account of the negotiation in terms of the progress. This will alleviate their suspicion and end any unnecessary speculation.

The Chinese and British Governments should hold discussions and identify the appropriate way to disclose the contents of the talks to Hong Kong people. The principle should be to ensure that the negotiation can be carried on without damaging the friendly and co-operative spirit between the two Governments, to observe the confidentiality of the negotiation and to ease Hong Kong people's anxieties about the negotiation as well.

With these remarks, I support the original motion.

MISS CHRISTINE LOH: Mr President, it is a pity that Dr TANG Siu-tong offers his amendment as a substitute to Dr YEUNG Sum's motion. It would serve better as a supplement.

Dr YEUNG would like to see Hong Kong fully informed of the progress of the Sino-British talks while the talks are taking place. Dr TANG would like to see a full account rendered to Hong Kong of the results of the talks, once results have been achieved.

There is no contradiction between those desires. They are complementary. The people of Hong Kong have every right to receive both types of information. Had Dr TANG offered his amendment as an addition to the text of the motion, I would certainly have supported it.

For myself, I had assumed, maybe naively, that the British Government would, in fact, allow the results of the talks to be known retrospectively to Hong Kong even without the prompting of a Legislative Council amendment.

But perhaps, on reflection, Dr TANG is right to insist on this point, and to stress that the results of the talks should be published "in full". He is right to insist that, however these talks conclude, there must be no secret deals, no private agreements, no unpublished appendices, no tacit understandings, no "agreements to disagree" between Britain and China which are not fully explained to Hong Kong.

Hong Kong is entitled to know about every point on which agreement has been reached, and also every point on which agreement has not been reached, together with the basis of any agreement. There must be no repeat of the "secret letters" fiasco, and to that extent I am in complete agreement with the direction of Dr TANG's amendment.

Nonetheless, I cannot prefer the amendment proposed by Dr TANG, if this must be done at the expense of the original motion.

Dr YEUNG Sum calls for the substance of the talks to be made public as the talks progress. This is a point of much greater urgency, and of much greater practical importance.

The urgency arises because, when the talks are over, the result is likely to be a Sino-British deal which China at least will declare to be final and binding. It may be offered by Britain for this Council's endorsement on a "take it or leave it" basis.

If Hong Kong is to have any hope of influencing the results of the talks, then it must seek to make its voice heard before, and not after, results have been achieved. The people of Hong Kong, and their representatives in this Council, must be able to comment constructively on the substance of the talks. And to do

that, self-evidently, they need to be kept informed about what is being said on their behalf and in their name.

Moral and practical arguments

The argument for keeping Hong Kong informed is partly a moral one.

Nobody disputes China's right to sovereignty over Hong Kong after 1997; and China recognizes Britain as the master of the territory before that date. It is legally and constitutionally possible for Britain and China to make arrangements for Hong Kong and its future as they wish.

But Britain and China are losing themselves in their legal fictions if they fail to see that the people of Hong Kong have their own identity, their own needs, their own priorities, and their own social, political and economic culture.

It is cynical and it is insulting to have issues of vital importance to the future of Hong Kong being negotiated over our heads, or, if you like, behind our backs. And doubly so, when Hong Kong is being excluded merely to suit the pride of one government and the convenience of another.

That is the moral argument. But there are also strong practical arguments for keeping Hong Kong informed, and for listening to what Hong Kong has to say.

Hong Kong people understand Hong Kong far better than their constitutional masters do in London or Peking. Britain and China not only have problems in understanding Hong Kong; they also have problems understanding each other. Hong Kong cannot afford to have these talks on political reform ended in another deadlock, like the Court of Final Appeal. Or lose their way into another quicksand, like Chek Lap Kok.

If Britain and China do sincerely want to arrive at political reforms which will work in Hong Kong, which will take root in Hong Kong, and which will endure in Hong Kong, then they should allow themselves to be guided by Hong Kong in deciding what those reforms should be.

By listening to Hong Kong, and taking Hong Kong's advice, Britain and China would be serving the interests of Hong Kong and of themselves. They would be helping Hong Kong prepare for the day on which "Hong Kong people rule Hong Kong"; that promise by China which was so central to Hong Kong's acceptance of the Joint Declaration, and without which the duality of "one country, two systems" cannot possibly take shape.

A partial remedy

If, as I hope, the motion is adopted by this Council, we then risk being told by the British and Hong Kong Governments that confidentiality formed a

precondition for the talks with China, and that such confidentiality cannot be breached.

If so, and if Britain has committed itself in advance to a situation in which it can say nothing useful about the talks to Hong Kong, until the talks themselves are over, then such a situation is to be deplored. After all, there have been three rounds of talks and Hong Kong knows precious little about what took place, what progress has been made, or has not been made. But the situation, I suggest, is not without partial remedy.

The partial remedy would be for Britain:

- Now to state, openly and without ambiguity, that no matter what the course or outcome of the current Sino-British talks, the authority to fix or to amend arrangements for the 1994-95 elections still rests with the British Government, subject to the terms of the Joint Declaration;
- And to state openly that any agreement reached with China will be subject to approval, amendment or rejection in this Council;
- And to make public a formal deadline for the introduction to this Council of enabling legislation on electoral reform.

A statement of that kind would help reassure Hong Kong that no secret deal was being done. But it would be better still to do away with the secrecy in the first place. Mr President, I therefore oppose the amendment, and support the motion.

MS ANNA WU: Mr President, the Sino-British Joint Declaration on Hong Kong was offered to the Hong Kong public in 1984 as Hobson's choice. It was that agreement or none at all. This was the situation the 6 million people in Hong Kong faced at the time.

The negotiations shrouded in secrecy were conducted between the two sovereign powers — China and Britain. Both governments claimed to speak for Hong Kong, but the people of Hong Kong themselves were not given a voice.

After the signing of the Declaration, the sovereignty issue was resolved and the drafting of the Basic Law followed. China invited different individuals from Hong Kong to participate in the Drafting Committee and the Consultative Committee. China formally provided Hong Kong with a voice irrespective of whether we agree with the representativeness of that voice.

Now, it seems, we are back to the situation we were in 10 years ago with the two governments negotiating in secret haggling over the 1994-95 electoral arrangements and without real participation by the people of Hong Kong.

Are the issues any less significant as compared to those under discussion leading up to the 1984 Declaration? Less extensive perhaps but certainly not any less significant. The talks are not just about 1994-95, they are about our constitutional arrangements straddling 1997 and beyond. They address some essential aspects of Hong Kong's autonomy and because it is self-evident that interpretations of the two governments differ over the Declaration and the Basic Law and the diplomatic understandings, any attempt at refinement may turn out to be a redefinition of the Hong Kong autonomy.

I am afraid that what emerges from the secret negotiations will be something like this:

"Whereas the two governments commenced negotiation over the future of Hong Kong in 1982, and

Whereas it was agreed between the two sovereign powers that Hong Kong would be ruled by the people of Hong Kong after 1997 with a high degree of autonomy, and

Whereas after negotiations, misunderstandings arose between the two sovereign powers and there was a divergence of interpretation over the degree of democracy to be granted to Hong Kong, and

Whereas new negotiations have been held to resolve such misunderstandings,

NOW IT IS HEREBY AGREED as follows:

This Memorandum shall supersede all previous understandings."

And then will follow the details of the new agreement, which the people of Hong Kong will have had no role in shaping, but which they will be forced to accept.

Mr President, I fear a repeat of a Hobson's choice. I support Dr YEUNG Sum's original motion. We have a right to know and a right to be heard.

Thank you.

PRESIDENT: Dr YEUNG Sum, do you wish to speak to the amendment? You have five minutes.

DR YEUNG SUM (in Cantonese): Mr President, I believe that later when the Secretary for Constitutional Affairs gives his reply, he will probably say that the Hong Kong Government has to treat the negotiations in the strictest confidence, that if the agenda of the negotiations is made known to the

Hong Kong public, the negotiations will be seriously affected, that at the same time, the authorities will try their best to fight for Hong Kong people's interests and that when the results are available, they will be presented and commended to the public. Actually, this kind of statement is quite similar to Mr Andrew WONG's views. I wish to point out that it will in fact be too if the late Hong Kong Government presents the negotiation results to this Council when they are available. By that time, Hong Kong people will not be in a position to do anything. What else can we do other than to accept the results once again which is the only option? Let us imagine, if Hong Kong people do not accept the negotiation results and voice their views or objections, will the Chinese and British sides recommence negotiations to meet Hong Kong people's wishes? Obviously, this is not going to happen. To avoid being too late, we feel that Hong Kong people should have the right to know and participate.

The second point that I would like to mention is that if Hong Kong people are informed about the agenda and progress of the negotiations, they can respond. In this way, the Chinese and British sides can also understand Hong Kong people's reactions and take measures or make amendments accordingly. In the end, the agreement made between China and Britain can satisfy Hong Kong people's wishes and will be approved by the Legislative Council.

The third point that I would like to raise is that Mr Douglas HURD, Secretary of State for Foreign and Commonwealth Affairs, has said that the days of secret negotiations are over. Yet judging from the development of the present negotiations, what Foreign Secretary Douglas HURD has promised is basically empty talk. Is the Hong Kong Government prepared to do so?

Fourthly, some colleagues worry that the disclosure of any information about the negotiations will wreck the negotiations. Nevertheless, I wish to point out that these Members have too much faith in the Chinese and British sides and so they are urging colleagues to be calm while waiting for the negotiation results. Let us recall the history of the Chinese and British negotiations. How many times could they make us feel confident? Some Members of this Council, when facing some important issues, tend to adopt the attitudes of a mediator who resolves differences at the sacrifice of principle. Mr Andrew WONG agrees to the enhancing of the transparency of the negotiations; yet he even objects to the proposal of disclosing the agenda and progress of the negotiations. How can transparency of the negotiations be obtained?

We ought to know that we are requesting for the disclosure of information on the negotiations to Hong Kong people. That, in turn, will provide Hong Kong people the opportunity of voicing their opinions, participating as well as influencing the negotiations. I feel that democracy and the right to know are not conferred on us by others; we have to fight for them ourselves. Gone are the days when Hong Kong people were passive. We have to rise like a phoenix from its ashes and fight for our own rights once again. We have to take our destiny into our own hands. While the negotiations are

under way, we can only stand by, watch and criticize without having the chance to participate. If we cannot fight for Hong Kong people's rights, what else can we do as legislators? Therefore, I hope Members will support my motion and oppose Dr TANG Siu-tong's amended motion after hearing the Secretary for Constitutional Affairs's reply to be given later.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, on 13 April this year, the Chinese and the British sides agreed that the Government Representatives of the two countries should hold talks on the arrangements for the 1994-95 elections in Hong Kong in accordance with the Sino-British Joint Declaration, the principle of convergence with the Basic Law and the relevant agreements and understandings reached between China and Britain. Three rounds of talks have since been held in Peking. The two sides have agreed to hold the fourth round of talks on the 28th and 29th this month.

It is perfectly natural, and indeed understandable, that the community should want to be kept informed of the progress of the talks. As agreed with the Chinese Government however, the contents of the talks will be kept confidential. There are sound, practical reasons for this. The general consensus of the community, I believe, is that we should do everything we can to give the negotiations a fair wind, and to complete them successfully. One of the things we can do in this respect is to ensure that the negotiations take place confidentially. If we were to report after each round of talks on what exactly has been said across the table, that could not be helpful at all to the negotiators. Nor, therefore, could it be helpful to the successful conclusion of the talks.

Although the contents of the talks are confidential, the scope and basis for the talks are already defined in the announcement on 13 April. The British Government has also made clear that its aim in the talks is to secure an understanding with the Chinese Government on arrangements for the 1994-95 elections which are open, fair and acceptable to the people of Hong Kong. Members of the community are able to express views through various established channels on the sort of electoral arrangements they would regard as open and fair. Indeed, the Administration has already received extensive views and proposals from different political groups and the general public during this time, including those in the compendium and its supplement published earlier this year. The Administration also had the benefit of the views of this Council, as expressed in various debates in the past six months or so. Surely, we will continue to closely monitor public opinion, and to listen to Members' views in the weeks ahead.

8.00 pm

PRESIDENT: I have to interrupt you, Secretary. It is now eight o'clock and under Standing Order 8(2) the Council should now adjourn.

CHIEF SECRETARY: Mr 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.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: The stand of the Administration is clear. If and when an understanding is reached with the Chinese Government, we will share it with the community, and justify it to this Council, and I am most grateful to Mr Andrew WONG for explaining and defining the difference between confidentiality and secrecy. I can assure Members that there will be no secret deals. Nor, indeed, can there be any. Electoral arrangements for 1994-95 will require legislation, and it will be for this Council to either pass, amend or reject the relevant draft legislation presented before it.

Mr President, for the reasons I have explained earlier, the Administration believes that it is important for the contents of the current Sino-British talks to remain confidential. Should these talks bear fruit, however, any understanding reached between the two sides will, as the Governor has said repeatedly, be made public. The three *ex-officio* Members will therefore vote against Dr YEUNG Sum's motion, and support Dr TANG Siu-tong's amended motion.

Question on Dr TANG Siu-tong's amendment put and negatived.

PRESIDENT: Dr YEUNG Sum, do you wish to reply generally? You have 7 minutes 55 seconds.

DR YEUNG SUM (in Cantonese): Mr President, I will not be long. I will only give a brief reply.

First of all, I am very grateful to colleagues for participating in this debate. But I am extremely dissatisfied with the reply given by the Secretary for Constitutional Affairs. He said that basically there would be no secret deals because, in the end, any proposed arrangement would have to be approved by the Legislative Council. From beginning to end, he did not answer the questions that I had earlier raised. Those questions include how to avoid the scenarios of Hong Kong people not being able to do anything then because it is too late or they are not in a position to do so. Another question is that when the British and Hong Kong Governments present the agreement to the Legislative Council and meet with very strong opposition, will the Chinese and British sides recommence negotiations? I believe that this is absolutely impossible. That being the case, when the time comes for the agreement to be present to this Council the three official Members will definitely support it. Then some people who hold rather similar views with those of the Chinese side will also staunchly

support the agreement. It is pretty obvious that should there be a deal, the British side must have made major concessions. Or else, no deal can be struck. Under such circumstances, we have no alternative but to accept the undesirable results once again. I must stress again that Hong Kong people cannot always accept such kind of arrangements, that is, we have to take whatever is given to us each time and if we refuse to do so, we will be left with no other choice. During the Sino-British negotiations, Sir Geoffrey HOWE said this to us, "I do not want this kind of history to repeat itself." Thank you.

Question on Dr YEUNG Sum's motion put.

Voice vote taken.

PRESIDENT: Council will need to proceed to a division.

PRESIDENT: Would Members please proceed to vote?

PRESIDENT: We seem to have a total breakdown of the system at the moment. (*Laughter*) Nothing is showing.

PRESIDENT: Could I ask Members to punch their buttons again, please?

PRESIDENT: Yes, Mr WONG?

MR ANDREW WONG: Mr President, may I request that we proceed to a division in accordance with Standing Order 37?

PRESIDENT: I am just checking Standing Orders for the old style vote. The Clerk will ask each Member separately how he wishes to vote under Standing Order 37 and a Member, upon his name being called, shall give his vote saying "Aye" or "No" or stating that he abstains.

Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Jimmy McGREGOR, Mr Peter WONG, 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 Steven POON, Mr Henry TANG, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Miss Christine LOH and Ms Anna WU voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr TAM Yiu-chung, Mr Andrew WONG, Mr Martin BARROW, Mrs Peggy LAM, Mr Vincent CHENG, Mr CHIM Pui-chung, Mr Eric LI, Dr Samuel WONG, Dr Philip WONG, Dr TANG Siu-tong and Mr Roger LUK voted against the motion.

Mr NGAI Shiu-kit and Mrs Elsie TU abstained.

THE PRESIDENT announced that there were 25 votes in favour of the motion and 14 votes against it. He therefore declared that Dr YEUNG Sum's motion was carried.

EMPLOYEES' RETRAINING SCHEME

MR PANG CHUN-HOI moved the following motion:

"That this Council urges the Government to conduct a comprehensive review of the objectives of the employees' retraining programme, the target groups it is designed to serve, the practicability of the various courses offered and the role of the Labour Department to see whether the employees' retraining scheme can help people affected by economic transformation in finding suitable employment, and to set up a special working group within the Labour Department with the exclusive responsibility of arranging for job placements for retrained workers."

MR PANG CHUN-HOI (in Cantonese): Mr President, in order to pacify Hong Kong's labour sector, who were unhappy with the General Scheme of Importation of Labour, the Government, in the middle of last year, put forth the Employees' Retraining Scheme (ERS). This was done in a hurry, before there had been time for careful planning. The results of the ERS have therefore been disappointing. Let us look at some statistics first.

As at 19 May this year, 510 people had completed retraining. We will not count the 10 who have just completed the courses. Of the 500 retrained, 214 did not require placement assistance from the Labour Department. However, the training bodies, the Labour Department and the Employees Retraining Board (ERB) do not have information on their present employment status. Of the remaining 286 retrainees who have received placement assistance from the Labour Department or other training bodies, 225 have found jobs, 61 are still waiting for job placements.

Though only 500-plus retrainees have completed short retraining courses, the Employees Retraining Fund has already disbursed more than \$10 million. Based on the figures cited above, retrainees' successful job placement rate is only 45%, and there is no information on, or interest in tracking, the

employment status of 42.8% of the retrainees. The latter ratio, which is high, has been in an upward trend. According to the figures supplied by the Secretary for Education and Manpower, the ratio on 16 April and 19 January are 39.2% and 38.5% respectively. On the other hand, retrainees' successful job placement rate has been in a downward trend. The ratio was 45.5% on 19 January and 47.3% on 16 April but it fell to 45% in the middle of this month.

Only a portion of the retrainees are now working at jobs related to the retraining courses. The ratio of such retrainees was 24.5% on 19 January and 25.5% in mid-April.

The statistics cited above underline the need to review the practicability of every course in the ERS and the need for the Labour Department to strengthen its manpower and to set up a special working group so as to provide career counselling and job placement services to retrainees.

Mr President, I must point out that I am very unhappy with the situation in which nobody has information on the post-retraining employment status of more than 40% of the retrainees. Even though a retrainee does not require placement assistance, somebody should still be following up their cases in order to find out what they are doing. This will yield information that can be used in improving the ERS and the courses. Then, the manpower and other resources expended on retraining will not be wasted.

If we look at the entire structure of the ERS, we will see that the Labour Department plays a very important role in it. The Labour Department's work begins with career counselling when an employee enrolls in the ERS. This helps him to choose the right new line of work and the corresponding retraining course. After retraining is completed, the Labour Department then helps them to find employment. The Labour Department finds out what the retrained employee wants and what his prospective employer wants. This information is passed to the ERB, which uses it to reshape the retraining courses until they are responsive to market needs. Even within the scope of the recently introduced On-the-job Training Scheme (OTS), the Labour Department must provide counselling which will increase the confidence of employees switching to new jobs.

However, up to now, the Labour Department has not provided additional manpower resources for the ERS. The Governor's Policy Address sets the retraining target at 15 000 or so in the next two to three years. The Labour Department, at its present level of staffing, cannot cope with this workload. Nor did the Labour Department ask for additional manpower resources when budgeting for the year 1993-94. I cannot but ask: Did the Labour Department know from the outset that the ERB would not be able to meet the Governor's target? Does the Labour Department think that every officer in its Local Employment Service has so much spare time that he can assume additional duties?

Also, I would like to point out that the promotion of the ERS is far from being adequate. The Government announced last week that the unemployment rate had gone up to 2.3% and the under-employment rate to 1.6% in the first quarter of this year. The number of unemployed and underemployed workers were estimated to be 66 600 and 46 100 respectively. Yet, from last year to 15 May this year, only 3 519 persons enrolled in the ERS.

The Education and Manpower Branch has pointed out in its Report on Manpower Outlook in the 1990s that 84 000 workers with lower secondary school education or below will face employment difficulties in 1996. For this problem to be solved, 20 000 employees must be retrained each year. Yet the Government is planning to retrain only 15 000 employees in the next two to three years. This is far from being adequate.

A greater worry of the labour sector is that the Government has so far shown no sign that it intends to do away with the General Scheme of Importation of Labour. At present, 25 000 unskilled foreign workers are competing for jobs with Hong Kong's basic-level workers. The Government which provides retraining to local employees, does not intend to eliminate or phase out the quotas for imported workers. This will undoubtedly defeat the purpose of the ERS and indirectly make it more difficult for retrained employees to find jobs.

The ERB has announced that it intends to provide training to housewives so that they may join the labour market. I welcome this. At the same time, I hope that the Government will provide the necessary supporting services, such as nurseries, to induce housewives to return to the job market. I am pleased that the OTS introduced by the ERB earlier this month has won the support of many employers. I hope that the ERB will work closely with the Labour Department to track the employment status of retrained employees so that the OTS may be implemented more smoothly.

Mr President, the Employees Retraining Fund has only a few hundred million dollars. I hope that this money will give renewed hopes to the manufacturing workers, who have contributed their energy to Hong Kong's economic growth in the 1960s and 1970s. It is hoped that they will be able to adjust to the re-structured economy and will not be displaced for lack of competitiveness. Mr President, I ask the Government to conduct a comprehensive review of the ERS, with special emphasis on job placement. I wish to stress that the success or failure of the ERS does not depend on how many employees have been retrained. More importantly, employees who require retraining should receive help so that they may experience a "second spring time" in their career lives. I therefore urge the Government to set up a special working group with the responsibility of arranging for job placements for retrained workers.

Mr President, with these remarks, I would like to ask my colleagues in this Council to support my motion.

Question on the motion proposed.

MR NGAI SHIU-KIT (in Cantonese): Mr President, the subject of today's motion debate is spelt out in great detail, but, in the final analysis, it has only one main concern, namely, to assist those affected by economic transformation to find suitable employment. All other matters are only incidental.

The Administration has indeed done a lot to help workers in changing occupations. But due to the lack of strategic planning and arrangements, the Administration's work has been confined to the conventional areas and the effectiveness is naturally limited. A year or two ago, when embargo on ivory products was strictly implemented by many countries around the world, our Administration did help the ivory carvers to change occupation by introducing them to the cattle bone carving industry, which is a low value added industry. The Administration's effort did not bring much success, and such was the typical result of "being conventional".

In fact, the employers' retraining programme can only provide general training to the retrainees without being able to offer programmes that are designed according to the employers' particular requirements. So it cannot be guaranteed that a retrained worker can find a suitable job. As the retrainees are no longer young, so even after the retraining, they will still be subject to keen competition in the labour market. The pressure they are under will be even greater in view of the lower wage and age of the imported labour. Currently, only 44% of the retrainees can find employment. So the Administration has to make more effort in helping these workers to return to our workforce such that the enthusiasm of receiving retraining will not be crushed by lack of employment guarantee.

I am happy to learn that the Employees Retraining Board has recently introduced the On-the-job Training Scheme (OTS) which enables employers to formulate a "purpose-fit" training programme for the retrainees. I believe that this new retraining scheme is both a new beginning and good news to the employers and the retrainees. The reward for the participant organizations in the OTS is priority in being considered when they apply for imported labour in the future. I think that if the number of workers participating in this scheme is too small to relieve the labour shortage faced by the industrial and commercial sectors, it will then be reasonable and positive to allow the participant organizations to have priority in importing labour. However, if the opposite situation arises, then this method of reward should be reviewed.

Mr President, the Budget has implemented the relevant proposal in the policy address by injecting \$300 million into the Employees' Retraining Fund to meet expenditure in this regard. With this money as well as the \$140 million of

levy collected annually from employers of imported labour, the Employees Retraining Board is prepared to provide assistance and relevant services to tens of thousands of workers. According to the Board's estimate, the amount spent on each retrainee, only for the purpose of providing training courses, will be \$20,000 to \$28,000. However, a review of the effectiveness of the retraining schemes in the past shows that only 40% of the retrainees could find new employment and the situation of the remaining 60% is unknown. It must be borne in mind that the end of a training course does not mean the end of the retraining programme. Instead, it should be the beginning of another phase the objective of which should be to really help the retrainees to find employment in another trade. To co-ordinate with the retraining programme, I suggest that the Labour Department take the initiative to find new employers for the retrainees, and for those who fail to find new employment, recommend them to further training, such that the effort and resources previously spent on them will not be wasted.

Mr President, labour retraining during the period of economic transformation is a responsibility that the Administration cannot evade. Despite the Administration's repeated affirmation that it will not directly subsidize industrial development, it can assist the economic transformation by means of the retraining programmes. I think that it is most important for the retraining scheme to be forward looking instead of focussing on the short-term demand of the labour market. The authority concerned should formulate a long-term retraining programme that caters for the future economic developments. It should not tackle the problem in a piecemeal way, otherwise the quality of our labour workforce can have no improvement, which will eventually weaken our economy.

Mr President, with these remarks, I support the motion of Mr PANG Chun-hoi.

MR TAM YIU-CHUNG (in Cantonese): Mr President, much to our regret, we are debating the Employees' Retraining Scheme (ERS) again today at a time when the Government is about to import a large number of foreign workers. And the trades eligible for importation of labour are even being expanded to include the new airport works and general clerical jobs. At this juncture when the ERS is developing and the scheme of importation of labour expanding further, I cannot help but rethink the objectives of the ERS and the problems it sets out to address.

Economic transformation has altered the pattern and substance of employment in Hong Kong. Part of the established workforce is no longer suited for new production processes which cannot get enough supply of workers they need. Hence the labour market finds itself in a state of structural dislocation where "some people can find no work to do while some jobs can find no people to fill".

The Government has all along lopsidedly stressed the shortage of labour, while glossing over the situation of oversupply. It has wasted much manpower resources as a result of failure to optimize them. Furthermore this will put the ERS off course and permanently render it incapable of addressing the heart of the problem.

It is very obvious that the objective of the ERS is to remove the structural dislocation, that is to say, to construct a bridge between employees engaged in old production processes and the new job market, so that these employees may find employment and this replenishes supply in the new labour market.

However, the Government still insists that labour shortage is serious, thus making the importation of labour as a continual and long-term policy. This has undoubtedly damaged the ERS mechanism, for importation of labour cannot solve the problem of structural dislocation of the labour market in Hong Kong. But only the ERS can solve this problem. The current situation of large-scale importation of labour versus small-scale retraining, and planned importation of labour versus haphazard provision of retraining is indeed abnormal. The present arrangement whereby the importation scheme encroaching upon the ERS must be changed before the latter can find a way out.

As a regulatory mechanism of the local labour market, the ERS should be endowed with a long-term objective and strategy. And it should be targeted at all people, including women, who have left the labour market but with the potential to rejoin it. Here I should like to put emphasis on the proposals put forth by the Women Committee of the Hong Kong Federation of Trade Unions.

The committee is of the view that housewives had quit their original jobs to give birth to and nurture children. But when they want to take up employment again, their original skills, knowledge or psychological make-up may have already become unsuited for the requirements of the present job market. The wish of these housewives to take up employment again is usually stifled as a result of the lack of retraining. That these women may not rejoin the labour market is a sort of waste both in terms of loss suffered by the women themselves and by society as a whole. Therefore, I hope that the ERS can include retraining for re-employment of women as an objective and a long-term strategy be formulated to make this item a long-standing and regular effort.

With the injection of \$300 million by the Government into the Employees Retraining Fund, the ERS has relatively freed itself from reliance on the labour importation policy. While this is a rather commendable progress, it is still not enough. The ERS should have a self-sufficient and market-oriented objective — at present performance has been poor in these two respects. As far as market orientation is concerned, achievements of the ERS are so far limited because there is no guidance from systematic market research and it has to feel its way cross the river, so to speak. I hope that market researches can be conducted regularly to provide guidance to facilitate the flexible design of retraining courses.

Of course, other factors have to be taken into consideration if a course is to succeed. Job outlets is a very crucial factor for success. The current On-the-job Training Scheme (OTS) is a very worthy attempt. I hope the Employees Retraining Board will put more effort promoting the OTS.

I support the Honourable PANG Chun-hoi's proposal of conducting a comprehensive review of the ERS.

I think that we should evaluate and design retraining courses from three angles. Firstly, they should ensure job placement for retrainees. Secondly, they should help retrainees acclimatize to their new jobs. And finally they should ensure that they will not lose out as a result of switching employment. The Government should play a positive role in these three aspects. The Labour Department should encourage and help workers intent on switching employment to transfer to trades which are short of labour. And the Employees Retraining Board should establish channels of communication with employers so as to learn more about the needs of employers to facilitate workers' active acclimatization to their new working environment. Finally, the Government should provide assistance, financial in particular, to retrainees who may not find immediate job placement or whose income drops during the transition period.

With these remarks, I support the motion.

MR ANDREW WONG (in Cantonese): Mr President, it has been more than a year since the Employees' Retraining Scheme (ERS) was first introduced. I do not intend to assess the success or failure of the ERS by applying simplistic criteria. In particular, it will be premature to assess the success or failure of the On-the-job Training Scheme (OTS), which was announced by the Employees Retraining Board (ERB) only a few days ago. However, judging from the operation of the ERS last year, there are indeed flaws in it.

The ERS is originally intended to help employees in trades that are declining as a result of advances in technology or as a result of economic re-structuring. These employees will receive retraining and learn new skills that will enable them to find jobs in trades experiencing shortage of labour. According to Labour Department statistics, as at the end of last month, 3 126 persons had enrolled in 39 retraining courses and only 213 of the 474 retrained workers had found jobs. 62 still require the assistance of the Local Employment Service of the Labour Department to find jobs. The rate of successful job placement was only 45%.

Upon a closer study of the information, one finds that 5% of the people applying to enrol in the retraining courses were found to be unqualified or unsuitable. What does "unqualified" mean? Will the authorities care to answer?

A very practical question is how to define a declining trade. The Government has not identified the declining trades. My own understanding is

that a declining trade is one that is largely labour-intensive or largely involves manual work. Workers in such trades are generally not well educated. Fewer and fewer new recruits joined the declining trades in recent years. The average length of service of the workers in these trades is likely to be on the high side.

The information also reveals that as at the end of last month, 64.5% of those applying to enrol in the retraining courses were in the age group of 30-39 and 31.45% were in the age group of 40-49. According to the statistics of last year, we find that 70% of the applicants had received education up to only Secondary III. I would like to ask the authorities: How many of the retraining courses now require entrants to have received education of Secondary III or above? There are retrainees who have completed retraining but are still waiting for jobs. Why have they not been accepted by employers? Is it because of their age?

These problems raise two questions. Firstly, are the entrance requirements of the courses too high? Secondly, when designing the courses, did the authorities consider the special traits of potential retrainees?

However, one basic question must be answered first. Are the industries or trades in which workers have undergone retraining really experiencing labour shortage or are they assumed to be so? Retrainees who have finished the course in janitorial services in the hotel house-keeping department are not hired because they have passed the age of 30 and are too old. Why? We have actually seen this happen.

If the intention is to improve the ERS, then the most important objective is to enable retrainees to seek employment and switch to new jobs. Resources then will not be wasted.

The OTS just introduced by the ERB will, to a certain extent, help to solve the job placement problem. But it is surprising that some companies voluntarily participating in the OTS would rather hire a totally untrained person, paying him two-thirds of his normal salary during the first month and the full salary thereof, than hire a person who has completed retraining, paying him the normal salary. Why?

Another thing is that OTS lends itself to abuse by "unscrupulous employers." For instance, when an employee is enrolled in the OTS, is he regarded as a regular employee or just a temporary or probationary employee? If a company participates in the OTS, will its employees earn retraining credits that are recognized by other companies? A company participating in the OTS can, for reasonable cause, fire an OTS-enrolled employee upon the completion of retraining, thereby saving one-third of the monthly salary. It can then apply to participate in the OTS again. How can the authorities be sure that the employee is fired really for reasonable cause and not because the company wants to save one-third of the first month's salary by hiring a new employee?

There is yet another aspect. Why do the authorities provide in the OTS that companies supporting it will be treated with priority if they apply to hire foreign workers later? Should the authorities not encourage companies to pursue the training benefits of the OTS and hire local workers? Is this "priority treatment" provision not open to suspicion as being perverse?

Mr President, honourable colleagues and the Honourable Samuel WONG who is the chairman of the ERB, I am not opposed to OTS. On the contrary, I greatly endorse the concept. However, there are many substantive problems at which the authorities must take a square look. Otherwise, this innovative scheme will only be reduced to a means whereby employers can hire "cheap" labour. Labour is "cheap" not in the sense that employees are treated meanly but in the sense that the cost of labour is subsidized by the Employees Retraining Fund or in the sense that the OTS is used to pave the way for applying to import foreign workers.

Mr President, today's debate is about the ERS as a whole and not only about the OTS. I must stress that the measure of success of the ERS is that the unemployed and employees in declining trades will really receive help and be able to switch to new jobs, particularly to trades where there is a shortage of labour. However, because of the statistics that I cited at the outset, I have reason to believe that the present retraining courses offered by the ERB have not served the purposes of helping the workers and alleviating the problem of labour shortage. Also, there is not enough incentive to induce employers to hire retrainees. The OTS, too, has some inherent problems. All these problems are closely related to one another. If the authorities deal with them one by one, then the Government will return to its old habit of "treating symptoms but not the disease."

Mr President, I support Mr PANG Chun-hoi's motion.

MR RONALD ARCULLI: Mr President, the motion before this Council calls for two things: (i) a comprehensive review on the Employees' Retraining Scheme; (ii) setting up a special working group within the Labour Department with the exclusive responsibility of arranging for job placements for retrained workers.

We support the motion since it is the view of the Liberal Party that retraining is one of the important components in our search for a long-term solution to our labour shortage problem. The reason why a section of our workforce find themselves in difficulty is due essentially to Hong Kong's transformation from a manufacturing economy into a service economy.

Mr President, I will mainly deal with the comprehensive review.

One of the most important factors that needs to be kept under constant review and scrutiny is of course the demand and supply of labour in different

industries. This vital information is needed in order to enable the Employees Retraining Board to devise appropriate retraining courses. Another piece of vital information that the Employees Retraining Board needs to enable itself to do its job is input from the business and industrial community as to where there are vacancies and also the areas of anticipated demand. Broadly speaking there are two indicators as to the success or otherwise of retraining courses: first, the enrolment ratio; second, the successful job placement ratio.

According to the figures of the Employees Retraining Board, as at 30 April 1993, a total of 474 retrainees had completed retraining while 256 were undergoing retraining. Of the 474 retrained, 213 found employment through the job placement service of the Labour Department. 199 did not require the job placement service and the remaining 62 (13.1%) still require assistance of the Labour Department to find jobs. One aspect has always been of concern: the lack of information on whether the 199 are employed in jobs for which they received retraining or in other areas. Without this information it would be difficult for the Employees Retraining Board or the Labour Department to assess demand.

Inability to find jobs is a signal that the scheme may not be working as well as expected. Whilst 62 unemployed may not sound high as a number it does seem on the high side when translated into a percentage of the total of 474 who received retraining. We were told in the last Manpower Panel meeting that the Employees Retraining Board is considering joining hands with the Hong Kong Productivity Council to conduct a market survey to look into the retraining needs of local employees which is expected to be completed by the end of August. I am sure the Employees Retraining Board would, apart from the review, draw on the information from the visa applications under individual industries for the General Scheme of Importation of Labour. The Government must do its utmost to persuade employers to give every opportunity to local workers and if a substantial number of the retrainees in a particular industry are unable to find employment in that sector the Employees Retraining Board and the Labour Department should enquire into the reasons and causes with the view of seeing whether a good case can be made for either reducing or indeed cutting the quota allocated for imported workers for that particular industry.

Inability to find employment may be the result of different factors, including accurate estimate of the labour market demand, the practicability of the various courses offered, as well as the expectations of the retrainees. The comprehensive review should look at all these factors and many others. As to the setting up of a special working group within the Labour Department with the exclusive responsibility of arranging for job placements for retrained workers, the Government ought to give consideration to this suggestion, particularly as the numbers, we are told, will increase quite quickly.

On the total number of retrainees covered by the scheme, we believe the Government should commit to put more resources into organizing more courses. A simple way to do this would be a further injection of additional

funds into the scheme say, \$300 million. In fact we raised this point with the Government during the 1993-94 Budget dialogue and we hope the Government will reconsider it in the comprehensive review.

Mr President, retraining is long overdue and not only do we have to speed it up but most importantly we have to have a scheme that works well. We hope to see the Government truly committed to the scheme and not just treat it as some gratuity, some compensation to importation of labour.

With these remarks, Mr President, I support the motion.

MRS MIRIAM LAU (in Cantonese): Mr President, Hong Kong's labour market has always been very unbalanced with respect to gender. Men account for a much higher percentage of the workforce than women. According to statistics from the Census and Statistics Department, as of 1992, in our population nearly 80% of men but only less than 50% of women had paid jobs. Also, more men are continually employed than women. On the average, over 90% of all men in the 20-59 age group are continually employed. While over 80% of all women in the 20-24 age group are employed, the ratio declines to about 50% for women reaching the age of 30 and then falls sharply to a very low level for women past 45.

Marriage and children are often the stumbling blocks to women's continual employment. After getting married, many women have to quit working so that they can take care of the home and the children. When their children grow up and these women want to go back to work, they often face many difficulties. First of all, technology is advancing spectacularly. The knowledge and skills that these women acquired 10 or more years ago may be out-dated or even obsolete. Secondly, they have not worked for a long time. They have lost touch with the outside world and find it difficult to adjust to the new environment. It is natural that they lack self-confidence. That is to say, they have no up-to-date skills, no up-to-date knowledge and no self-confidence. How can they really go back to work full time? So some of them accept low-position or part-time jobs while others simply stop looking for work and stay home instead. This is a huge waste of human resources.

The basic objective of the Government's Employees' Retraining Scheme (ERS) is to help workers affected by the structural transformation of the economy. But women who want to go back to work are also in great need of similar help. Though such women are not specifically excluded from ERS, yet ERS, by definition and based on the themes used in publicity campaigns, is primarily intended to help employees affected by the structural transformation of the economy. Few women therefore know about ERS; even fewer participate in it. Besides, places made available under ERS are too few, even assuming that the Government retrains 15 000 persons in the next two or three years as planned. I think that this plan is spread over too long a period and that the target may not be fully met in the end.

I think that the Government should expand the scope of ERS to benefit more people. The retraining of women should be made one of the goals of ERS. Publicity campaigns should be conducted to tell women intending to go back to work that they can receive help from ERS. In this way, more women will be encouraged and helped to go back to work.

Regarding the retraining courses, there are too many people applying to enrol in some of the courses, while nobody is interested in some other courses. The Government intends to add more classes to the popular courses and to terminate the courses which receive poor response. Still, I feel that the Government should first conduct thorough surveys of the various sectors and trades, thus learning the needs of the job market. Then, the Government should design retraining courses in the light of the findings. It should also review the courses from time to time. This will save trouble, save time and put resources to better use. Where the retraining of women is concerned, I think that the Government should do its best to design practical courses in the light of these women's needs and skills. Foundation courses such as language training and basic general business skills should be provided. Counselling is also very important. Counselling enables women to make a full assessment of their potentials, to increase self-confidence and to go back to work without worry. I believe the aforesaid courses will be very popular.

Mr President, women are an important human resource. Now that Hong Kong is experiencing a shortage of labour, the Government should make good use of this resource. Under the pressure of some traditional thinking, many women who worked before have had to quit so that they may take care of their family and children. They have to do so also because of the lack of community support services. When they can and want to go back to the labour market, the Government should encourage and help them to do so to the maximum extent possible. Giving them the right kind of retraining is one of the best ways of helping them. I hope that the Government, when reviewing ERS, will give consideration to women's needs on that front.

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

MR FREDERICK FUNG (in Cantonese): Mr President, honourable colleagues, despite the apparently low rate of unemployment and underemployment in Hong Kong, we should definitely not overlook the importance of the retraining scheme and think that under it, training for general labour skills is provided. We should not lose sight of the fact that industrial transformation is more than a question of workers changing their employment. More importantly, there are several tens of thousands of workers, middle-aged workers in particular, who are turned away ruthlessly by the labour market and are left in dire straits as a result of such transformation.

The retraining scheme has been in operation for quite some time and it always gives one the impression of being nothing but window-dressing. This is because the scheme has a rather small intake of trainees and it offers only a few courses, rendering it impossible to cater for the needs of the labour market. More importantly, an academic attainment requirement for admission is imposed on several of the courses, making it virtually impossible for middle-aged workers who are out of work to receive retraining. Furthermore, the whole scheme lacks attraction to the labour force because there is no guarantee for employment after retraining. A sense of commitment is also absent on the part of the employers. In view of the aforesaid, the public cannot help but query whether the Government has any sincerity in helping workers to change their employment. Both the Association for Democracy and People's Livelihood and I are convinced that when the retraining scheme is reviewed, the authorities concerned must, above all, map out a clear direction. Such a direction is to ensure that workers in Hong Kong will not become unemployed because of economic transformation and that the objective of the scheme is to train workers so that they can change employment smoothly. Apart from this specific direction and objective, the Government should pay attention to three areas as follows:

- (1) To require large enterprises to set an example by employing retrained workers. Hong Kong has provided a stable and favourable climate for such enterprises to make profits and it is their responsibility to ensure that workers in Hong Kong have stable employment. This is not merely a moral responsibility. I feel that the Government should consider writing this requirement into the law.
- (2) To prevent enterprises from making use of loopholes in the law. At present, the most obvious loophole in the law is that an enterprise may recruit employees from China under the disguise of offering training to them. Such workers do not fall within the category of imported labour. This will in turn dampen local workers' employment prospects.
- (3) The number of imported labour in various industries should tie in with the priorities and number of the retraining courses provided under the scheme. That is to say, the retraining courses and the number of places allocated in each phase should be decided according to the number of labour imported in each industry. The greater the number of imported labour in a certain industry, so should the number of training courses for that particular industry be increased accordingly. The Government should ensure that the importation of labour should be an interim measure with the ultimate objective of replacing the existing large number of imported labour with retrained local workers.

The full implementation of the above and the setting up of a working group under the Labour Department to arrange for job placements for retrained workers will ensure that people joining the retraining scheme will find new jobs. Only then will this scheme be considered successful. Therefore I fully support the motion. Apart from conducting a comprehensive review of the retraining scheme, the Government should set up a working group to make sure that retrained workers are given the opportunity to take up employment in which they can put into practice what they have learned. However, if we concur that the retraining scheme is not a stopgap measure, then the Government should set up a committee under the Education and Manpower Branch to monitor, on a long-term basis, the trend of the change of employment among workers and the pay level, so as to ensure that when industrial transformation is underway, workers' wages will not be eroded in real terms, and that workers will be able to secure employment. Finally, in order that workers in Hong Kong may live in contentment, I urge the Government to change its knee-jerk labour policy in the past and make vigorous efforts to ensure that workers' employment opportunities and standard of living are guaranteed.

With these remarks, I support the motion.

THE PRESIDENT'S DEPUTY, MRS ELSIE TU, took the Chair.

MR MICHAEL HO (in Cantonese): Madam deputy, Hong Kong has been undergoing economic transformation since its gradual integration with the economy of southern China from the 1980s onwards. With this transformation, the number of workers employed in the local manufacturing sector has been declining while demand for labour in the service sector has been on the rise. As a result of this, manufacturing workers face unemployment and underemployment whereas the service sector is short of labour. Moreover, high inflation emerged in the early 1990s as a result of labour shortage and high wages. The Government has all along thought that importation of foreign labour is the only solution to the problem of high inflation. In the Financial Secretary's Budget speech this year, labour shortage was still considered the principal factor contributing to inflation. The Government's sole reliance on importation of labour to resolve problems caused by Hong Kong's industrial transformation has intensified hardships faced by local manufacturing workers who are victims of underemployment. This stopgap measure cannot effectively resolve problems arising from the impact of Hong Kong's industrial transformation on the labour market. The Government has made no commitment to the Employees' Retraining Scheme which is supposed to be a long-term solution to put right the territory's labour shortage and dislocation of its labour market. In 1992 when the Government expanded further the scheme of importation of labour, a retraining fund was set up for local workers in order to quiet down their resentment. It was intended to be a short-term expedient measure whereby employers importing labour would pay for the retraining expenses, but again without any substantial government commitment.

Then a decision was announced in Governor PATTEN's policy address in 1992 to inject \$300 million into the Employees Retraining Fund, with a view to retraining 10 000 workers within 1993. We welcomed this decision. However, we think that since long-term planning and strategy was not on the cards when the Government first set up the Employees Retraining Fund, therefore when the Government is willing to make an initial commitment it is necessary to re-examine the various components of the retraining scheme with a long-term objective.

As far as policy objective is concerned, the United Democrats of Hong Kong think that the short-term goal of the retraining fund should be to resolve the problem of arranging for manufacturing workers to switch to other employment as a result of the economic transformation. But speaking for the long term, its objective should be to solve Hong Kong's problem of labour shortage and eventually to do away with the scheme of importation of labour gradually. From the manpower resources planning for Hong Kong in the 1990s published by the Education and Manpower Branch in 1991, it can be seen that nearly 85 000 workers below junior secondary education level will become redundant by 1996. And the demand for non-skilled workers will decline further with the economic development of Hong Kong. However, we will be short of more than 52 000 workers of senior secondary education level, with demand for service industry workers and skilled workers ever on the rise. Confronted with this situation, the Government should expand further the Employees' Retraining Scheme in order to cope with problems that will emerge in 1996.

As to its target clientele, it is appropriate of the scheme to make manufacturing workers seeking alternative employment its target trainees in the short term. But it must also aim at gradually expanding its clientele to include manufacturing workers presently on the job and actively attract them into retraining. At the same time, in order to attract workers to join the retraining scheme on their own initiative, the Government should raise the allowance for retrainees from \$2,800 to \$4,000. At present, the annual quota for retrainees is 10 000. It is estimated that on the basis of this 10 000 quota, only 30 000 workers will have been retrained by 1996 as against the 85 000 redundant workers estimated by the Education and Manpower Branch. In order to have these redundant workers back into the labour market as early as possible, the Government should raise the annual quota to not less than 20 000.

Only a total of 386 workers have completed retraining as at 19 March this year since the implementation of the Employees' Retraining Scheme. Hence there must be something wrong with the organization of courses for some of them have one or two retrainees enrolled only. As regards job placement for retrainees, the Government claimed that some 11.6% of retrainees required placement assistance from the Labour Department on completion of retraining. Whereas the scheme was only on a small scale in the past, once the quota is expanded and if the percentage remains the same, more than 1 000 retrainees will need assistance. The Government should make early preparations.

Whether retrainees can rejoin the labour market after the scheme has been expanded will be a key question. If these retrainees cannot find suitable placement as a result of a lack of appropriate assistance and co-ordinated policies from the Government, resources will have been wasted. Meanwhile, the development of the scheme must be diversified. We hope that the Government will monitor the job placement situation of retrainees, in order to avoid turning them into temporary cheap labourers.

With these remarks, I support the motion.

DR HUANG CHEN-YA (in Cantonese): Madam deputy, Hong Kong's economic structure underwent drastic changes in the past 10 years. Manufacturing, as a percentage of Gross Domestic Product (GDP), has declined steadily, falling to 16% as of 1991. Service trades, as of 1991, accounted for 73% of GDP and employed over 60% of the working population. Such being the trend, many workers found that they were like "heroes without the proper arena". The valuable experience that they had accumulated over the years was no longer appropriate to the needs of the times. They faced the prospect of unemployment or underemployment. At the same time, because of a slowdown in population growth and a gradual fall in the rate of people joining the workforce, the growth rate of Hong Kong's working population declined markedly, falling from 1.8% for the 1982-1987 period to 0.5% for 1987-1992. Unfortunately, the Government for a long time took a "generally complacent" approach to the social conflicts resulting from these changes and to the dual phenomenon of labour shortage and structural unemployment. The Government's failure to take a positive approach resulted in problems for the employees in Hong Kong's declining trades when they wanted to switch to new lines of work. Meanwhile, some employers complained that it was difficult to hire workers and that salaries were in an upward trend. Government policies were actually doing harm to Hong Kong's economic development and hurting the quality of life and the dignity of the workers of Hong Kong. The dual phenomenon of labour shortage and structural unemployment must, over the long term, be resolved by increased education and training and by long-term plans of real investment and technological innovation. For the medium and the short term, the Employees' Retraining Scheme (ERS) is probably a feasible and effective way of easing the problems. Letting manufacturing workers switch smoothly to service trades will not only solve the social problems due to the unemployment of manufacturing workers but also enable full use to be made of local human resources.

According to some studies, one cause of the sustained high rate of inflation is the rising salaries in the service trades as a result of the structural transformation of the economy. It is thus clear that ERS, if effective, will give retraining to redundant manufacturing workers to enable them to switch to service trades. This will have a cooling effect on salary increases in the service trades and be of help to the easing of inflation.

When a trade can meet its labour needs either through ERS or through the importation of foreign workers, ERS should be given first consideration. One reason is that local employment needs to be safeguarded. Another reason is the effective cooling of inflation. Foreign workers, if imported, will require all kinds of services including transport and housing. They will put pressure on Hong Kong's infrastructure. Therefore, while foreign workers can meet the labour needs of some trades, they will build up demand pressure on other trades, particularly the service trades. Solving the labour shortages of specific trades through ERS will not give rise to such problems.

We should attach importance to ERS because it has far-reaching repercussions for the economy of Hong Kong. However, up to now, what is being done is no more than by way of token, like offering a cup of water to fight a fire that has spread to a cartload of firewood. According to statistics, as of 19 March 1993, only 386 workers had completed retraining, and only 125 were being retrained. Clearly, retraining on such a small scale simply will not produce the effects mentioned above. Among the 386 workers who have completed retraining, only 134, accounting for 35% of the total, did not have to use the job referral service of the Labour Department. Only 53% of the retrainees are now working. This shows that the implementation of ERS needs badly to be improved. One improvement is to relate retraining courses to market needs. ERS must not pursue retraining for the sake of retraining. It must not act like the proverbial man who built a carriage indoors and then found that it did not fit the road. It should be realized that the technical standards set for Hong Kong's workers in all trades are becoming higher and higher. The present labour shortage is not just a shortage of manpower. It is also a shortage of skills. We think that the objective of ERS should be to enable retrained employees to find jobs in new lines of work. Therefore, retraining courses should be designed to teach skills needed by the trades experiencing labour shortage. The courses should be reviewed in light of changes in market conditions and advances in technology. Only thus can retraining yield workers acceptable to the market. Another important point is how to attract employees to enrol in ERS. At present, only a meagre retraining allowance is paid. If an employee in a declining trade is the sole breadwinner of his family, it will be hard for him to give up his job in order to attend retraining courses full time. It is no wonder that male workers generally do not want to enrol in ERS. The authorities concerned should make suitable wage or allowance arrangements that can induce more employees in declining trades to enrol in ERS.

Madam deputy, lastly, I would like to reiterate that the structural transformation of Hong Kong's economy will continue for many more years. ERS should not be understood in its narrow sense as something that helps employees in declining trades to find jobs in new lines of work. It should be seen as a way to transfer Hong Kong's valuable human assets to trades where they will be more productive. A suggestion has been made that the Government should take a positive approach to ERS for achieving the desired objective. More resources should be invested in ERS to extend retraining to no fewer than 20 000 employees a year. Existing flaws in ERS should be corrected. In

addition, the Government should draw up specific and comprehensive long-term education and investment plans to enable Hong Kong's economy to complete its structural transformation smoothly, to ease the inflation pressure and other problems due to the structural transformation of the economy and to solve the shortages that are hindering economic growth.

Madam deputy, with these remarks, I support the motion.

The buzzer sounded a continuous beep.

PRESIDENT'S DEPUTY: Dr HUANG, it is time.

MR LAU CHIN-SHEK (in Cantonese): Madam deputy, for many years, the labour sector has been asking the Government to make a commitment to manpower training and retraining. Unfortunately, the Government has every time shirked its responsibility with the excuse of "non-intervention in market operations." It was not until last year, when the labour sector raised strong objections to the importation of foreign workers, that the Government agreed to introduce the Employees' Retraining Scheme (ERS). One cannot help but have the impression that ERS is more of an expedient than of a forward-looking plan. Of course, retraining is better than no retraining. We should make good use of the opportunity and turn ERS into a success. In this way, ERS will not be reduced to a mere shield protecting the Government from criticisms over the importation of foreign workers!

In order that ERS may be a success, the objectives of retraining must first be effectively defined. I think that ERS must deal with three problems as follows:

Firstly, job placements for employees of the declining manufacturing trades. Nearly 100 000 such employees a year are forced to switch to other trades, many of whom are middle-aged workers with 20 to 30 years' working experience.

Secondly, the training of workers for filling existing vacancies, particularly those kinds that are now open to imported foreign workers. The objective is to put a complete end soon to the labour importation schemes.

Thirdly, the upgrading of workers' skills through training and retraining. After their skills are upgraded, workers can add more value to their products. Hong Kong will then be more competitive externally.

For many years, the Government has refused to take a square look at the difficulties of the many middle-aged manufacturing workers who had to find new jobs because of the decline of the manufacturing trades. Often, citing Hong Kong's low unemployment rate, the Government says that Hong Kong has

a "full employment" economy. But so-called "full employment" is really a mirage. The truth is different, as we have learnt from workers in difficulty and from the high rate at which the number of workers unemployed for at least three months has increased over the past year or two. The truth is that over 10 000 workers are facing serious difficulties in finding new jobs!

The Employees Retraining Board (ERB) is now giving retraining courses. It is also trying out an On-the-job Training Scheme (OTS). Such efforts are commendable. The approach is at least more positive than the Labour Department's has been. But the help given by ERB to workers facing serious difficulties in finding new jobs must be timely and effective. So it is very important for ERS to operate flexibly. It must be realized that workers requiring retraining share some common characteristics: they are no longer young; they are not well educated; they have been doing the same work for a long time; and they have heavy family burdens. If ERB relies on the Labour Department to refer retrainees, the effect simply will not be good. I think that ERB must do more on its own to attract workers in real need of retraining. For instance, ERB can conduct campaigns in industrial areas to promote retraining, call on trade unions to refer retrainees and operate job placement information facilities where computers instantly tell workers, who feed in information about themselves, what suitable job vacancies are available.

While it is important to make retraining available to every worker who needs it, it is even more important to help workers to find suitable jobs and to make sure that employers do not take advantage of workers who are looking for new jobs.

The authorities now do not have detailed information on whether the majority of the retrained workers have found new jobs related to the retraining courses that they attended. How then are we to make a reliable assessment of the usefulness of ERS? I think that the Government should conduct an extensive survey to gain information on the employment status of retrained workers. In addition, the Government should check closely to find out if employers participating in OTS are simply taking advantage of government subsidies, which lower the cost of labour, instead of really giving workers suitable jobs and useful training.

I also think that the Government must protect workers' right to employment, particularly in the case of middle-aged workers, and consider the introduction of employment legislation to prohibit "discrimination by age".

In addition, what complexes our attention is the fact that one source of resistance to the retraining of local workers in recent years has been the foreign workers importation policy. This policy has not only become, in effect, a "cheap labour policy" that takes jobs away from local workers but also hindered the development of the local job market and the retraining of local workers. Therefore, I think that, for the most effective comprehensive development of

local human resources, the authorities must, as a matter of policy, do away with the foreign workers importation schemes first!

Therefore, retraining courses must be designed to provide retraining related to the jobs and job categories for which foreign workers are being imported. Thus, employers will no longer be able to refuse to hire local workers on the ground that no suitable local workers are available.

Over the long term, the Government must lay down well-defined industrial and manpower training policies. Only then will ERS be able to have a well-defined long-term development strategy. I think that the Government should learn from some Western countries and relate spending on high-tech development and training to GNP. (The Honourable Henry TANG will move a debate on industrial policy next month. I do not intend to go into this issue now.)

I think that ERB should consider expanding the scope of retraining courses to include courses that help manufacturing workers to upgrade their skills. Such "retraining" will result in more value being added to Hong Kong's industrial products and in the increased external competitiveness of Hong Kong's manufacturing trades.

Madam deputy, I hope that the authorities will, concurrent with its review of ERS, comprehensively review the Government's role in industrial development. In addition, if retraining is to be fruitful, it is essential that the Government make a further investment of resources in it. The Government should not think that, because it has already injected \$300 million, it can now "turn off the tap".

Lastly, I would like to avail myself of this opportunity to pay my respects to Mr John CHAN. Tonight, he will be making his last speech in this Council in response to a motion. I wish him every success and good health.

With these remarks, I support the Honourable PANG Chun-hoi's motion.

THE PRESIDENT resumed the Chair.

MR HENRY TANG (in Cantonese): Mr President, Hong Kong has developed from a fishing port into an important international trading and finance centre. In the development process, it saw a period of rapid growth in light industries, which laid the foundation for the existing export and re-export-oriented economy. Credit should of course go to workers in the manufacturing sector for making all this possible. However, with the change in economic structure, labour intensive industries started to move north as early as 10 years ago to the special economic zones in southern part of China. Hong Kong will further be transformed into an economic, trading, finance and service centre. At the same

time, it will promote faster development in hi-tech and capital intensive industries. Workers with advanced skills will be needed in order to cope with the overall economic development of our society. Everyone is deeply concerned about how talents are to be trained and whether the Employees' Retraining Scheme is able to achieve these very important objectives.

In my opinion, the Employees' Retraining Scheme should be implemented in two stages and at different levels. The existing courses aim at the many middle-aged workers in the manufacturing sector who have become unemployed or underemployed as a result of economic re-structuring. These are basic courses intended to assist these workers to find alternative employment successfully. So they are pragmatic arrangements which offer immediate assistance to workers in industries which are declining. The Provisional Retraining Fund Board and the subsequent Employees Retraining Board have been in existence for a very brief period of about one year. In view of the short time span, it is very difficult for us to tell whether the Employees Retraining Board is successful or not. But it is undeniable that the Board should constantly review its objectives, the practicality of the courses offered and so on to ensure that unemployed and underemployed workers can take up suitable employment again. I believe a caring government has the responsibility to draw up a comprehensive retraining programme which will take into account all relevant aspects, including catering for the needs of society, providing re-trained workers with the skills to earn a livelihood and allowing full employment.

It is learnt that 500-plus retrainees have completed the retraining courses. Only 12% of them are unable to find employment and still require the job placement services of the Labour Department. In reply to a question raised by me earlier, the Labour Department has explained that the reason why some retrainees are unable to find jobs is that the training received by them may not suit the practical needs of employers. I am very happy that the Secretary for Education and Manpower, Mr John CHAN, who is attending the meeting of this Council for the last time, is still with us now (the clock struck nine already). Besides, Mr CHOW Tung-shan of the Labour Department is also in attendance despite his tight working schedule. I am delighted by the fact that the Government is well aware of its inadequacy. I hope it will try its best to find out the root of the problem and strengthen communication with employers in various trades with a view to making prompt improvement to the retraining courses that are inadequate. I fully support the On-the-job Training Scheme. This scheme, which allow workers to receive training while working, is most economical and may alleviate the problem of labour shortage.

Mr President, the Employees' Retraining Scheme is a very constructive scheme. If implemented properly, it will bring immense benefit to the whole community. We all understand that the relocation of labour intensive industries across the border is gathering pace. If Hong Kong is to maintain its competitive edge in the international market, it has no alternative but to move gradually towards the development of capital intensive industries. That is why I have repeatedly urged the Government to actively support and help hi-tech industries

in Hong Kong. In keeping with the main trend, our industries must advance in this direction. But we have to ensure that the knowledge and technological skill of the employees are enhanced first, otherwise there will be nothing to support such development. If manufacturers are willing to invest heavily in advanced equipment but there is a shortage of manpower resources, not only will the speed of our overall economic progress be hampered, but huge sums of money will also be wasted. The losses we suffer would be doubled.

Mr President, the Government should be far-sighted. It should take the future needs of society into account. It should not be so short-sighted as to take remedial action only after the problem has popped up. To manage things in such a way is undesirable. The objectives of the retraining scheme should not be limited to the finding of alternative employment for the unemployed and underemployed. It should be recognized as a long-term policy, so that training for workers would be expanded, particularly on-the-job training. Thus the competitiveness of local employees can be maintained at international level. The Government has to make investment if it wants to groom talents. Last year the Government proposed to inject \$300 million into the Employees Retraining Board. This move, I am afraid, can only benefit a very limited number of people. It cannot even solve the problems of the 50 000 to 60 000 workers who are presently unemployed. The dream of enhancing the technical competence of workers in the long run will be even more difficult to realize. I therefore suggest that the Government should make an annual capital injection of \$300 million into the Board. By 1997, the total amount injected will be merely \$1 billion or so. It is certainly worthwhile to do so in consideration of the task that may be accomplished.

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

DR SAMUEL WONG (in Cantonese): Mr President, I must begin with a declaration of interest. I am the chairman of the Employees Retraining Board (ERB). ERB was set up towards the end of last year and has been in operation for half a year, during which it was favoured with the attention of all sectors. I would like to use the occasion of the present motion debate to give a description of the objectives of the Employees' Retraining Scheme (ERS), the target groups it is designed to serve, the progress made during the past six months, the difficulties most frequently encountered by workers looking for new jobs and ERB's plans and outlook. I hope that, in exchange for this humble offering from me, I will receive your valuable comments for ERB's future guidance.

The objective of ERS is to provide assistance to local employees affected by the structural transformation of the economy. This transformation began in Hong Kong in the 1980s. The number of employees in the manufacturing trades declined from nearly 950 000 at the beginning of the 1980s to 570 000 last year. The vast majority of the affected employees have already smoothly switched to jobs in the service trades. Still, a large number have encountered serious difficulties in finding new jobs. Some have left the labour market prematurely.

This is really a big loss of valuable human resources to society. The short-term objective of ERS is to help local workers facing difficulties to find new jobs soon. The medium-term goal is to offer basic training courses, such as language training courses, to increase retrainees' skills so that they may return to the labour market on their own. The long-term goal is to upgrade skills, increase the productivity of local workers and support the development of the local economy in the direction of high value added products.

The target groups the ERS is designed to serve are employees as well as employers. Employees and employers need one another. One cannot do without the other. The success of ERS depends on the support of both. ERS solves serious labour shortage problems for employers. It helps employees to find suitable new jobs. We serve a wide range of employees, including employees who have to find new jobs but are encountering difficulties in doing so, workers who are under-employed, housewives who wish to return to the labour market which they have left for some time, and employees who simply want to upgrade their skills. ERB will study the real needs to find out if the range of the target groups for ERS should be further widened.

I would like to use the present occasion to pay my respects to the Honourable John CHAN, Secretary for Education and Manpower, who is about to retire. I thank him for setting up a provisional ERB during his term of office, thus promoting ERS as a whole. During his term of office, in October last year, this Council passed the Employees Retraining Bill. Later in the same year, ERB appointed its Chief Executive and made preparations for organizing an administrative setup independent of the government establishment. In February this year, ERB's budget for staff establishment was passed. In March, ERB began recruiting full-time staff. ERB became fully operational in April. ERB is now committed to offering no fewer than 40 retraining courses and operating a total of 74 classes with 1 326 places from the beginning of this year to September. If the response to the On-the-job Training Scheme (OTS) is good, ERB will provide an extra 100 classes for short-term basic courses with 2 000 places.

There are four main categories of courses that are subsidized by ERB. The first are technical training courses. These are full-time courses each of which lasts for between four and 16 weeks. Each attending retrainee receives a training allowance of \$3,400 a month. These courses mainly provide technical training. The second are short-term basic training courses each of which is full-time and generally lasts for one week. Each attending retrainee receives about \$800 in allowance. These courses emphasize counselling. The third are night courses of practical language training and computer operations. Each attending retrainee can apply for a \$30 allowance per evening for meals and transport. The fourth are skill upgrading courses, which help middle-aged and older employees, who are currently working, to remain competitive by learning the latest skills in their fields. In addition, courses are being designed to help housewives who plan to return to the labour market. These courses are expected to be available soon.

OTS was officially launched two days ago. Through OTS, we hope to develop a partnership-like relationship with all participating companies. On one hand, we will, by notice in the Gazette, appoint them training institutes to provide on-the-job retraining to employees in new jobs. The employees involved receive full salaries from the first day on which they report for work. There is thus no need for them to depend on training allowances for any length of time. In this way, both employers and employees may benefit from participation in OTS.

The greatest obstacles encountered by the employees looking for new jobs are (1) age discrimination and (2) the education requirement. Age discrimination in hiring remains widespread. Many companies, when advertising vacancies, set the upper age limit of applicants at 30. This is the greatest obstacle to the successful application of employees looking for new jobs. With regard to the education requirement, many vacancy advertisements specify that applicants must have received at least Secondary III education. In the past, many messengers did not know any English. But they had no problem at all in doing their work, as long as secretaries were willing to write down the Chinese addresses to which documents were to be delivered. Now that the labour market is still quite tight, companies should not be overly insistent on age and education requirements. Such insistence will not help the filling of vacancies or the reduction of employee turnover. We hope that, by the middle of next year, OTS will have served at least 2 000 companies and helped them to fill at least 8 000 vacancies by referring job applicants to them from among those looking for new jobs.

The second major programme is the practical language training courses. Last year, a total of 7.2 million foreign tourists visited Hong Kong. ERB hopes to be able to strengthen night courses in colloquial foreign languages, including English, Mandarin and Japanese, thus meeting the urgent needs of the service trades and improving the qualifications of the retrainees when they apply for new jobs.

The third major programme is co-operation with the various chambers of commerce in the development of skill-upgrading courses for companies' existing employees. At the same time, we will provide different kinds of technical training courses to people looking for new jobs. Looking to the future, I find that the success of ERS will depend on the support of all sectors of society.

With these remarks, I support the motion.

MR HOWARD YOUNG (in Cantonese): Mr President, this Council has held a number of debates on the issue concerning workers' unemployment or underemployment owing to the north shifting of a considerable number of manufacturing operations. Yet, many industries such as the tourist industry suffer from labour shortage or an insufficient supply of trained workers. It is

obvious that Hong Kong is undergoing an economic transformation. And this is the consensus of the honourable colleagues in this Council that to tackle this thorny problem a double-barrelled policy of importing labour and the Employees' Retraining Scheme must be introduced. The wording of today's motion is appropriate because employees' retraining is a long-term programme requiring regular revisions and reviews. As the representative of the tourist industry in this Council, I am all the more concerned about the nitty-gritty of the retraining scheme because hotel operators in the tourist industry have long been plagued with the problem of labour shortage and they hope very much that the retraining scheme can provide them with workers of high quality.

Labour shortage is a long-standing problem in the hotel industry. The number of vacancies in the hotel industry, say, in 1992 only, persistently remained at roughly the 2000 level, constituting 5% of the workforce in the whole industry. Furthermore, among these 2000 vacancies a majority are housekeeping posts and staff at these posts are indeed front-line workers. A shortage of such workers will substantially undermine efforts to maintain good hotel service.

The shortage of hotel staff is also reflected in the number of cases applying for the importation of such workers. During the first half of 1993, hotel operators already applied for importation of several thousand workers. Workers who have gained new skill through the retraining scheme can certainly satisfy our pressing need. Nearly all the graduates of the relevant courses are recruited by the hotel industry and this confirms the industry's support for the retraining scheme. Perhaps some people may have the misconception that hotel operators usually refuse to employ middle-aged women or comparatively older workers. The truth is just the opposite. Married middle-aged women are very appropriate for these posts since a good service worker must be enthusiastic, meticulous and patient. Yet, the working hours in hotels are not 9.00 am to 5.00 pm and the staff are required to work on holiday or night shifts. This may discourage some married women to join the industry. It is, therefore, not the operators in the tourist industry who are unwilling to employ them. As a related issue, I hope that the hotel housekeeping course under the retraining scheme can be better designed to offer more professional training to the trainees and encourage them to carve out a life career for themselves in the hotel industry.

I have obtained some extremely encouraging figures in relation to the retraining scheme. There are already more than 600 persons applying for hotel housekeeping courses up to May this year. As to hotels operators, they warmly welcome the Employees Retraining Board's idea of granting subsidies to the trainees' employers so that they would allow their staff to receive on-the-job training. In this way the trainees are not only able to receive a steady source of income but some practical training. Here I would like to propose that the Government may register the workers who become redundant due to industrial transformation and carry out a wide survey to obtain information about their age, education background and career preference for the drawing up of future

training programmes so that resources can be more effectively deployed and unemployed workers can also be in a better position to land a job.

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

MR WONG WAI-YIN (in Cantonese): Mr President, in January 1992, the Executive Council decided to introduce the Employees' Retraining Scheme (ERS). A Provisional Employees Retraining Board was then set up in the following month. The Employees Retraining Board (ERB), as a statutory body, was set up in November of the same year. ERS is funded by a Retraining Foundation, which receives contributions from companies that hire imported foreign workers, at the rate of \$400 per foreign worker per month. The Retraining Foundation is managed by ERB and it organizes retraining courses for employees who have difficulties in switching jobs. Each employee participating in ERS at first received an allowance of \$2,800 a month. The amount was raised to \$3,400 a month with effect from May 1993.

The original intent of ERS is to help employees with difficulties in finding jobs in new lines of work to learn skills that will enable them to switch employment. During the implementation of ERS, the following problems have been found:

- (1) The Government failed to make an adequate analysis of the structural transformation of Hong Kong's industry or an adequate analysis of economic development. As a result, there was no information to act upon when determining what kinds of courses should be offered. Nor was there any overall planning.
- (2) Some retrainees, after completing the retraining courses, simply were unable to find new jobs related to these courses. One reason was that some employers offered very low salaries and the retrainees found them unacceptable. Another reason was that some industries (such as the garment industry) were moving their production lines north to China in what was a basic trend. A third reason was that workers for some kinds of jobs (such as Chinese typing) were in over supply.

In May this year, ERB launched an On-the-job Training Scheme (OTS) in the hope that this would bring retraining close to the needs of the market. In another move, ERS was recently expanded to cover also those who had stopped working for some time. Previously, ERS offered courses only to workers who were switching jobs between different trades and was of no help to workers (particularly housewives) who had stopped working for a long time. Meeting Point welcomes these improvements.

However, Mr President, the women in question do encounter many difficulties when they try to seek jobs. Early this year, to mark the opening of

my Tuen Mun office, the New Territories West Branch of Meeting Point held a seminar on where Hong Kong headed in terms of its political and economical developments during the transition period. At the seminar, a group of women in their thirties or forties presented a letter to the representatives of various parties present (including Mr Howard YOUNG now seated beside me), complaining about difficulties in finding work. I believe that, to a great extent, that was true among many of the women of the new towns. As a Member from New Territories West, I have a duty to convey their views in this Council. Mr TIK Chi-yuen of Meeting Point, representing New Territories North, originally also intended to speak on today's motion. But he is now on a fact-finding trip in Singapore, studying the operations of its Central Provident Fund. Therefore, he has asked me, on his behalf, to voice the grievances of the women of New Territories North, who are facing similar difficulties in finding work.

Mr President, according to government figures, the number of employed women is on the low side. Compared with their male counterparts, they are paid less and hold lower-position jobs. The problems faced by married women are particularly bad.

Clearly, most families in the new towns are nuclear families of young couples. There, because of a serious shortage of family support services (such as child care and house work assistance), women must, willy-nilly, stay at home and do household chores. Many women are forced to adjust their career development plans and employment modes to the needs of home. For instance, some housewives take up part-time jobs or do piece work at home when their children are in school. Some women, after giving birth to children, leave the labour market for a few years in the hope that they can return to it when their children are older.

Social policy at present does not concern itself with such unsteady employment modes of these women. Existing law does not adequately protect part-time workers or those who do piece work at home. Also, adult education is very inadequate. Particularly inadequate are retraining courses for women who have free time in the day. The career of those women who have to leave the labour market for some time in order to take care of home is certainly affected. Another problem is that housewives, who generally are not well educated and receive no retraining, can only land low-position jobs which are poorly paid.

Mr President, Hong Kong's economy is undergoing structural transformation. In recent years, the Government tried to ease the shortage of labour with the importation of foreign workers. Meeting Point stresses that the Government must first lay down well-defined standards and measures for the importation of foreign workers, lest the interests of local workers be impaired. We think that the present policy on the importation of foreign workers was laid down without having given full consideration to ways of encouraging local women to find work.

From cases that we handle, and from some studies, we find that unskilled local women (particularly those who have stopped working for several years) encounter many difficulties in finding work. One difficulty is that most employers do not want to hire women workers who are over 30. Even if hired, their pay is very low. It is precisely with these women that the imported foreign workers are competing for jobs. The negative effects of the above-mentioned situation are as follows: Firstly, it keeps wage level low, too low to catch up with inflation or to improve workers' living standards; secondly, it amounts to discrimination against women workers. As described above, employers want to hire only young women workers. Women workers who are not so young are deprived of employment opportunities.

Therefore, Meeting Point supports Mr PANG Chun-hoi's motion today, calling for a comprehensive review of ERS. Meeting Point also thinks that the policy on importation of foreign workers should be thoroughly reviewed so that suitable measures may be devised to improve women's employment opportunities and to make better and fuller use of our human resources.

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

MS ANNA WU: Mr President, I welcome this motion and I support it wholeheartedly. There is much need in realigning our labour force and our labour market. We need to define the size and source of our labour market, to identify the changes that will cause labour displacement or unemployment or underemployment, to see what are the inadequacies in skills, to match the training to the target groups and to match the persons and the jobs.

During the Budget debates in March this year, I referred to 380 000 women between the ages of 35 and 59 who are not in gainful employment. Many are homemakers who because of the need to take care of a family do not have a chance to pursue a career until their children are older. I was then surprised to hear that there were no specific vocational and training programmes to facilitate homemakers to re-enter the job market. This sector of our community is part of our resources and must be recognized as such. I am relieved to hear that the Employees Retraining Board has decided in late March to address the issue of extending the retraining scheme to homemakers who have been away from the labour market for at least two years and who are willing to take up employment. I am glad, of course, to hear that plans are afoot to design tailor-made retraining programmes for homemakers so as to fit their needs. Those homemakers taking part in retraining programmes would be treated exactly the same as other displaced workers participating in the scheme; that is, a subsidy of \$3,400 per month for full-time programmes and \$30 per night for part-time programmes would be provided.

However, much more needs to be done and many misconceptions still exist in the minds of our planners. This category of our resources has been considered the marginal labour force. I wonder why that should be. There are

many homemakers who cannot be provided with suitable training and cannot find jobs. These people should be defined as part of our labour force and the failure of these people to find jobs or to find adequate employment should be classified as unemployment or underemployment. I wonder if the 1992 unemployment rate of 2% and the underemployment rate of 2.1% include these cases.

The Administration in dealing with this issue indicated that all placement, retraining and vocational training programmes are open to all. I am given to understand that it is also the Administration's view that it is not cost effective to implement measures specifically targetting homemakers. Deployment of resources, I understand, should focus on the needs of the whole society at the macro level but not needs of a specific group in the society. I am appalled by these attitudes. Women make up half of our adult population. A substantial number are homemakers, and they are not incidental creatures, they are full members of the community and must be counted in the same way as any other adult.

I am sure the Administration would look at the changes in the labour market, the needs of displaced workers, and the type of training required by the market. In short, the Administration would match the people with the needs of the market, and provide whatever training was required. If displaced workers, underskilled workers, underemployed workers, unemployed workers need to be targetted and their needs met, why should not the homemakers who are also displaced, underskilled, underemployed or unemployed be targetted and focused on the same way. Why should that be in any way regarded as out of the ordinary? Why should the physically disabled get training, but not the disadvantaged homemakers?

Many industries in Hong Kong have moved their factories into China and job opportunities in the manufacturing industries have declined. This has affected the labour force generally as well as specifically with regard to homemakers. Those women in the new towns who used to work part time or as outside piece workers in the manufacturing industries, for instance, now no longer have those jobs to go to. The issue here is that these women want to work, there are no longer jobs available to them, they are displaced and they should be provided with suitable retraining.

It has been said time and again that increasing labour cost is a key contributor to inflation. In the Financial Secretary's budget speech in March, he referred to labour remaining our biggest constraint. Employers in Hong Kong have cried for increased importation of labour as a cure. I have looked at the statistics available to me relating to the importation of labour scheme. These statistics tell me the industries involved, the quota allocation for each industry, the number of applications made and the number of applications approved or rejected. These statistics do not tell me anything about the nature of the jobs involved or the age, sex or educational background of the individuals. I know the data exist, it is a question of the time required to collate them. I think we

should collate the data and analyse them to see if the homemakers in Hong Kong can be trained to do the jobs. I remain concerned whether the shortfall, so to speak, should be called a shortfall or a mismatch of the labour force against the job market or whether in some cases the shortage is artificial, created by unreasonable requirements relating to sex, age, qualifications and experience being imposed. I urge the Administration to undertake the study of the womenpower situation and to come up with a comprehensive strategy for this sector of our community. Thank you, Mr President.

MR MARTIN BARROW: Mr President, the retraining scheme was introduced last year, financed by the \$400 per month levy payable by employers of imported labour. At its inception, the scheme was intended to assist Hong Kong workers, who had been displaced by the change in Hong Kong's economic structure, to undergo retraining so that they could find alternative employment. And that is what has been happening under the scheme.

According to information from the Government, as at 15 May this year 510 people had completed retraining courses of which 224 did not require placement assistance. Of the remaining 286, the number in employment was 225 leaving only 61 pending placement. This seems to me, Mr President, a remarkable achievement for a newly introduced scheme. The objectives of the scheme, namely to reskill at various levels Hong Kong's unemployed so that they can take up gainful employment, appear to me to be being met. Therefore, I doubt much will be gained from a comprehensive review of the objectives at this early stage, however well intended such a review might be. Likewise, I see little to be gained from a review of the target groups since all that may need to be done is to ensure that the unemployed as well as the underemployed are actively encouraged to undertake training.

There will, of course, always be a need to fine-tune any case. In this case, the number of courses that can be offered at one time, the practical usefulness of these courses to both employers and workers and the best way to match retrained workers with jobs can be looked at. The quality of the training will need to be maintained so that employers, knowing that they can rely on the output, will be keen to employ such workers. There will be a physical constraint on the number of courses that can be held at the same time but every effort should be made to expand the courses so that those needing the courses can be retrained more quickly. It is in everyone's interest that the volume of retraining provided is expanded to the maximum extent possible, if we are not already at that point — provided that in doing so we do not compromise on the quality of the schemes.

I agree with the Honourable PANG Chun-hoi's view that the practical usefulness of the courses needs to be looked at on a continuous basis. In the near term the courses being offered, such as cooking, basic techniques for waiters and so on, are probably appropriate for Hong Kong's needs. However, as our economy changes so will our needs and it will become important to avoid

wasting precious resources by offering courses that are or will soon become obsolete. I am sure, though, that those responsible for deciding the courses to be provided are very well aware of this point.

The motion calls for the role of the Labour Department in assisting trainees to find suitable employment to be reviewed. So far as I am aware the Labour Department does offer assistance to the trainees in a friendly and efficient fashion. However, people are still free to choose whether or not they wish to work and they are also free to choose if they wish to use the assistance of the Labour Department to find employment.

I have heard it suggested that there are more women than men on the retraining courses and this may be due to the retraining allowance being too low. It suggests to me that the more likely explanation is that the men may be able to find employment at wages higher than the amount of the allowance.

I am sure that the Labour Department can set up ad hoc task forces to review the structure of the scheme, its practical usefulness, how to expand the number of courses being offered at the same time and how to be effective matching trainees with jobs. Therefore, I cannot see the benefit of setting up a special working group within the Labour Department for the purpose of arranging job placements for retrained workers.

Finally, I believe this scheme must be looked at in conjunction with all other programmes including the on-job training schemes. The long-term objective must be to develop the skills of Hong Kong people so that they can move up the employment ladders.

In conclusion, Mr President, I support the spirit of the motion but I am not persuaded that a major comprehensive review of the training scheme is needed. I would however support a detailed review of our overall labour supply and demand including the points which the Honourable Anna WU has just mentioned on the rate of participation in the market by the females. However, I would just add that Mr Jimmy McGREGOR and Mr Vincent CHENG have asked me to say that they support my views. Thank you.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, two days ago, the Employees Retraining Board (ERB) launched an innovative and imaginative On-the-job Training Scheme (OTS). The scheme will provide training and job-referral services to workers affected by economic restructuring and will also assist employers by recommending suitable job seekers to them, so that both employers and employees can benefit. I believe that this scheme will most probably bring a breakthrough in the progress of employees' retraining. Just at this moment, we can also take advantage of this evening's motion debate to listen to the valuable views expressed by Members on the Employees' Retraining Scheme. We can sum up our experience and hope

that we can arouse greater concern among members of the public so that more emphasis will be placed on employees' retraining. All these are heartening.

The motion moved by Mr PANG Chun-hoi urges the Government to conduct a comprehensive review of the objectives of the Employees' Retraining Scheme, the clientele it is designed to serve, the practicality of the courses offered and the role of the Labour Department. In their speeches, apart from expressing support for the motion, Members also put forward many constructive opinions. I am sure that, like myself, Dr Samuel WONG, Chairman of the Employees Retraining Board, has listened carefully to Members' views, so that further improvements can be made.

In fact, ever since the employees retraining programme was launched with the establishment of the Provisional Retraining Fund Board in February last year by the Government, we have been constantly reviewing its arrangements and effectiveness. We have gained experience and learnt lessons in the process. We have tried hard to make improvements. Such work has continued without interruption after the establishment of the statutory Employees Retraining Board at the end of November last year.

The objective of the Employees' Retraining Scheme is to make the best use of our precious human resources in a situation of rapid and continuous economic restructuring, so as to maintain economic growth and continue to improve the quality of life of our community. To achieve this objective, we need of course to adjust the various pre-service training arrangements, but we also need to provide two major categories of on-the-job training to employees. First, we have to provide training to workers who, as a result of the relocation of certain manufacturing processes, are facing unemployment or underemployment. We must try to help them acquire new skills so that they can seek alternative employment in the up and coming industries. Secondly, we have to assist employees to upgrade their skills so that they can adapt to the higher technology and higher value-added production required in the sectors in which they are employed. In planning and introducing these two categories of training, we also have to take into account those housewives who have left the labour market for a period of time but who want to return to the market. The Government fully agrees that these women are a part of our precious human resources, and that making good use of their abilities will certainly be conducive to economic development.

The clientele of the Employees' Retraining Scheme also includes employers from different sectors. For many years, our labour market has experienced a labour shortage. It can be said that Hong Kong's unemployment rate is among the lowest in the world. Many employers, troubled by the shortage of manpower, have had to resort to importation of labour. But then, even though our unemployment rate is on the low side, unemployment and underemployment do still exist. This is mainly due to supply of skills. We hope that we can, through the Employees' Retraining Scheme, achieve a closer balance between the demand and supply of skills so as to solve the problems

faced by the employers. I believe that most of the local employers will indeed be pleased if they are able to get the talents that they need from the local labour market at a reasonable wage level and reasonable terms of service.

It is most gratifying that, thanks to the great adaptability for which Hong Kong workers are world-renowned, we have, to a great extent, faced far fewer difficulties in the course of implementing the Employees' Retraining Scheme than we might have done. According to statistics, since 1990, the manufacturing sector has employed 150 000 fewer workers, but over the same period, the number of people employed in the service sector has increased by over 150 000. Through their own adaptability, many workers have been able to switch from the manufacturing sector to the service sector without any special assistance or training. But unavoidably, some workers have encountered difficulties in seeking alternative employment. According to our information and experience, most of them are relatively older and have a lower education standard, and many of them do not have enough self-confidence to cope with a new working environment and new job requirements. I am sure Members will agree with me that among the many clients whom the Employees' Retraining Scheme is designed to serve, such employees should be given the highest priority.

As I have just said, the Provisional Retraining Fund Board and the subsequent statutory Employees Retraining Board have been continuously reviewing their work and seeking improvements. At its early stage, the retraining programme was inclined towards traditional classroom teaching, with emphasis on teaching specific skills. Today, the content and format of our retraining programme have become more varied. More training bodies, including a number of experienced adult education institutions, are involved. In this way, we can provide a greater variety of courses for workers to choose from, and also more numerous and convenient venues throughout the territory for them to attend courses. For example, in April this year, the ERB started running evening courses to meet the needs of employees who work during the day and to lengthen the training time for language and computer skills. In the near future, the ERB will also introduce courses tailor-made for housewives to prepare them for their return to the labour market.

Since the ultimate aim of the Employees' Retraining Scheme is to assist employees to fit into new jobs, it is essential to have a good grasp of information on the market. The ERB is now planning to commission the Hong Kong Productivity Centre to conduct a market survey in order to keep abreast of the actual job vacancy situation and actual retraining needs. The survey will soon be started and is expected to be completed before the end of this year. The findings of the survey will be of help to the ERB in planning its future courses.

In the initial stage of the programme, the basic approach that we adopted was "training first, job-seeking afterwards", but we have encountered some problems in following such a course. Although the courses were so designed as

to place emphasis on those sectors where the demand for labour is particularly acute, the results of job-referral have not been entirely satisfactory. We encountered difficulties on several fronts:

- (1) The educational standards and skills of retrainees could not fully meet the employers' requirements.
- (2) Some retrainees were too choosy about the place of work, working environment, working hours, wages, and so on.
- (3) Some retrainees did not seem too keen to get a job.
- (4) Some employers were only prepared to consider younger job-seekers.

These problems involve personal choice and attitude. They also reflect that in a free society, we are bound to have the phenomenon of "jobs choosing people and people choosing jobs". But as far as job-referral is concerned, there is certainly room for improvement.

One of the main objectives of the newly introduced OTS is to overcome the problem in job-referrals. Under this scheme, a worker will first be referred to a job and after he is employed, his employer will provide him with the necessary training so as to assist him in adapting to the new environment and meeting the actual job requirements. During the training period, besides receiving an allowance from the ERB, the employee will also get the balance of the market wage from the employer. Under such an arrangement, employees can receive training with ease of mind and establish their self-confidence, while employers can get the manpower that they need. Our estimation is that when the training period comes to an end, the majority of those involved will be happy to maintain the employer-employee relationships that will have been established.

To assist in implementing this scheme, the ERB has designed free induction courses for job-seekers. Each course lasts for one week and has 20 participants. The courses provide career counselling and training in communication skills; interviewing techniques, work attitude and interpersonal skills. The Labour Department will do its best to assist in the smooth conduct of these courses by registering applicants, making referrals and providing career counselling.

Apart from assisting the ERB in its work and helping workers to get training and seek jobs, the Labour Department also plays the important role of a matchmaker who goes between the employer and the retrainees free of charge. To achieve better results, apart from liaising closely with the ERB, the Local Employment Service of the Labour Department will, in the light of its operating experience, review and improve from time to time the services provided to the participants of the retraining programme, including the following:

- (1) individual job counselling for retrained workers;
- (2) visits to employers to enhance their knowledge of the retraining programme and to urge them to offer more job vacancies;
- (3) free job-referral services for retrained workers but of course we cannot force workers to use our services or supply information; follow-up enquiries to ascertain whether certain retrained workers can adapt to, or are competent at, their new jobs;
- (4) provision to employers in the relevant sector with the resumes of the retrainees who have completed courses.

The Labour Department will further enhance its liaison with the employers and retrained workers in order to increase job opportunities for retrainees.

In his motion, Mr PANG Chun-hoi has mentioned the setting up of a special working group in the Labour Department to deal with job placement for retrained workers. In fact, the Local Employment Service of the Labour Department is already such a specialized working group, with dedicated staff to serve the participants in the Employees' Retraining Scheme. Moreover, the Curriculum Development Committee under the ERB is also responsible for liaising with the Local Employment Service and evaluating the job opportunities of retrained workers. I think the existing setup is basically adequate, but we shall continue to review our progress in order to achieve even greater effectiveness.

Mr President, we have received a clear message from today's motion debate, namely that Members of this Council, as well as the community that they represent, are very concerned about the progress of the employees' retraining programme, and have placed high hopes on it. I can assure Members that the Chairman of the ERB, Dr Samuel WONG, and all other Board members representing employers, employees, training bodies and government departments, as well as the ERB's Chief Executive, have been diligently and pragmatically implementing the Employees' Retraining Scheme. I would like to extend my sincere gratitude to them. I can also assure Members that the Government attaches much importance to the employees' retraining programme and has made firm and tangible commitments to it. The relevant government departments and subvented bodies, in particular the Labour Department and the Vocational Training Council, will continue to help bring about the smooth operation of the programme in order to create a better tomorrow for Hong Kong's economy and people's livelihood.

Finally, allow me to digress for a moment. I thank Mr LAU Chin-shek and Dr Samuel WONG for their encouraging words. I also thank Honourable Members for the support and guidance they have given me and my colleagues in the past two years. "There is no feast that lasts forever". In a few days' time, I shall be leaving the civil service. But I do hope that in future, outside this

Chamber, I shall still have opportunities to learn from you, Mr President, and other Members. May I wish all of you good health and every success in your work. Thank you.
(Clapping)

PRESIDENT: Mr PANG, do you wish to reply? You have 3 minutes 41 seconds.

MR PANG CHUN-HOI (in Cantonese): Mr President, I am most grateful to the colleagues who support my motion. However, I am extremely unhappy with the response given by the Administration.

Just now, Mr John CHAN (whom I highly respect) responded that he shared with the views of the Members that there should be a review on the Employees' Retraining Scheme. However, he did not agree with the idea of setting up a special working group within the Labour Department.

In giving his reply on behalf of the Administration, Mr CHAN expressed that the services provided by the Local Employment Service of the Labour Department were adequate. However, I must point out that the Local Employment Service is being exploited by employers. Workers actually have no confidence in the services provided by this unit. It merely provides a registration service for job-seekers. Worse still, workers have to attend to much formalities after registration. Employers also register job vacancies with the Local Employment Service but their real purpose is to facilitate them to get imported labour. Based on the figures of the Labour Department, these employers will then apply for the importation of labour on the pretext of recruitment difficulties. These vacancies indeed can be filled up by local employees.

I think the Labour Department should play a more active role in the Employees' Retraining Scheme. It should work closely with the Employees Retraining Board and make a greater effort to help the retrained workers to find jobs so that resources will not be wasted.

I strongly urge the Administration to reconsider the setting up of a "special working group" within the Labour Department with the exclusive responsibility of arranging for job placements for retrained workers. This is indeed the objective of this motion.

Lastly, I would like to give my thanks again to the Members who have spoken for my motion.

Mr President, these are my remarks.

Question on the motion put and agreed to.

PRESIDENT: I think Members have already demonstrated their appreciation for the contribution made by Mr John CHAN to the work of this Council and would wish me to endorse their appreciation for the record.

Adjournment and next sitting

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 2 June 1993.

Adjourned accordingly at eighteen minutes past Ten o'clock.

Note: The short titles of the Bills/motion listed in the Hansard, with the exception of Hong Kong Sports Development Board (Amendment) Bill 1993, Boundary and Election Commission Bill and Interpretation and General Clauses (Amendment) Bill 1993, 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 Planning, Environment and Lands to Mr Peter WONG's supplementary question to Question 1**

Polyaromatic hydrocarbons (PAH) are present in diesel fuel as well as in diesel engine exhaust. The amount of PAH in the exhaust is believed to be related to the PAH level in the fuel. However, how to achieve effective controls on PAH emissions from diesel engines is still being studied worldwide. As far as we are aware, Sweden is the only country which regulates the PAH content. However, this regulation applies to a special type of diesel fuel used in Sweden (City Diesel). It is not yet feasible to use this fuel in Hong Kong because it requires a special type of engine.

The Environmental Protection Department is monitoring development elsewhere on the control of fuel PAH levels, and will consider whether they should recommend practicable measures for adoption in Hong Kong.

Annex II**Written answer by the Attorney General to Mr Edward HO's supplementary question to Question 2**

As I indicated during the sitting of 26 May, I see no reason why an individual's membership in or association with such non-governmental bodies (for example, the International Federation of Architects and the International Bar Association) should be in any way affected by the resumption of the exercise of sovereignty over Hong Kong by the PRC on 1 July 1997. As I had thought, these non-governmental organizations were not established by international treaties and are not therefore the subject of discussion in the Joint Liaison Group or its Sub-group on International Rights and Obligations.

I would draw Mr HO's attention to Article 149 of the Basic Law. This is very helpful because it expressly foresees the maintenance and development of relations between professional non-governmental organizations in the HKSAR and their counterparts in foreign countries and regions and with relevant international organizations.

WRITTEN ANSWERS — *continued***Annex III****Written answer by the Secretary for Transport to Mr Jimmy McGREGOR's supplementary question to Question 3**

Of the 125 people who accidentally fell on the MTR track in the last five years, 81 were injured but no one was killed. Details are as follows:

Number of Persons Accidentally Falling on the Tracks
at MTR Stations by Nature of Injury

<i>Year</i>	<i>No. of cases</i>	<i>Nature of injury</i>			
		<i>Fatal</i>	<i>Serious</i>	<i>Minor</i>	<i>Nil</i>
1988	27	0	8	9	10
1989	19	0	3	8	8
1990	28	0	3	15	10
1991	17	0	2	11	4
1992	34	0	1	21	12
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Total	125	0	17	64	44

(Serious injuries refer to cases where passengers suffered injuries of a kind that necessitated admission to hospital for observation or treatment.)

Annex IV**Written answer by the Secretary for Security to Ms Anna WU's supplementary question to Question 4**

I enclose a list of the 105 Vietnamese criminal offenders deported up to the end of May 1993, showing the offences for which they were convicted.

The average length of sentence served was one year and one month.

In order to be deported, a Vietnamese criminal must be guilty of a crime which attracts a maximum penalty of two years imprisonment or more, even though his actual sentence may be less. I did not make this clear in my interim verbal reply to Ms WU during the sitting of 26 May.

WRITTEN ANSWERS — *continued*

Deportable offences committed by deportees already deported to Vietnam:

<i>Offences</i>	<i>No. of deportees</i>
1. Wounding	33
2. Uttering a forged document	17
3. Theft	10
4. Possession of a forged Vietnamese refugee card	7
5. Possession of dangerous drugs for unlawful trafficking	5
6. Possession of offensive weapon	5
7. Assault occasioning actual bodily harm	5
8. Robbery	5
9. Possession of an unlawfully obtained Vietnamese refugee card	4
10. Burglary	4
11. Illegal possession of fermented material	2
12. Possession of a forged document	2
13. Indecent assault on a female	1
14. Possession of imitation firearm	1
15. Attempted arson	1
16. Handling stolen goods	1
17. Possession of false instrument	1
18. Escape from lawful custody (charged under Common Law)	1
Total	----- 105

WRITTEN ANSWERS — *continued*

Annex V

Written answer by the Secretary for Planning, Environment and Lands to Mrs Peggy LAM's supplementary question to Question 6

I set out in the following summary table the overall statistics on crime in public housing estates.

<i>Type of Crimes</i>	<i>4th quarter 91</i>		<i>1st quarter 92</i>		<i>2nd quarter 92</i>	
	<i>Cases</i>	<i>Rate</i>	<i>Cases</i>	<i>Rate</i>	<i>Cases</i>	<i>Rate</i>
<i>HA rental estates</i>						
Violent crime against persons	342	1.4	248	1.0	383	1.6
Violent crime against property	540	2.3	537	2.3	494	2.1
Burglary, theft and handling stolen goods	1774	7.4	1329	5.6	1401	5.9
Serious narcotics offences	135	0.6	113	0.5	117	0.5
Preventive crime	165	0.7	98	0.4	95	0.4
Other crimes	531	2.2	510	2.1	542	2.3
Total	3487	14.6	2835	11.9	3032	12.7
<i>Overall Hong Kong</i>						
Violent crime against persons	2421	4.2	1848	3.2	2187	3.8
Violent crime against property	2784	4.8	2550	4.4	2426	4.2
Burglary, theft and handling stolen goods	12990	22.3	10584	18.2	10843	18.7
Serious narcotics offences	414	0.7	380	0.7	421	0.7
Preventive crime	888	1.5	609	1.0	439	0.8
Other crimes	4629	8.0	4017	6.9	4317	7.4
Total	24126	41.4	19988	34.3	20633	35.6

WRITTEN ANSWERS — *continued*

<i>Type of Crimes</i>	<i>3rd quarter</i>		<i>4th quarter</i>		<i>1st quarter</i>	
	<i>92</i>	<i>92</i>	<i>92</i>	<i>92</i>	<i>93</i>	<i>93</i>
	<i>Cases</i>	<i>Rate</i>	<i>Cases</i>	<i>Rate</i>	<i>Cases</i>	<i>Rate</i>
<i>HA rental estates</i>						
Violent crime against persons	398	1.7	363	1.5	314	1.3
Violent crime against property	573	2.4	558	2.4	494	2.1
Burglary, theft and handling stolen goods	1451	6.1	1499	6.4	1345	5.7
Serious narcotics offences	126	0.6	159	0.7	179	0.8
Preventive crime	94	0.4	111	0.5	112	0.5
Other crimes	554	2.3	560	2.4	479	2.0
Total	3196	13.5	3250	13.8	2923	12.4
<i>Overall Hong Kong</i>						
Violent crime against persons	2404	4.1	2302	3.9	2004	3.4
Violent crime against property	2426	4.2	2424	4.1	2296	3.9
Burglary, theft and handling stolen goods	11242	19.3	12236	20.7	10838	18.4
Serious narcotics offences	412	0.7	590	1.0	720	1.2
Preventive crime	424	0.7	491	0.8	492	0.8
Other crimes	4162	7.2	4322	7.3	3986	6.8
Total	21070	36.3	22365	37.9	20336	34.5

Note:

- (1) The crime rates refer to number of cases per 10 000 persons.
- (2) Violent crime against persons includes rape, indecent assault, murder and manslaughter, attempted murder, wounding, serious assault, assault on police, kidnapping and child stealing, cruelty to child and criminal intimidation.

WRITTEN ANSWERS — *continued*

- (3) Violent crime against property includes robbery with firearms, robbery with pistol like object, other robberies, aggravated burglary, blackmail and arson.
- (4) Burglary, theft and handling stolen goods include burglary with breaking, burglary without breaking, theft (snatching, pickpocketing and shop theft), theft from vehicle, taking conveyance without authority, abstracting of electricity, theft from construction site, other miscellaneous thefts and handling stolen goods.
- (5) Serious narcotics offences include manufacturing of dangerous drugs, trafficking in dangerous drugs, possession of dangerous drugs for trafficking and other serious narcotics offences.
- (6) Preventive crime includes possession of arms and ammunition, possession of offensive weapon, going equipped for stealing, possession of unlawful instrument, tampering with vehicle, unlawful pawning offences, unlawful possession and loitering.
- (7) Other crimes include fraud and forgery, sexual offences, offences against lawful authority, serious immigration offences, and so on.