

**OFFICIAL RECORD OF PROCEEDINGS****Wednesday, 3 November 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 ALLEN LEE PENG-FEI, C.B.E., J.P.

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

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

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

DR THE HONOURABLE DAVID LI KWOK-PO, O.B.E., LL.D., 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 EDWARD HO SING-TIN, O.B.E., J.P.

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

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

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

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

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

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

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

THE HONOURABLE PETER WONG HONG-YUEN, O.B.E., J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE VINCENT CHENG HOI-CHUEN, J.P.

THE HONOURABLE MOSES CHENG MO-CHI

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

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

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

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

THE HONOURABLE SIMON IP SIK-ON, O.B.E., J.P.

DR THE HONOURABLE LAM KUI-CHUN

DR THE HONOURABLE CONRAD LAM KUI-SHING, J.P.

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 MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

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

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ANNA WU HUNG-YUK

THE HONOURABLE JAMES TIEN PEI-CHUN, O.B.E., J.P.

THE HONOURABLE ALFRED TSO SHIU-WAI

**ABSENT**

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

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

THE HONOURABLE RONALD JOSEPH ARCULLI, O.B.E., J.P.

**IN ATTENDANCE**

MR MICHAEL LEUNG MAN-KIN, C.B.E., J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

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

MRS ELIZABETH WONG CHIEN CHI-LIEN, I.S.O., J.P.  
SECRETARY FOR HEALTH AND WELFARE

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

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

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

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

MR MICHAEL DAVID CARTLAND, J.P.  
SECRETARY FOR FINANCIAL SERVICES

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

**Papers**

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

*Subject*

	<i>L.N. No.</i>
Subsidiary Legislation	
Post Office (Amendment) Regulation 1993 -----	418/93
Port Control (Cargo Working Areas) (Amendment) (No. 2) Regulation 1993 -----	419/93
Commodities Trading (Accounts and Audit) Rules -----	420/93
Civil Aviation (Aircraft Noise) (Limitation on Landing or Taking Off of Aircraft) (Amendment) Notice 1993-----	421/93
Copyright Ordinance (Amendment of Schedule) (No. 2) Notice 1993 -----	422/93
Specification of Public Office -----	423/93
Sessional Papers 1993-94	
No. 20 — The Hong Kong Industrial Estates Corporation Annual Report 1992-93	
No. 21 — Director of Social Welfare Incorporated Statement of Accounts for the Financial Year Ended 31 March 1992	
No. 22 — Report by the Trustee of the Correctional Services Children's Education Trust for the Period 1 September 1991 to 31 August 1992	

**Oral answers to questions****Centralized and computerized medical records system**

1. MR HOWARD YOUNG asked: *To save patients from having to go through the same medical tests again on being transferred from one hospital to another and for speedy patient management, will the Government inform this Council whether it will consider setting up a centralized and computerized medical records system so that the patients' medical records can be transferred across hospitals?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, first, a word about medical records generally : medical records contain privileged information which could attract claims of confidentiality. No information can be released without the explicit consent of the patient; or the information is required by law.

The Hospital Authority is developing a comprehensive Information Technology Strategy which safeguards confidentiality of medical records while improving quality and continuity of patient care. A territory-wide system of computerized Patient Master Index is being fully developed based on Identity Card numbers. This index will provide access to basic personal particulars, demographic data and brief medical histories of patients for doctors in all public hospitals.

In the long term, the Patient Master Index will be expanded to include the clinical diagnosis of patients and types of treatment performed. This will be achieved initially through the development of a medical records abstracting system, currently being piloted in three hospitals. The system will be supplemented by a computerized laboratory management/reporting system which will be introduced to nine major hospitals by 1997 to provide clinical data on laboratory investigation. In addition, a pilot scheme will be introduced in one hospital in 1994-95 to set up a pharmacy management system which provides data on drug prescription.

MR HOWARD YOUNG (in Cantonese): *Mr President, in regard to the system of computerized Patient Master Index mentioned in the reply just now, has the Administration assessed how high the costs of setting up such a system will be? Furthermore, considering that computer software very often is more expensive than hardware, is there any software readily available from overseas, which in a way can save considerable programming costs?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, information technology development for the Hospital Authority was costed at \$70 million in 1992-93 and \$108 million in 1993-94. The Government has committed funding of about \$220 million for 1994-95 and 1995-96. The exact comparison in terms of cost-benefit analysis with other countries is not available but the advantage of maintaining the records is obvious in that it does improve quality and ensure continuity of patient care. I would put the question of the availability of software to the Hospital Authority for their consideration.

DR LEONG CHE-HUNG: *Mr President, could the Administration inform this Council how it will facilitate the request for details in respect of patients who happen to end up in the care of a private practitioner or a private hospital? And how could a patient get details of his own records?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, as I said in my main reply, medical records are privileged information between patients and their doctors. The legal principle is set out in Article 14 of the Hong Kong Bill of Rights Ordinance 1991, which provides that no one shall be subjected to arbitrary or unlawful interference with his privacy. No records can therefore be released without the explicit consent of the patient or unless the information is required by law.

DR LAM KUI-CHUN: *Mr President, since medical information is confidential but, in general, software of computers is not, how does the Government propose to guarantee confidentiality of this information?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, patients' medical records can only be accessed by authorized doctors on a strictly "need to know" basis. Security measures, such as computer system passwords, have been built into the system to ensure confidentiality. Even as Secretary for Health and Welfare, I can have no access to records nor can any other person.

DR HUANG CHEN-YA (in Cantonese): *Mr President, from my experience overseas, I feel that it is not uncommon that hospitals there merely use computers as a large word processor. Data entered into it is not further analysed. Besides, laboratory test results cannot reach the wards for no one has the time to enter the data into the computer. Could the Administration therefore assure us that the same mistake would not be made when computers are installed in hospitals in future, so as to ensure cost-effectiveness and that the data can be used for useful analysis?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, yes, I will certainly look into this.

MR MICHAEL HO (in Cantonese): *Mr President, in general the biggest problem with computerization of patient's records in hospitals is how to have piles of records compiled and entered into a computer. Will the Administration inform this Council what measures there are to train sufficient staff to operate the computer system when it is in place?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, whilst the introduction of a computerized information system will not lead to additional staff, the system will be managed by existing staff of the Hospital Authority. Nevertheless, training will have to be provided so that the staff who operate the system will know the system and its intricacies.

DR CONRAD LAM (in Cantonese): *Mr President, I would like to follow up Dr LEONG's supplementary. Since very often public hospital patients will go and consult private practitioners, will the Administration consider, subject to the consent of the patient, making these records accessible on-line to private practitioners in future?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the first part of the operation will be to computerize the Patient Master Index. After the computerized system is in place in the public hospitals, we intend to explore the possibility of extending the system to general clinics under the management of the Department of Health. In due course, it may be necessary to further extend it to the private sector, but we need to look at it a step at a time.

### **"Comfort women" during Japanese occupation of Hong Kong**

2. MR JIMMY MCGREGOR asked: *Will the Government inform this Council whether it is aware that the Japanese Military forcibly recruited some Hong Kong women as prostitutes during its occupation of Hong Kong from 1941 to 1945; if so,*

- (a) whether any investigation was carried out, or any representations made to the Japanese Government, after World War II regarding this form of torture;*
- (b) how many Hong Kong women were so brutalized, what attempts were made to assist them in starting a new life, and how many are still alive; and*
- (c) whether it will consider opening a dialogue with the Japanese Government to seek some form of compensation for such brutalized women and their families?*

SECRETARY FOR SECURITY: Mr President,

- (a) It has not been possible, in the time available, to make a thorough search of the archives relating to this period. The records which we have examined both here and in London contain no reference to the forcible recruitment of "comfort women" in Hong Kong. Nor do*

they mention any investigations into this subject immediately after World War II, nor representations to the Japanese Government at that time. The Japanese Government has advised that they have not received any approaches on this subject from Hong Kong residents or associations.

- (b) We do not know how many women suffered in this way, nor how many, if any, are still alive. None has approached us for assistance, nor otherwise become known to us.
- (c) If any such cases did become known to us, the Hong Kong Government would consider sympathetically how we could assist them. But the scope for legal redress is constrained by the San Francisco Peace Treaty of 1951.

MR JIMMY MCGREGOR: *Mr President, will the Hong Kong Government now seek to establish whether any such atrocities were carried out in Hong Kong at that time by asking any person or organization with knowledge of the crime of forcibly recruiting so-called "comfort women" to come forward and provide the information to an appropriate and sympathetic agency which would of course maintain the highest level of confidentiality? Such information could be used to determine whether a case may exist for Hong Kong to seek some form of compensation from the Japanese Government, possibly as a grant to be used to help those who suffered during the Japanese occupation. And finally, can the Government advise this Council on the extent of the constraints mentioned by the Secretary, presumably under Article 14 of the San Francisco Treaty? Do they include crimes which have nothing to do with the conduct of war?*

SECRETARY FOR SECURITY: Mr President, the best way for any individuals, or indeed other people with information on this subject, to make this known to the Government would be through the Social Welfare Department, and in particular the Family Services Division of the Social Welfare Department. As I have said, we have never received any information on this subject, but we would obviously consider it sympathetically if we did receive any such information.

As regards the second part of the question, I am advised that the arrangements made under the San Francisco Treaty of 1951 and subsequent payments made by the Japanese Government fully discharged their obligations for the damage and suffering caused during the war and that there would be no legal basis for further claims on the Japanese Government. This does not necessarily mean that there would not be a basis for moral claims.

MR HENRY TANG: *Mr President, I am wondering whether the Secretary, in the course of carrying out his search through the archives, has found any instances of men being forced into immoral acts during the war.*

PRESIDENT: Mr TANG, I think you are going beyond the scope of the question. Would you like to rephrase your question? I am not sure I understood it.

MR HENRY TANG: *Mr President, I am wondering whether the Secretary, in the course of searching through the archives for information on women being recruited to become prostitutes during the Japanese occupation, has discovered any instances also of men being so recruited.*

DR PHILIP WONG: *Mr President, can the Secretary elaborate a bit further on what the San Francisco Peace Treaty of 1951 is all about?*

SECRETARY FOR SECURITY: Mr President, that was the peace treaty made between Japan and the allied powers.

DR HUANG CHEN-YA (in Cantonese): *Mr President, the Secretary said in his reply that no women had approached the Government for assistance. It may be because they do not know exactly how to seek assistance. Can the Administration give assurances that, firstly, it will make known to the public which department they can approach for assistance or reporting the case; secondly, it will negotiate with Japan on how compensation should be made on receipt of such information?*

SECRETARY FOR SECURITY: Mr President, as I said in answer to a previous supplementary, I think that they may well be — if there are any such women — reluctant to come forward. But the department where they should come forward to is the Social Welfare Department who will, of course, treat any information that they receive in confidence. I cannot say what we would do. We have not received any such cases. We would obviously have to consider them.

DR HUANG CHEN-YA (in Cantonese): *Mr President, I am not asking which department to approach. My question is: Will the Administration make known to the public (by way of public announcement) which department will handle these case, that is, by means of public education?*

SECRETARY FOR SECURITY: I am sorry, Mr President, I do not understand the question. I thought I said very clearly that people who wish to report such cases should do so to the Family Services Division of the Social Welfare Department.

DR HUANG CHEN-YA: *Mr President, I had better speak in English. What I was asking is this: Would the Secretary make certain, by means of public education or publicity, that the people who may want to report such cases can know where they should report such cases to, because these women may not know who they should be reporting their problems to?*

SECRETARY FOR SECURITY: Mr President, there has been quite some considerable publicity on this whole subject, not relating to Hong Kong but relating to other countries in the region, earlier this year. And as I have said, the result of that has been that no such cases have come forward in Hong Kong. If anybody did wish to report it then they should do so to the Social Welfare Department and I hope that that information will get reported.

MR SZETO WAH (in Cantonese): *Mr President, the Liberal Democratic Government of Japan has been in power for a long time until recently. The attitude of the Hosokawa Government towards war is different from that of the past Administrations. Will the Hong Kong Government take this opportunity to raise the issues of "comfort women" and "compensation" with Japan through the British Government acting on behalf of Hong Kong?*

PRESIDENT: I think your question really goes way beyond elucidating the answer, Mr SZETO Wah. You will have to narrow it.

MR SZETO WAH (in Cantonese): *Mr President, given that the new Hosokawa Government has a different attitude towards wars in the past, will the Administration inform this Council whether it will gather information on recruitment of "comfort women" in Hong Kong and seek "compensation" from the Japanese Government?*

SECRETARY FOR SECURITY: Mr President, it is the case that the previous Japanese Government, in fact the outgoing Japanese Government, did issue an apology earlier this year to all the women who suffered in this way and I believe that that apology was repeated by the present Japanese Government more recently. I think that the question is somewhat hypothetical, as I have said we have no information of any such cases in Hong Kong. If we did receive information on any such cases then we would consider in what way we could assist them.

MR JIMMY MCGREGOR: *Mr President, would the Secretary not agree that it would be entirely appropriate for the Hong Kong Government to take the initiative to ask people whether there is such information available? It would be extremely unlikely for such people, having stayed silent for 50 years, to come forward now of their own volition unless they were sure that the Hong Kong Government wished to have that information and could make use of it.*

SECRETARY FOR SECURITY: Mr President, yes, I believe and hope that, if there are any such cases, the publicity that will no doubt ensue from the question being raised in this meeting will encourage people to come forward. That is why I have tried to indicate how they should come forward.

### **Treason or theft of state secrets**

3. MR JAMES TO asked (in Cantonese): *In the light of Article 23 of the Basic Law, which requires the Hong Kong Special Administrative Region to enact laws to prohibit, among other things, any act of treason or theft of state secrets, etc, will the Government inform this Council:*

- (a) *whether the local legislation to replace the United Kingdom Official Secrets Act 1989 is being drafted; if so, whether the Chinese Government will be consulted on the draft to ensure compatibility with the above Article and when the relevant Bill(s) will be introduced into this Council; and*
- (b) *whether provisions on treason and other offences against the crown under the Crimes Ordinance (Cap. 200) will be reviewed; if so, when the review is expected to be completed?*

SECRETARY FOR SECURITY: Mr President, as the Attorney General explained to this Council in answer to a question on 13 October, we have a programme for localizing certain United Kingdom enactments which now apply to Hong Kong, the substance of which with any necessary changes we would wish to see continuing to apply here after 30 June 1997; and also a programme to adapt Hong Kong laws so that on 1 July 1997 they will be consistent with the Basic Law.

Local legislation to replace the United Kingdom Official Secrets Acts has not been, and is not yet being, drafted. However, we have done some work on this subject, and I expect to put proposals to the Executive Council in the next few months.

We are also reviewing the provisions in the Crimes Ordinance relating to treason and other offences against the Crown. Here again, I expect to put proposals to the Executive Council in the next few months.

We will wish in due course to discuss these matters with the Chinese.

MR JAMES TO (in Cantonese): *Mr President, the Secretary says in the third paragraph of his reply that the provisions in the Crimes Ordinance relating to treason and other offences against the Crown are under review. According to recent reports, the question of subversion on the part of Members was brought up during Sino-British talks when the concept of "through train" was referred to. Can the Secretary inform this Council, in the course of reviewing the Crimes Ordinance and during negotiations with China in future, what the approach and principles will be when discussing with the Chinese Government acts of subversion against the Central People's Government referred to in Article 23 of the Basic Law, so that Members can have a smooth transition from 1995 to beyond 1997?*

SECRETARY FOR SECURITY: Mr President, I do not think I can answer any questions on the "through train". But I think what I can say is this: subversion *per se* is not mentioned in the Crimes Ordinance and is not an offence under Hong Kong law at present. We have not yet formulated our proposals on how we might adapt those provisions in the Crimes Ordinance. But in general I think we would be likely to propose retaining the law as it is with only such necessary changes as are required to reflect the change of sovereignty on 1 July 1997.

MR LEE WING-TAT (in Cantonese): *Mr President, will the Administration explain further the term treason in the context of the Crimes Ordinance (Cap 200)? If a group of demonstrators led by public figures chanted: "Down with the British Government", "Down with the Queen" and "Down with Chris PATTEN", will their acts constitute treason or subversion?*

SECRETARY FOR SECURITY: Mr President, I do not think that I can answer that question. I cannot give legal advice at all, let alone in the abstract.

PRESIDENT: Would you like to rephrase your question, Mr LEE?

MR LEE WING-TAT (in Cantonese): *Mr President, although the Secretary cannot give an oral reply now, he may supply a written answer as to whether such acts will constitute treason or subversion.*

PRESIDENT: You are asking for an answer to a hypothetical legal question, Mr LEE.

MR LEE WING-TAT (in Cantonese): *Mr President, that is not a hypothetical question. In the past, there were in fact people who chanted in the street: "Down with the British Government". So I am only seeking legal advice as to whether such an act constitutes treason or subversion.*

PRESIDENT: Secretary?

SECRETARY FOR SECURITY: I am afraid, Mr President, I cannot answer that question.

MR LEE WING-TAT (in Cantonese): *Mr President, if the Secretary cannot answer this question which involves legal concepts, can other public officers provide legal advice or answer?*

MR ANDREW WONG (in Cantonese): *Point of order, Mr President. Under the provisions of Standing Order 18(1)(h), "A question shall not be asked for the purpose of obtaining an expression of opinion, the solution of an abstract legal question, or the answer to a hypothetical proposition." So the question is out of order.*

PRESIDENT: Was your question, Mr LEE, asking whether the persons who did what you say did happen committed an offence under the present law of treason? Is that what you are asking?

MR LEE WING-TAT (in Cantonese): *Mr President, the instances I referred to in my question did happen in Hong Kong during the riots in 1967 when demonstrators chanted: "Down with the British Government" and "Down with the Queen". Now I am only seeking legal opinion on whether such acts constitute treason and subversion under the existing laws.*

PRESIDENT: I think what you might be permitted to do is to ask whether any prosecutions were brought, Mr LEE. Could an answer be supplied in writing, Secretary?

SECRETARY FOR SECURITY: Yes, Mr President. (Annex I) I do not know the answer to that now, but perhaps I should say that I do believe that there have been no prosecutions for treason within living memory.

MR MAN SAI-CHEONG (in Cantonese): *Mr President, when drafting or amending the relevant legislation, will the Administration consider the difference in certain legal concepts between China and Hong Kong in particular those concerning treason, theft of state secrets and other acts against the Government? In this connection, will the Administration inform this Council whether there are intentions to consult Hong Kong's legal profession especially the Bar Association and the Law Society to ensure that Hong Kong's future legislation will be acceptable to more LegCo Members?*

SECRETARY FOR SECURITY: Mr President, as I say, we have not yet formulated our proposals and we have not yet consulted the Executive Council. So I cannot at this stage say what proposals we will come up with nor how we will proceed with them. But if we do bring forward any legislation, clearly it will be for the Legislative Council to then decide and make its decision on that draft legislation.

MR MAN SAI-CHEONG: *Mr President, a point of clarification.*

PRESIDENT: Yes, but keep it short, Mr MAN.

MR MAN SAI-CHEONG: *Mr President, if that is the case, can I ask whether the Government is intending to consult the Law Society and the Bar Association?*

SECRETARY FOR SECURITY: Mr President, no, we have no such intention at present.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, if the question asked by Mr LEE Wing-tat just now is considered a "hypothetical" one, can the Administration inform this Council whether it will seek legal advice on the legal definitions of terms like "treason" or "subversion" and make them known to Hong Kong people and the Legislative Council? At the same time, will the legal definitions as agreed to by the Hong Kong Government be brought to the attention of the Chinese Government?*

SECRETARY FOR SECURITY: Mr President, I am not sure that I understand the question. The offence of treason and other offences against the Crown are clearly set out in the Crimes Ordinance. There must be a lot of law and legal precedents on precisely what these mean.

DR YEUNG SUM (in Cantonese): *Mr President, it is mentioned in the second paragraph of the Secretary's reply that the Administration has no intention of localizing the United Kingdom Official Secrets Acts. Does the Administration know that when our relationship with Britain comes to an end in 1997, the United Kingdom Official Secrets Acts will become invalid in the absence of the localization of the Acts? Why has the Administration still not stepped up its efforts in this regard though it is fully aware of the situation?*

SECRETARY FOR SECURITY: Mr President, I did not say we had no intention of localizing it. What I did say is that we had not yet drafted any local legislation. It is a subject we are working on and we expect to put proposals to the Executive Council in a few months' time.

#### **International telephone services rates**

4. MR LAU CHIN-SHEK asked (in Cantonese): *Will the Government inform this Council whether consideration will be given to requesting the Hong Kong Telecom International Limited to make public any agreement reached with overseas telecommunications companies on the accounting rates in respect of international telephone services as well as the relevant data? If not, how can the Government assure the public that the Hong Kong Telecom International Limited, currently one of the largest telecommunications service providers in Hong Kong, will not employ price discrimination measures against its competitors?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, to begin with I would like to give Members the background on the accounting rates system. Accounting rates were introduced in the early part of the twentieth century, when national telephone companies were not allowed to operate in other countries and so had to rely on their overseas counterparts to deliver calls to their final destination. The accounting rate is a charge for this service. It is normally expressed as a per minute fee, and is paid on the difference between outgoing and incoming traffic. In other words if traffic is in balance no money changes hands.

Over recent years, because the number of outgoing calls from Hong Kong exceed incoming ones, Hong Kong Telecom International (HKTi) has been making net outpayments to its overseas counterparts. HKTi works through negotiation to lower accounting rates and hence reduce our outpayments. But

success depends on the other party agreeing, and since in most cases the other party is a net recipient this is not easy.

As our negotiating partners in other countries (the United Kingdom, Japan, Australia and so on) do not disclose public accounting rates, if we disclose ours this would weaken HKTI's negotiating position, leading ultimately to a poorer outcome for Hong Kong and higher tariffs for consumers.

How then are the public protected? The Telecommunications Authority (TA) currently has full details of all accounting rate agreements entered into by the company and the profitability of the IDD service on a route-by-route basis. That information is used to ensure that any application from the company to vary IDD charges is fair and equitable.

Finally, the last part of Mr LAU's question assumes that there is a relationship between the non-disclosure of accounting rates and anti-competitive discriminatory pricing. This is not so: The same accounting rates apply to all telecoms operators in Hong Kong, regardless of whether or not they are members of the Hong Kong Telecom Group. Under section 36A of the Telecommunication Ordinance the TA is empowered to determine the terms and conditions of network interconnection and to prevent any discriminatory pricing by HKTI in relation to the services it offers to other operators.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, my follow-up question consists of two parts. Firstly, can the Administration make an investigation to ascertain whether the extent of the current IDD rates reduction across the board is directly related to the accounting rates reduction in order to find out whether the Hong Kong Telecom International Limited has violated the principle of fair competition? Secondly, in order to safeguard the interest of the people of Hong Kong, will the Administration follow the practice of the telecommunications authority of Canada in stipulating that when the accounting rates with a country are lowered, Hong Kong Telecom must lower its IDD charges correspondingly within six months?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, the agreement between the Hong Kong Telecom International and the Administration is that IDD charges will be reduced by 12% across the board in the coming three years. We have already entered the first year, and recently the Hong Kong Telecom International has generally lowered the IDD charges by around 8% which means that it must at least further lower the charges by 4% in the next two years in order to attain the objective of 12% reduction. During the next two years when charges are further lowered, the Director-General of the Telecommunications Authority will follow closely how that is being carried out. We may also consider the practices of other countries, if such practices can cater for the needs of Hong Kong and are beneficial to Hong Kong users.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, will the reduction mentioned by the Secretary include other Asian countries like Taiwan, China, Japan, the Philippines and Indonesia?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, the reduction that the company has promised to offer is on an overall basis. As regards the rates of reduction for our overseas counterparts, they are dependent upon the number of incoming and outgoing calls between these countries and Hong Kong and the balance of payments. So in general terms, the reduction should be on an overall basis, including the countries referred to by Mr LAU, and there will be further reductions in the next two years. But the actual rates of reduction and the time of implementation will depend on the circumstances prevailing then.

MR STEVEN POON (in Cantonese): *Mr President, will the Administration inform this Council whether the accounting rates agreements are between countries or between a local company and its overseas counterparts? If the agreements are between countries, then why are the negotiations not conducted by the Hong Kong Government; if they are between companies, then has our Administration monitored this so-called "accounting rates system" negotiated between the Hong Kong Telecom and its overseas counterparts? I asked this because with the opening up of the telecommunications market abroad and with more and more telecommunications companies offering lower rates, the Hong Kong Telecom should not be allowed to select negotiating partners of its own preference.*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, countries around the world which have maintained long distance telephone services with Hong Kong operate in one of the two ways as follows: One is with telephone services run by private companies. Many western countries and countries having commercial or industrial relations with Hong Kong follow this practice. The other is operated by the state, as in some countries. As regards the countries which I referred to as having operated long distance telephone services with Hong Kong, the negotiations are between companies. Some of these countries are beginning to sense that negotiations in future may be between countries instead of between companies. But that is not the existing practice. All negotiations at present are between companies. If the world trend moves towards negotiations between countries, Hong Kong will then consider whether it is necessary to change this method of negotiation.

MR STEVEN POON (in Cantonese): *Mr President, the Secretary has not answered the second part of my question.*

PRESIDENT: Would you like to remind the Secretary, please?

MR STEVEN POON (in Cantonese): *Mr President, if such agreements are reached between companies, can the Hong Kong Telecom choose to negotiate with any company it prefers, or is it subject to the Administration's direction that it should negotiate with overseas counterparts offering a lower rate (for example, the United States where the telecommunications market is open and competition is keen and there are many companies from which one can choose)? In other words, what is the monitoring role played by the Administration in this respect; can it specify that the Hong Kong Telecom should negotiate with a particular company such that the public of Hong Kong can enjoy a lower rate?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, the Hong Kong Government and the Director-General of the Telecommunications Authority act mainly as arbitrators for the protection of public interest. The Director-General of the Telecommunications Authority will not issue commercial directives on the details of negotiations between the Hong Kong Telecom and its overseas counterparts, because this is a commercial matter and many of the issues concerning negotiations are not related to the accounting rates system. So the Administration's task is only to ensure that the company functions in the best interest of Hong Kong in general.

MR PETER WONG: *Mr President, the real test of the fairness of the accounting rate system must be how much we actually pay for our international calls. My question is: How do our rates actually compare against the rates of our main communications partners?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, I am happy to report that our rates compare very favourably. It would not be possible for me to actually quote examples off the cuff, but I could give Mr WONG a written reply (Annex II) with examples. In some cases, where we have a large number of calls, if one calls a country from Hong Kong the rate could be as low as a third of what one will have to pay for an equal amount of call time calling from that particular country.

### **Wharf Cable channels for use by Government**

5. MRS PEGGY LAM asked (in Cantonese): *Under clause 10.3.1 of the franchise for Wharf Cable, the licensee shall make available to the Government, free of charge and expense, such use of not more than three channels in the basic package of programmes as may be directed by the Broadcasting Authority. Will the Administration inform this Council whether community groups, such*

*as organizations for women and the environment, will be given free access to convey their messages on such channels?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, clause 10.3.1 of Wharf Cable's licence requires Wharf Cable to make available to the Government, free of charge and expense, the use of not more than three channels when requested in writing by the Broadcasting Authority. However, these channels are only required to be made available after 1 January 1995 and are subject to the availability of frequency spectrum.

As Wharf Cable, which has just launched its services last Sunday, is currently using Microwave Multipoint Distribution System, or MMDS for short, where the frequency spectrum available is very much limited, we do not expect it to be able to meet this requirement until its system switches over to optic fibre in three years' time. Hence it is early days yet to decide how these government channels are to be utilized.

The policy intention for reserving these channels for the Government's use is to ensure that public affairs and community information and education programmes, which are normally not commercially attractive to commercial broadcasters, may have an avenue to be broadcast. Our present thinking is for these programmes to be produced by RTHK. But it is unlikely that RTHK would have sufficient resources to produce enough programmes to fill the air-time for all three government channels. It is therefore possible that some air-time on the government channels might be made available for access by community groups. However, allowing any community groups access onto such cable TV channels is a complex matter and much careful thought need to be given before a firm policy can be drawn up.

We are in the process of seeking more information overseas to see how other authorities deal with community access onto cable TV systems. Thereafter, we shall need to discuss with Wharf Cable and consult the Broadcasting Authority before drawing up a set of policy proposals. The Recreation and Culture Panel of this Council will certainly be consulted before any policy on community access onto the Wharf Cable TV system is finalized.

MRS PEGGY LAM (in Cantonese): *Mr President, may I refer to the third paragraph of the Secretary's reply in which it says, "..... for access by community groups". If it is really the intention of the Administration to allow access by community groups, will it provide financial or technical support to those interested groups so that they can have access onto these channels? Will the Administration also consider setting up a management committee to look after the allocation of air-time to these community groups and to formulate rules as to how these channels are to be used?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, these are precisely the sort of questions that we will need to examine more carefully as I said it is a complex issue and we need to give more thought to it. And I would be happy to receive any views and comments from organizations which may be interested in gaining access to these channels.

MRS SELINA CHOW (in Cantonese): *Mr President, I understand that the present Secretary and his predecessor had had a number of overseas study trips and had commissioned a consultancy to conduct studies and draw up policy proposals on cable TV before granting these licences. It was decided then that three channels would be provided. But why up to now can we still not see any firm policy proposals which are yet to be formulated? Will the Secretary inform us how long the process will be and how much time will be left before January 1995 for the community to make preparation for the use of these channels?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, I think I have indicated that the licence conditions have spelt out that we cannot gain access to these channels until 1 January 1995. But the reality is that it is likely to be much longer because Wharf Cable will not be moving towards a fibre optic system until three years from now. So we have time on our hands to examine and draw up careful and practical policy proposals to allow community access. During our examination of the licensing framework for licensing cable TV in Hong Kong, we did look into the examples of a few overseas countries on the question of community access. At that time, we only examined the principles with regard to whether community access should or should not be included in the licensing conditions. And, thereafter, we have not gone into the practical details as to how community access is to be arranged. These we will have to discuss with the licensee and, as I said in my main answer, we will be doing that shortly, before drawing up firm proposals.

MR LAU WAH-SUM: *Mr President, concerning the set of policy proposals as referred to in the fourth paragraph of his main reply, will the Secretary inform this Council whether the Administration would consult the public, particularly community groups, before reaching a decision on the policy, particularly on the financing and the operation of these channels?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, I did say that I would welcome any views and comments from any interested organizations. And certainly when we have drawn up proposals for discussion with the Broadcasting Authority and the Recreation and Culture Panel of this Council, these proposals will be made know publicly and feedback as well as comments from interested groups will be welcome.

MR MAN SAI-CHEONG (in Cantonese): *Mr President, public access channel has been in place in some democracies and has proven to be popular. Has the Secretary, as an initial move, sought the views of the Radio Television Hong Kong or started discussing with the Wharf Cable? If so, will the Secretary inform this Council what the initial response is; if not, is it possible to implement the proposal within three years, that is, before the licence expires?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, first of all, I would like to make it clear that the experiences in other overseas countries are not always that satisfactory. And I would like to quote here a statement in a report recently published in America concerning the European experiment where it says: "Few of the European experiments conducted in the 1970s have survived into the 1980s." This indicates that there are very fundamental practical problems in allowing community access to cable TV systems, although in some states in America this has proven to be a welcome measure to the local communities. When we issued the licence to them, we did discuss with Wharf Cable on the question of community access to the government channels reserved under the Wharf Cable licence. And discussions with Wharf Cable on that front are under way. But our primary concern up to now has been to ensure that Wharf Cable is able to deliver their main service to the public on time. Now that their service has been officially launched, I think we will be able to discuss with them in more earnest on other issues, including community access issues.

MR PETER WONG: *Mr President, is it the intention of the Administration to have an education channel on cable TV, and when does the Administration think that there will be sufficient coverage of the territory to make these broadcasts worthwhile?*

PRESIDENT: Is this in reference to the three channels that we have been discussing?

MR PETER WONG: *That is correct.*

SECRETARY FOR RECREATION AND CULTURE: Mr President, we have not yet decided on the nature and type of programmes to be put on the three government channels when they become available, although I did mention in my main answer that it is one of our intentions to ensure that public affairs, community information and education programmes are being broadcast through these channels.

### Chinese language standards

6. MR TIK CHI-YUEN asked (in Cantonese): *It is stated in the policy address that the Government will make efforts to improve the standards of Chinese language (including Putonghua), so that the development of education in Hong Kong can be more responsive to the needs in the transition period. Apart from the above mentioned policy, will the Government inform this Council of the measures and specific work to be put in place in reviewing curricular contents (including civic education) and the policy on academic accreditation, so as to cope with the development of education in the transition period?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, curriculum development is an on-going process. The Government is fully aware that the transition period introduces new elements which have to be taken into account.

At the primary level, a new subject entitled "General Studies" is being developed for introduction in 1996. It embodies basic knowledge of the geographical, historical, political and economic developments of China and Hong Kong as well as the relationship between China and the future Hong Kong SAR. At the secondary level, two subjects, namely Economic and Public Affairs as well as Government and Public Affairs, are currently under review to put more emphasis on the economic and political relationship between Hong Kong and China. At the Advanced Supplementary Level, the new subject of Liberal Studies, which was introduced in 1992, has a module which addresses current issues on China, including philosophies that characterize governments in China and Hong Kong, China's modernization policy and her legal and law enforcement systems.

The Education Department also encourages schools to organize extracurricular activities to expand students' knowledge on current issues, enhance their general awareness and enable them to form balanced views. Teaching kits on Civic Education, the Sino-British Joint Declaration and the Basic Law have been provided to assist teachers in covering these important topics.

With reference to the second part of the question, there appears to be a discrepancy between the Chinese and English versions. Academic accreditation as used in the English version refers to the process of assuring the quality of degree level qualifications awarded by local tertiary institutions. Under existing policy, this responsibility is vested in some tertiary institutions which are able to discharge it on their own, and in others with the help of the Hong Kong Council for Academic Accreditation. Like curriculum development, academic accreditation is a continuous process which takes into account changing circumstances. There is, as far as we can see, no specific requirement arising from the transition to be addressed in policy and practical terms.

If, as suggested in the Chinese version, the question is directed more at the recognition in Hong Kong of PRC academic qualifications, and other non-Commonwealth countries I will have to say that this is a much wider issue, involving the position taken by different people having to look at these qualifications, such as employers and professional bodies. As far as education is concerned, there already exists a mechanism under which holders of PRC or other overseas qualifications may be assessed for suitability to take up teaching at the non-graduate level. As for graduate positions, according to the Education Commission Report No. 5, an Advisory Committee on Teacher Education and Qualifications was established early this year and it will be looking into this particular point.

MR TIK CHI-YUEN (in Cantonese): *Mr President, the second part of my question seeks to get a better understanding of the way in which the Administration handles accreditation of qualifications acquired in the People's Republic of China; but the Secretary considered that as a much wider issue. Apart from for example the assessment procedure for non-graduate teachers as mentioned earlier, are there any other measures or systems through which a mechanism can be set up to assess the PRC academic qualifications? And if such a mechanism is to be set up, how long will it take, and when will it be put in place?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, regarding the demand in schools, there is, as I have said, a mechanism for assessing non-graduate qualifications through the Education Department. As for the demand for graduate teachers, they will be taken care of by the Advisory Committee on Teacher Education and Qualifications which will start work very soon to assess academic qualifications acquired in China and other non-commonwealth countries so as to meet local demand for graduate teachers.

As far as the demand in other government departments is concerned, we have examined the entry qualifications in the public sector through the Civil Service Branch and set the requirements on a case-by-case basis. Generally speaking, the Hong Kong Council for Academic Accreditation is responsible for academic contacts with other countries, such as China. It is hoped that through our close contacts in the past year, we are able to know more about the academic qualifications we need. Hong Kong stands to benefit if there is a way to accredit the PRC academic qualifications.

MR MOSES CHENG (in Cantonese): *Mr President, the curriculum review mentioned in the second paragraph of the main reply is very wide ranging. Will the Administration inform this Council if the Education Department will, apart from providing teaching kits, arrange special training programmes for teachers to assist them in teaching new topics?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, curriculum development, in fact, covers a very wide area. Basically, there are three major areas of work, namely, first, to promote civic education through revising and developing the curriculum; second, to promote civic education by way of extra-curricular activities such as civic education activities; and third, to promote the development of civic awareness through the so-called "hidden curricula" such as "school discipline" and other administrative measures. To give a general picture of what we have been doing, teacher's training at the primary and secondary levels has been enhanced with the joint efforts of the colleges of education and the Inspectorate Division. Through the Committee on the Promotion of Civic Education set up by the Government, we intend to develop more teaching kits, and as far as I know, some of these, including that on the development of human rights in Hong Kong, will be produced in two months. And teaching kits on the rule of law in Hong Kong will be produced in due course. I hope that through all these efforts the needs of schools will be met and that students can have a better understanding of the latest development and can keep pace with new social demands.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, at present, "civic education" is not a compulsory subject in schools and it is up to schools themselves to decide whether to teach this subject. If civic education, human rights, the rule of law, the Joint Declaration and the Basic Law and so on, as mentioned in the reply, are important topics, would the Administration make "civic education" a compulsory subject so as to cope with the need of education development during the transition period? If not, will it not be self-contradictory if the Administration stresses the importance of civic education but does not make it a compulsory subject? How can the Administration ensure that students will be able to learn this subject?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, as I have said earlier, we promote civic education through three different approaches, namely, the "curricular", "extra-curricular" and "school activity" approaches. Our experiences in the past 10 years or so make us realize that the cross-curricular approach is the most effective. That is to say, education is not confined to the teaching of different subjects but includes cultivation and development of civic awareness through extra-curricular and school activities. Facts show that our efforts in the past 10 years have not been wasted. According to my observation and experience, civic awareness in respect of schools and students has been enhanced a great deal. This demonstrates that to make this subject a compulsory one would be a narrow and undesirable approach. We, therefore, consider the current "cross-curricular" approach the best option.

MR ALFRED TSO (in Cantonese): *Mr President, whether we call it "civic education" or "national education", this is where many advanced countries have devoted a lot of efforts. Will the Administration conduct a further review or even set up a working group to design the curriculum so as to further promote civic education before and after 1997?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, as I said earlier, we have a Committee on the Promotion of Civic Education. With the assistance of the City and New Territories Administration, the Committee draws on the knowledge and experience of different sectors of the community and plays a leading role in promoting civic education. Its work covers a wide area. As far as I know, the work we are conducting is wide ranging and open. I am sure with this Committee and with, for example, the on-going review and development of the curriculum, the introduction of new subjects and the teaching of existing subjects which I have mentioned, civic education can be better promoted at schools and in the community at large.

PRESIDENT: We must move on. Before I do so, however, in answer to a Member who has raised a query as to an earlier supplementary question, let me say that I have permitted a Member to ask a follow-up to a question under a procedure agreed with the Procedure Subcommittee of the House Committee whereby a Member may ask a follow-up question if he thinks that his question has not been fully answered.

### **Written answers to questions**

#### **Demand side of planned public and private projects**

7. MR RONALD ARCULLI asked: *Regarding the study currently being undertaken by the Works Branch in respect of the demand side of planned public and private projects in Hong Kong, will the Government inform this Council:*

- (a) *whether such study will take into account the demand for professional and skilled labour required by:*
  - (i) *normal construction work in Hong Kong;*
  - (ii) *all the core projects for the new airport;*
  - (iii) *the new airport construction including all the numerous government and related buildings that will be completed at the same time;*

- (iv) *Hong Kong investments and investments from other countries using professionals from Hong Kong companies engaged in construction and related activities in China; and*
- (b) *how tertiary institutions and the Vocational Training Council would be able to cope with such demand?*

SECRETARY FOR WORKS: Mr President,

- (a) The study currently being undertaken by the Works Branch is for the development of a medium to long-term forecasting model for assessing the demand for on-site human resources in the construction industry and this will include predictions for professional and skilled labour. Because the current study is the first of its kind, the methodology has had to be structured to take into account the limited and frequently untested statistical information available. The predications will be grouped into five skill levels — technologists (which includes professional staff), technicians, craftsmen, operatives and general workers. Insofar as government projects and similar projects are concerned, the demand side information from the responsible department or authority will be taken into the model. For the private sector, however, gathering reliable information for the model will be indirect and hence less reliable. The Construction Advisory Board and other avenues of formal contact will be used so far as possible.

The study will take into account the demand required by normal construction works in Hong Kong, both in the private and public sectors, the airport core projects including the new airport itself, as well as Hong Kong investments and investments from other countries using professionals from Hong Kong companies engaged in construction and related activities in China.

- (b) It is premature to consider how the tertiary institutions and the Vocational Training Council would respond to the projected demand since the study has not yet been completed. However, the tertiary institutions and the Vocational Training Council would no doubt carefully consider the findings of the study when deliberating their plans on provision of places.

**British National (Overseas) Registration Scheme**

8. MR EDWARD HO asked: *In relation to the British National (Overseas) (BN(O)) Registration Scheme, will the Government inform this Council:*

- (a) of the publicity arrangements overseas to ensure that British Dependent Territory Citizens (BDTCs) abroad are aware of the cut-off dates for registration;*
- (b) whether it is aware of the difficulties which some BDTCs abroad have in obtaining application forms by telephone from British Embassies, in particular the one in Washington DC; and*
- (c) in view of (b), whether it will consider making forms available in all Hong Kong Government overseas offices and the Immigration Department in Hong Kong?*

SECRETARY FOR SECURITY: Mr President,

- (a) We have arranged for the phased BN(O) registration programme to be publicized overseas in the following ways:

- (i) by advertisement*

regular advertisements on the timetable for registration and reminders for each phase are placed in nine overseas Chinese newspapers circulated in Canada, the United States, Australia, New Zealand and Europe and two magazines circulated in Taiwan, Singapore and Malaysia. Advertisements are also placed in three Hong Kong magazines which are very popular among overseas Hong Kong residents;

- (ii) by information leaflet and poster*

information leaflets on the phased registration programme have been sent to overseas British posts, the United Kingdom Passport Offices, the United Kingdom Immigration Service and Hong Kong Government overseas offices for dissemination to Hong Kong BDTCs abroad. Posters have also been sent to these posts and offices to attract the attention of visiting BDTCs;

- (iii) by Hong Kong Government overseas offices*

the Hong Kong Government Offices in London, Geneva, Washington, New York, San Francisco, Toronto and Tokyo

have been emphasizing the phased registration programme in their contacts with the overseas Hong Kong communities;

(iv) *by radio announcements*

radio tapes on the phased registration programme have been sent to overseas Chinese radio stations for broadcasting; and

(v) *by announcements on local television and radio channels*

announcements are broadcast through television and radio stations in Hong Kong appealing to local people specifically to inform their friends or relatives abroad of the phased registration programme.

- (b) We maintain close contact with our overseas offices and with overseas British posts. We are aware that in the first month or so of the phased registration programme, some British posts experienced teething problems with the new procedures involved in issuing BN(O) passports; one of which was the distribution of application forms to applicants who did not reside in the vicinity of the post. We have assisted to overcome these problems, and, we believe, to reduce to a minimum inconvenience to BDTCs abroad.
- (c) Application forms for overseas applicants are already available at our overseas offices and even at British posts which do not have passport issuing functions. We are now also arranging for forms to be made available in Hong Kong for people who wish to assist their relatives and friends overseas in obtaining the forms.

### **Priority discs for the elderly in government clinics**

9. MR WONG WAI-YIN asked (in Chinese): *Will the Government inform this Council of the numbers of priority discs that are allotted daily to the elderly in government clinics; whether such arrangements are subject to regular review; if so, whether consideration would be given to increasing the number of priority discs for the elderly?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the numbers of priority discs set aside daily for elderly patients at government out-patient clinics are listed at Appendix. These numbers are determined on the basis of demand and supply of services, having regard particularly to the size and age profile of the population in the catchment area; the demand for and utilization pattern of clinic services by different age groups; the capacity of the individual clinic concerned and the availability of clinic services provided by both the

public and the private sectors in the vicinity. They are reviewed regularly and are adjusted as necessary to meet service needs.

In addition, elderly patients with chronic diseases who require regular follow-up at clinics are given advanced appointments. They do not require a disc for attendance and their numbers are not subject to quota.

## Appendix

### Number of Priority Discs Reserved Daily for Elderly Patients

<i>Clinic</i>	<i>No of discs</i>
Aberdeen Jockey Club Clinic	75
Anne Black Health Centre	25
Chaiwan Health Centre	40
Cheung Sha Wan Jockey Club Clinic	30
East Kowloon Polyclinic	30
Kam Tin Clinic	10
Kennedy Town Jockey Club Clinic	15
Kowloon Hospital GOPD	45
Kwun Tong Jockey Club Health Centre	50
Lady Trench Polyclinic	70
Lam Tin Polyclinic	20
Lee Kee Memorial Dispensary	23
Li Po Chun Health Centre	30
Lek Yuen Health Centre	70
Madam Yung Fung Shee Health Centre	15
Mona Fong Clinic	30
Mrs Wu York Yu Health Centre	30
Ngau Tau Kok Jockey Club Clinic	30
North Kwai Chung Clinic	30
Robert Black Health Centre	60
Shek Kip Mei Health Centre	25
Shek Wu Hui Jockey Club Clinic	30
Shatin Clinic	30
Sai Ying Pun Jockey Club Clinic	50
Shaukeiwan Jockey Club Clinic	40
Shun Lee Government Medical Clinic	23
South Kwai Chung Clinic	40
Tai Po Jockey Club Clinic	22
Tai Po Wong Siu Ching Clinic	17
Tuen Mun Clinic	40

<i>Clinic</i>	<i>No of discs</i>
Tsing Yi Clinic	50
Tsing Yi Town Clinic	20
Violet Peel Health Centre	70
Wu York Yu Health Centre	45
Wang Tau Hom Jockey Club Clinic	30
Yaumatei Jockey Club Polyclinic	45
Yuen Chau Kok Clinic	10
Yuen Long Jockey Club Clinic	60
Yan Oi Polyclinic	50

### **Report on Hong Kong to the United Nations Human Rights Committee**

10. MR LAU CHIN-SHEK asked (in Chinese): *In response to questions raised by Members of this Council at the sitting on 13 October 1993, the Government indicated that between now and June 1997, the British Government would present five reports on Hong Kong to the United Nations Human Rights Committee in accordance with obligations stipulated under human rights treaties and covenants. In this regard, will the Government inform this Council whether it will consider consulting the views of Hong Kong people on the reports' contents, prior to their submission by the British Government, as well as urging the British Government to fully reflect such views in the reports?*

SECRETARY FOR HOME AFFAIRS: Mr President, between now and 1997 the United Kingdom Government will present five human rights reports on Hong Kong to the United Nations. These are:

- (i) Initial Report under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (due in January 1994).
- (ii) Thirteenth Periodic Report under the International Convention on the Elimination of All Forms of Racial Discrimination (due in April 1994);
- (iii) Fourth Periodic Report under the International Covenant on Civil and Political Rights (due in June 1994);
- (iv) Third Periodic Report under the International Covenant on Economic, Social and Cultural Rights (due in June 1994); and

- (v) Fourteenth Periodic Report under the International Convention on the Elimination of All Forms of Racial Discrimination (due in April 1996).

All of these reports are factual in nature: they will contain information on the state of implementation of the relevant treaties.

The Hong Kong Government does not intend to consult formally other parties during the preparation of these reports. Interested parties already have had an opportunity to comment on the implementation of these treaties during the development of the related policies. The intention not to consult formally does not preclude interested parties from expressing their views on these issues to the Government. They are also free to present their views to the United Kingdom Government or the relevant United Nations committee direct.

All reports will be tabled before this Council and will be made public after they have been submitted to the United Nations by the United Kingdom Government.

### **Ownership of private property by public housing tenants**

11. MISS EMILY LAU asked (in Chinese): *In regard to the investigation of the Housing Department to inquire into the ownership of private property by public housing tenants through a perusal of the Land Registry records and other means, will the Government inform this council whether such investigation constitutes an interference with the privacy of the public housing tenants and if so, why the Housing Department has been allowed to carry out such investigation?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the recent survey by the Housing Department of the extent of property ownership among public rental housing tenants was intended as a fact finding exercise. The survey results were analysed in broad terms and are purely for reference in the development of housing policies.

The survey was conducted by matching the department's records with the identity of property owners registered at the Land Registry. As the registers in the Land Registry are open to public inspection, the question of interference with privacy does not arise.

In the course of the survey, the department took steps to ensure that the data collected was handled with care and its use restricted to the general analysis of ownership of domestic properties by public housing tenants. The survey

findings were published in the aggregate, and no information on individual records or tenants' identities were released. Under established practice, the raw data of the survey was destroyed after processing.

### **Performance pledges by government departments**

12. MR VINCENT CHENG asked: *Will the Government inform this Council whether there is any plan to put all the performance pledges by government departments into a consolidated booklet for the public's easy reference?*

CHIEF SECRETARY: Mr President, we do not at this stage intend to publish a booklet of all performance pledges. This is because our customers can obtain copies of pledges from the departments they visit, and notices of standards and complaint procedures should normally be displayed at the point of service. It would also be difficult to keep a booklet up to date, to take account of changes to services and personnel in the 50-odd departments which will have made performance pledges by mid-1994.

Nevertheless we will keep the possibility of publishing such a booklet under review in the light of developments. In the meantime, for those who have a broader interest, complete sets of published pledges are available from the Efficiency Unit in the Government Secretariat.

### **Hepatitis and HIV infection through tattoos**

13. DR HUANG CHEN-YA asked (in Chinese): *In view of the likely infection of hepatitis and HIV viruses through tattoos, will the Government inform this Council:*

- (a) *whether measures have been taken to ensure that equipment used in the tattoo trade is safe and hygienic; and*
- (b) *if not, whether legislative control will be introduced for this purpose?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, to ensure that equipment used in the tattoo trade is safe and hygienic, the Department of Health has published "Guidelines on the Prevention of Transmission of Blood-borne Diseases" which are distributed to all owners and operators of tattoo parlours in Hong Kong. The Guidelines focus particularly on the risks of hepatitis-B and HIV transmission and give clear instructions on maintenance of hygienic

standard, disinfection of equipment and disposal of sharps for these establishments. This is supplemented by the department's regular health education programme on prevention of hepatitis-B and HIV infections.

Under the Quarantine and Prevention of Diseases Ordinance (Cap 141) the Director of Health already has power to enter any premises suspected to be the seat of transmission of any infectious disease, to order the disinfection of the same to his satisfaction and, as necessary, to close the premises. We do not consider further legislation to be required.

### **Precipitates in tap water**

14. DR TANG SIU-TONG asked (in Chinese): *The recent discovery of some brownish precipitates in the tap water of several Tuen Mun housing estates and in the town centre of Yuen Long has caused public concern. Will the Government inform this Council:*

- (a) *what pollutants have been identified and what has led to such occurrence;*
- (b) *whether the Department of Health has conducted any tests to find out if the tap water in the affected areas is harmful to the consumers' health; if yes, what the findings are; and*
- (c) *how the Government will improve the situation in order to make the affected residents feel relieved with the consumption of their drinking water?*

SECRETARY FOR WORKS: Mr President,

- (a) The quality of water in government distribution system in Tuen Mun and Yuen Long areas are normal and satisfactory. The problem of discoloured tap water is basically due to corrosion of the internal surface of the galvanized steel pipes commonly used as the "inside service" within the consumers' premises, resulting in excessive amount of fine iron particles remaining in suspension in the water. The problem is particularly acute when the water has been standing idle in the pipes for some time, or when it is first drawn out from tap in the morning. Under normal circumstances, the water should become clear after the tap has been turned on for a while.

- (b) Ensuring the wholesomeness of water supplied to consumers is one of the responsibilities of the Water Supplies Department, who has been closely monitoring the quality of treated water in their supply system.

*Tuen Mun area*

In response to the complaint of discoloured water in housing estates in Tuen Mun lodged by OMLEGCO in August 1993, WSD staff took 274 water samples for testing from nine government housing estates and two private estates. The test results revealed that all samples taken from the government distribution system just outside the estates were clear and satisfactory. For the water samples taken inside the estates, 92% were found to be visually clear and satisfactory, and the remaining samples were found to be slightly turbid due to high iron content, but were in general bacteriologically satisfactory.

According to the World Health Organization, when iron content in drinking water is above 0.3 mgm/litre, it would give rise to consumer complaints because such water often tastes unpalatable and stains laundry and sanitary ware. However, transient increase of iron content in tap water is unlikely to give rise to immediate adverse health effects.

*Yuen Long area*

The number of telephone complaints on discoloured water received by WSD in Yuen Long town is tabulated below:

	<i>Complaint received</i>	<i>No of Samples taken</i>	<i>Satisfactory</i>
August	26	72	72
September	1	4	4
October	Nil	Nil	Nil

All these complaints were attended to by WSD's staff and the complainants were subsequently satisfied with the water quality after the inside services of the premises were flushed by WSD's staff.

- (c) In order to avoid the problem in the longer term, both the Water Supplies Department and the Housing Department are now actively considering the possible use of alternative non-ferrous pipe materials which will not be susceptible to rusting.

The Housing Department is currently trying out three alternative materials on a project at Lok Fu Estate. This trial is expected to be completed early next year when a decision will be made as to which alternative material will in future be used for new buildings.

Meanwhile, for existing buildings, regular maintenance programme will continue to be carried out to ensure that storage tanks and water systems in all housing estates are kept clean, and that where the existing pipes need to be renewed, they will be replaced by pipes made of non-ferrous materials.

### **Police establishment and strength**

15. MR LEE WING-TAT asked (in Chinese): *Will the Government inform this Council of the establishment and strength of each police district and division in the territory, and whether there are plans to recruit sufficient police officers to attain the establishment level in the near future; if not, how the Government would maintain adequate police presence on the streets for patrol duties?*

SECRETARY FOR SECURITY: Mr President, attached is a table showing the establishment and strength of police officers in all police land regions, districts and divisions. Overall, the total strength is some 3% above the establishment. This has been achieved over the past 12 months, as a result of successful recruitment, low wastage, and the redeployment of many officers back to normal operational duties (for example from Vietnamese Migrant detention centre duties).

In addition to regular police officers, auxiliary police and the Police Tactical Units which are not on the establishment in the districts or divisions have also been deployed to augment operations and strengthen patrolling.

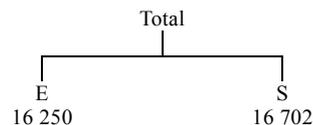
The increased police presence on the streets has been successful in lowering the overall crime rate, and the rate of violent crime. We fully intend to continue to maintain an adequate police presence on the streets.

## Police Establishment and Strength (Position as at 1.10.1993)

<i>Regions</i>	<i>Hong Kong Island</i>		<i>Kowloon East</i>		<i>Kowloon West</i>		<i>New Territories North</i>		<i>New Territories South</i>						
	<i>E</i>	<i>S</i>	<i>E</i>	<i>S</i>	<i>E</i>	<i>S</i>	<i>E</i>	<i>S</i>	<i>E</i>	<i>S</i>					
	Regional HQ	523	590	Regional HQ	480	480	Regional HQ	772	892	Regional HQ	267	575	Regional HQ	422	590
	Traffic	343	322	Traffic	223	219	Traffic	286	281	Traffic	269	233	Traffic	222	225
Headquarters	Sub-total	866	912	Sub-total	703	699	Sub-total	1 058	1 173	Sub-total	536	808	Sub-total	644	815
	Central DHQ	75	85	Kwun Tong DHQ	93	107	Kowloon City DHQ	164	141	Border DHQ/Div/ FPD HQ	121	109	Kwai Chung DHQ	101	102
	Central Waterfrong Peak Sub-div	311 223 70	303 233 43	Kwun Tong Tseng Kwan O	329 121	340 148	Kowloon City Homantin Hung Hom	296 115 240	284 121 252	Lok Ma Chau Sub-div Ta Kwu Ling Sub-div Sha Tau Kok Sub-div Lowu/Man Kam To Border Crossing Point	122 85 184 127	123 87 106 87	Kwai Chung Tsing Yi	376 159	310 181
District	Sub-total	679	664	Sub-total	543	595	Sub-total	815	798	Sub-total	639	512	Sub-total	636	593
	Eastern DHQ North Point Shau Kei Wan Chai Wan	111 266 197 191	100 274 180 186	Sau Mau Pint HQ Sau Mau Ping Ngau Tau Kok	83 254 219	105 222 224	Shamshuipo DHQ Shamshuipo Cheung Sha Wan Shek Kip Mei	141 229 252 200	145 210 232 188	Tai Po DHQ/DIV Sheung Shui	311 191	375 222	Sha Tin DHQ Sha Tin Siu Lek Yuen Tin Sum Ma On Shan	92 176 161 187 1	102 179 159 203 123
District	Sub-total	765	740	Sub-total	556	551	Sub-total	822	775	Sub-total	502	597	Sub-total	617	766
	Wan Chai DHQ Wan Chai Happy Valley	114 319 194	117 311 184	Wong Tai Sin DHQ Wong Tai Sin Tsz Wan Shan Sai Kung	135 339 192 114	138 292 180 114	Yau Tsim DHQ Yau Ma Tei Tsim Sha Tsui	192 356 381	153 348 381	Tuen Mun DHQ Tuen Mun Castle Peak Tai Hing	69 250 128 170	91 228 148 136	Tsuen Wan DHQ Tsuen Wan Lei Muk Shue	84 385 230	119 352 234
District	Sub-total	627	612	Sub-total	780	724	Sub-total	929	882	Sub-total	617	603	Sub-total	699	705
	Western DHQ Western Aberdeen Stanley Sub-div	84 230 264 46	97 218 251 42	Airport District MTR District	254 202	278 190	Mongkok District	538	543	Yuen Long DHQ Yuen Long Tin Shui Wai Lau Fau Shan Sub-div Pat Heung	80 314 112 40 53	93 246 119 35 66			
District	Sub-total	624	608	Sub-total	456	468	Sub-total	538	544	Sub-total	599	559			
	Regional total	3 561	3 536	Regional total	3 038	3 037	Regional total	4 162	4 171	Regional total	2 893	3 079	Regional total	2 596	2 879

## Keys

<i>E</i>	-	<i>Establishment</i>
<i>S</i>	-	<i>Strength</i>
<i>HQ</i>	-	<i>Headquarter</i>
<i>DHQ</i>	-	<i>District Headquarter</i>
<i>DIV</i>	-	<i>Division</i>
<i>FPD</i>	-	<i>Field Patrol Detachment</i>
<i>MTR</i>	-	<i>Mass Transit Railway</i>



*Note:* Figures are presented by division except where specified. There are altogether five police land regions. Each region consists of a regional headquarters with emergency units and other administrative/support staff including regional crime units. In general each district comprises its headquarters and a number of divisions. Airport, MTR and Mongkok are single division districts.

### Industrial accidents records

16. MR HENRY TANG asked: *It is stated in paragraph 38 of the Governor's policy address that each worker in the construction industry has a 30% chance of being injured every year. Will the Government inform this Council:*

- (a) *how the figure has been arrived at;*
- (b) *whether in the Government's records industrial accidents in the construction industry are classified according to the nature of their causes such as those caused by human factors (that is, avoidable incidents) and non-human factors (that is, purely accidental cases); if so, what the respective figures and percentages for these kinds of accidents in the past year are; and*
- (c) *if not, whether the Government will consider the classification of such records for statistical purposes and for the introduction of more precautionary measures to prevent those "avoidable" industrial accidents?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) This figure is derived from the accident rate in the construction industry. In 1992, the rate was 302.34 accidents per 1 000 workers employed.
- (b) The Labour Department does not at present classify industrial accidents according to whether they are caused by human factors or non-human factors. The present classification is based on the recommendations of the International Labour Organization.

Experience indicates that most accidents may be attributable to human failing of one kind or another. For example, if a machine fails, the cause can usually be traced to one or more of the following causes, for example, defective design, improper

manufacture, incorrect installation, poor maintenance, inadequate training of operators, failure to follow proper operational procedures, and so on.

- (c) The Labour Department is planning to review its system of accident statistics towards the end of the year. Any factors that will contribute to effective monitoring of accident situations will be taken into account.

### **Container storage sites in the New Territories**

17. MR WONG WAI-YIN asked (in Chinese): *Since a number of sites in the New Territories are being used for piling up containers and there have been incidents of container collapses in the past, will the Government inform this Council:*

- (a) *what measures will be taken to prevent the recurrence of container collapses; and*
- (b) *whether priority will be given to rehousing residents who are living in the vicinity of such storage yards and constantly under the threat of container collapses?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, no container collapses in the New Territories have been reported to the police or the Fire Services in recent years. The basis of the statement in the question is therefore unclear.

Nevertheless, regarding part (a) of the question, the Government is aware of the limited risk posed by stacks of containers. The following preventive measures have already been taken by the Labour Department:

- (a) the publication of a booklet entitled "Safe Practices for Container Handling" setting out the approach to be adopted to ensure that containers are handled safely in a wide range of situations, including container freight stations, container yards and so on;
- (b) amendments to the Factories and Industrial Undertaking Ordinance in July 1992 to extend its coverage to container storage depots and yards; and
- (c) the incorporation of container handling safety provisions in the new Factories Industrial Undertakings (Cargo and Container Handling) Regulations.

In addition to routine inspections, the Labour Department conducted 118 special enforcement inspections at container yards in 1992. One summons in connection with the new container safety requirements has been issued since the new Regulations came into force last year.

On the land-use planning side, where planning permission from the Town Planning Board is required, the Board can also impose conditions to ensure that appropriate safety measures are put in place.

As regards part (b) of the question, the Housing Department has to date not received any requests for rehousing from anyone perceiving themselves to be at risk from collapsing containers. This may be due to the fact that no collapses have occurred or been reported. Since most container storage yards in the New Territories are located on private land, any concerns about safety should be taken up with the owners or operators of the yards in question. The question of priority for rehousing does not, therefore, arise.

### **Drug abusers aged 21 or below**

18. DR CONRAD LAM asked (in Chinese): *In view of the almost 70% surge in the number of drug abusers aged 21 or below reported in the second quarter of this year when compared with the figure of the corresponding period in the previous year, will the Government inform this Council:*

- (a) *whether there is any discrepancy between the reported figure and the Government's estimation;*
- (b) *the reasons for the drastic increase; and*
- (c) *of any effective measures that are in hand to contain the drastic increase in the number of young abusers as mentioned above?*

SECRETARY FOR SECURITY: Mr President,

- (a) A total of 928 young drug abusers aged under 21 were reported to the Government's Central Registry of Drug Abuse in the second quarter of 1993; this represents a 68.4% increase over the number reported in the corresponding period in 1992. The Government relies on these reports and does not make separate estimations.
- (b) We are not clear as to the reasons for the increase, but the number of reports on young people aged under 21 come from a wide range of reporting agencies, covering law enforcement, treatment and welfare organizations. However, we are concerned about this increase and, with assistance from the Research Subcommittee of the

Action Committee Against Narcotics, we are trying to determine the underlying causes.

- (c) Action is being taken to contain the problem on a number of fronts: law enforcement, preventive education and publicity, and treatment and rehabilitation. Enforcement action has been stepped up: there were 5 631 arrests for narcotics offences in the first half of 1993, compared to 3 955 in the corresponding period last year, an increase of 42%. Preventive education has also been stepped up. A new campaign using television, posters and leaflets was launched over the summer with the aim of encouraging greater acceptance of responsibility by parents. A new series of anti-drug talks for parents and children has been introduced as well as a programme in schools for Primary VI. On the treatment side, increasing emphasis is being given to targeting young drug abusers for intensive counselling. And research on the extent and underlying causes of drug-taking among youngsters is ongoing. A proposal to set up a three-year pilot scheme for a treatment centre for young drug abusers has just been received from the Society for the Aid and Rehabilitation of Drug Abusers and is being considered by the Action Committee Against Narcotics.

We are doing all we can to counter illicit trafficking of drugs and drug abuse.

### **Joint Admission Scheme**

19. MR CHEUNG MAN-KWONG asked (in Chinese): *In view of the introduction of the Joint Admission Scheme of the Polytechnic, Technical Institutions and Colleges this year, will the Government inform this Council:*

- (a) *of the number of places for various non-degree courses provided by the participating institutions under the Scheme, and the enrolment situation of these institutions in the current year;*
- (b) *of the overall number of diploma and higher diploma courses offered by these institutions, and the extent of inadequate or excessive provision of places in various institutions;*
- (c) *of the faculties and courses which are under-enrolled; the causes of under-enrolment and whether consideration will be given to adopting remedial measures in regard to those unpopular courses, such as by revising the curriculum to meet current needs;*

- (d) *of the number of students who, on completion of the diploma courses of the seven technical institutions, have applied through this Scheme and successfully enrolled in higher diploma courses offered by other institutions; and*
- (e) *of the number and types of complaints (if any) related to admission matters received this year and the measures that will be adopted by the Government to improve the situation?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the answers to Mr CHEUNG's five-point question insofar as it relates to the Joint Admission Scheme of the Polytechnics, Technical Institutes and Colleges (JASPIC) are:

- (a) There are 2 621 first-year sub-degree places provided by the two Polytechnics and 1 400 by the Technical Colleges. Current registration figures show that these institutions have over-enrolled by about 3% to 5%. There are 4 760 first-year diploma places in the Technical Institutes and the current registration figure shows that there is under-enrolment by about 11%. With regard to the two Polytechnics, the enrolment figures are not yet final. We hope to obtain their finalized enrolment figures for 1993-94 around the end of the year.
- (b) The two Polytechnics offer three diploma and 31 higher diploma courses while the Technical Institutes and Technical Colleges offer a total of 56 diploma courses and 30 higher diploma courses. As students are offered 14 choices of courses, it is difficult to judge the extent of any inadequate or excessive provision of places solely on the basis of their popularity. Consideration has to be given to the needs of employers as well as prospective employment opportunities in the longer term.
- (c) Of all the courses offered by the two Polytechnics, only one course is under-enrolled by five places. In the Technical Colleges there are two courses which are under-enrolled by five and eight places respectively. In the Technical Institutes, the under-enrolment occurs mainly in certain disciplines, namely, mechanical and manufacturing engineering, textiles and clothing, printing and hotel studies. The reasons for the under-enrolment are complex involving choice of parents and students. But certain objective factors are also relevant, including the increased provision of post-Secondary V places in general education; a reduction in the number of Secondary V students meeting the entry requirements for diploma courses; and changes in the economic structure of Hong Kong resulting in changes in employment opportunities for graduates of some courses.

Curriculum revision of all courses is an on-going process. The VTC will continue to examine the overall provision of courses in the light of projected manpower requirements and graduate employment surveys. Other measures to attract school leavers will include additional publicity and school visits.

- (d) To date, 147 diploma graduates from the Technical Institutes have successfully enrolled in the higher diploma courses offered by other institutions. However, this excludes the enrolment in one Polytechnic which is still analysing all the registration figures.
- (e) About 30 complaints have been received so far regarding the JASPIC scheme. Most of them concerned the offer of places by the participating institutions during the admission process. These occurred largely during the clearing period and reflected a learning process for both the applicants and the participating institutions. All these complaints have been resolved in the interests of the applicants.

The JASPIC Board of Management will undertake a review of this first-year operation of the scheme to see how it may be improved.

### **Language Fund**

20. MR CHEUNG MAN-KWONG asked (in Chinese): *In view of the proposal in the Policy Address to allocate \$300 million for the establishment of a Language Fund, will the Government inform this Council:*

- (a) *of the total resources committed to improving language education over the past five years; how such funds were expended, for instance, how many additional language teachers have been engaged to improve language education in secondary and primary schools respectively;*
- (b) *whether assessments and researches have been made on language standards of local students in the past five years to find out if such standards were on the decline; and whether it has been established that committing more resources in this respect could actually help improve education on both the Chinese and English languages for students;*
- (c) *of the proposed detailed distribution and usages of the \$300 million provided for the Language Fund and the distinction between this provision and those resources committed to effecting improvements on language education in the past; how the Government can ensure that the Language Fund will bring about improvements to the*

*language standards of students and that resources will not be wasted; and*

- (d) *whether the Government will consider further increasing the number of qualified language teachers in primary schools now, so that students can develop a solid foundation in language ability starting from primary schools?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the answers to Mr CHEUNG's four-point question are:

- (a) Given that the teaching of languages constitutes about 40% of the total curriculum time, a substantial proportion of the recurrent budget for schools and teacher training goes into language education and is not immediately quantifiable. However, specific measures introduced over the past five school years (1988-89 to 1992-93) to improve language education in primary and secondary schools amounted to about \$485 million.

Most of these resources has been used in providing additional Chinese language teachers to improve the quality of teaching in secondary schools (involving 359 teachers and \$308 million) and additional English teachers for schools which use Chinese as the medium of instruction (involving 139 teachers and \$107 million).

Other improvement measures included funding for the Chinese Textbooks Committee to encourage the production of good quality Chinese textbooks and reference books, grants for public sector primary and secondary schools to offer Putonghua as a subject, hiring expatriate English teachers and intensive training of Chinese and English language teachers.

- (b) Territory-wide standards of Chinese and English at Primary I to Secondary III levels are monitored annually by the Education Department through the standardized Hong Kong Attainment Tests (HKATs). The HKAT results over the past five years indicated that, on the whole, the standards of primary and junior secondary students in Chinese and English have either risen gradually or remained the same. The results of the Hong Kong Certificate of Education Examination also suggested that there were no significant changes in the overall standard in Chinese and English language for Secondary V students in recent years.

However, as Hong Kong's position as a leading international financial and service centre becomes more prominent, the demand for those who are able to communicate well in Chinese and English has increased tremendously. This development has led to the

general belief that language proficiency, particularly in English, has fallen. We have been advised that some of the more effective ways to improve language standards are to expose students to more language usage and to improve the skills of the language teachers. Additional resources will be needed to initiate these improvements and to test new methodologies.

- (c) The Language Fund has yet to be set up and no funding has been allocated. It is therefore premature to speculate on actual allocations and the effectiveness of specific measures to be introduced. We intend to set up a committee comprising language specialists, educationists, businessmen, professionals and other members of the community to advise the Administration on the most efficient and effective use of the Fund. The Fund will enable new initiatives to be taken, problem areas to be studied and temporary gaps in funding to be filled. It will add impetus to the efforts now being made in schools and by the community at large to raise language standards. The Education Department will monitor the approved programmes to ensure that resources are properly used and that the quality of language teaching and learning in schools is enhanced.
- (d) Of all the teachers who teach Chinese and English in public sector primary schools, 94% and 59% are, respectively, subject-trained. The Advisory Committee on Teacher Education and Qualifications is reviewing the case and practicalities for increasing the proportion of such subject trained teachers. At the same time, the Provisional Governing Council of the Hong Kong Institute of Education is reviewing its programme for training language teachers, as part of the overall exercise to upgrade the preparation and in-service development of teachers. Meanwhile, refresher courses for language teachers run by the Institute of Language in Education will continue.

## **Motions**

### **OFFICIAL LANGUAGES ORDINANCE**

THE ATTORNEY GENERAL moved the following motion:

"That the draft Official Languages (Authentic Chinese Text) (Protection of Wages on Insolvency Ordinance) Order, proposed to be made by the Governor in Council, be approved."

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

The authentic Chinese texts of the Protection of Wages on Insolvency Ordinance and the Deceased's Family Maintenance Ordinance have been carefully examined by the Bilingual Laws Advisory Committee and the LegCo Subcommittee on the Authentic Chinese Texts and have their support. In accordance with subsection (4) of section 4B of the Official Languages Ordinance, draft authentication orders in respect of these texts have been prepared and are being put before this Council for approval this afternoon prior to being submitted to the Governor in Council for authentication. I now move that the first of these orders, that is, the draft Official Languages (Authentic Chinese Text) (Protection of Wages on Insolvency Ordinance) Order, proposed to be made by the Governor in Council, be approved.

*Question on the motion proposed, put and agreed to.*

## **OFFICIAL LANGUAGES ORDINANCE**

THE ATTORNEY GENERAL moved the following motion:

"That the draft Official Languages (Authentic Chinese Text) (Deceased's Family Maintenance Ordinance) Order, proposed to be by the Governor in Council, be approved."

He said: Mr President, I move the second motion standing in my name on the Order Paper. This seeks approval of the draft Official Languages (Authentic Chinese Text) (Deceased's Family Maintenance Ordinance) Order proposed to be made by the Governor in Council.

*Question on the motion proposed, put and agreed to.*

## **BANKRUPTCY ORDINANCE**

THE SECRETARY FOR FINANCIAL SERVICES moved the following motion:

"That the Bankruptcy (Fees and Percentages) (Amendment) Order 1993, made by the Chief Justice on 11 October 1993, be approved."

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

The Bankruptcy (Fees and Percentages) (Amendment) Order 1993 proposes to amend a number of fees payable to the Official Receiver for his work done as receiver or trustee under the Bankruptcy Ordinance. These fees were last reviewed in 1988 and the proposed increases at around 70% are necessary to maintain the value of the charges against inflation.

The Order rectifies an anomaly under which a fee may be charged by the Official Receiver in relation to the administration of a composition or scheme of arrangement where the monies for such composition or scheme have been put up by the debtor or bankrupt but not where they have been provided by third parties.

The Order also provides for the Official Receiver to be remunerated, at a level considered reasonable by the Court, for his work done in connection with compositions or schemes of arrangement whether or not they are approved. At present, the Official Receiver is permitted to charge only a fixed amount of \$500 for all the work that may need to be done in connection with compositions or schemes of arrangements where they are ultimately not approved. The proposed change is intended to address the problem of under-recovery of the costs incurred by the Official Receiver in these cases.

Mr President, I beg to move.

*Question on the motion proposed, put and agreed to.*

## **BANKRUPTCY ORDINANCE**

THE SECRETARY FOR FINANCIAL SERVICES moved the following motion:

"That the Bankruptcy (Amendment) Rules 1993, made by the Chief Justice on 11 October 1993, be approved."

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

Under the present Bankruptcy Rules, upon the presentation of a petition either by a debtor or by a creditor, a sum of \$10,000 has to be deposited with the Official Receiver to cover the fees and expenses to be incurred by him. The Court may in addition from time to time direct that further sums be deposited in order to ensure proper remuneration for the work undertaken by the Official Receiver.

There is, however, no provision requiring any deposit when a proposal is put forward for a composition or scheme of arrangement out of monies to be provided by a third party. Although the Official Receiver may need to undertake a considerable amount of work, whether or not the proposed composition or scheme is ultimately accepted by the creditors or the Court, he is unable to recover his costs in these cases because there is currently no provision for charging a fee on sums to be provided by third parties. The amendments to Items 1 and 2 of Table B of the Schedule to the Bankruptcy (Fees and Percentages) Order have been proposed to overcome this deficiency. In this context, a new rule is now proposed to require a deposit of \$10,000 to be made

when a composition or scheme of arrangement out of monies to be provided by a third party is put forward by a debtor or bankrupt.

In addition, the opportunity is also taken to amend Rule 62 to raise the deposit to cover the fees of the Official Receiver when appointed as interim receiver from \$1,000 to \$3,000.

Mr President, I beg to move.

*Question on the motion proposed, put and agreed to.*

## **COMPANIES ORDINANCE**

THE SECRETARY FOR FINANCIAL SERVICES moved the following motion:

"That the Companies (Fees and Percentages) (Amendment) (No. 2) Order 1993, made by the Chief Justice on 20 October 1993, be approved."

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

The Companies (Fees and Percentages) (Amendment) (No. 2) Order 1993 proposes to amend a number of fees payable to the Official Receiver under the companies winding-up proceedings. The majority of these fees were last reviewed in 1989 and the increases now proposed, averaging 50%, are needed to preserve the value of these charges as a result of inflation over the intervening period.

Mr President, I beg to move.

*Question on the motion proposed, put and agreed to.*

## **COMPANIES ORDINANCE**

THE SECRETARY FOR FINANCIAL SERVICES moved the following motion:

"That the Companies (Winding-up) (Amendment) Rules 1993, made by the Chief Justice on 11 October 1993, be approved."

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

Amendment to the Companies (Winding-up) Rules is proposed to require a deposit of \$3,000 towards the fees and expenses of the Official Receiver in

connection with the appointment of a provisional liquidator before a winding-up order is made. This is in line with the proposed requirement for a deposit under Rule 62 of the Bankruptcy Rules relating to the appointment of the Official Receiver as interim receiver in cases of bankruptcy.

The opportunity is also taken to increase the limit within which the Official Receiver may, when acting as liquidator, pay the costs and charges of other persons without taxation. It is proposed that the present ceiling of \$200, which has not been revised since 1964, be increased to \$1,000.

Mr President, I beg to move.

*Question on the motion proposed, put and agreed to.*

### **First Reading of Bill**

#### **RESIDENTIAL CARE HOMES (ELDERLY PERSONS) BILL**

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

### **Second Reading of Bills**

#### **RESIDENTIAL CARE HOMES (ELDERLY PERSONS) BILL**

THE SECRETARY FOR HEALTH AND WELFARE moved the Second Reading of: "A Bill to regulate homes established for the residential care of persons who have attained the age of 60 years."

She said: Mr President, I move that the Residential Care Homes (Elderly Persons) Bill be read the Second time.

As in other economically developed countries, the population in Hong Kong is aging. With the growth in the elderly population, the demand for residential care homes for elderly persons has increased. As a result, there has been a considerable expansion in recent years in the number of private homes for the elderly. While private homes make a significant contribution to the care for the elderly, their quality of service is not always satisfactory. There is a need to control the standards of residential care homes in Hong Kong.

The Bill provides for the control of residential care homes for the elderly through a licensing system to be administered by the Director of Social Welfare. Any premises at which more than five elderly persons are habitually received for care will come under this Bill. In other words, all subvented, non-profit-making and private residential care homes will be covered.

It will be an offence to operate a residential care home without a licence or a certificate of exemption, or to operate a residential care home in contravention of the conditions of a licence or a certificate of exemption. Any person who provides false information in an application, or obstructs inspection also commits an offence.

The Bill makes provision for the Director to issue or renew a certificate of exemption. The homes will have to comply with certain basic requirements before they are exempted. The Director may also impose conditions on a certificate of exemption which will be revoked if the conditions are not fulfilled within a specified period.

In order to ensure the proper management and operation of different types of residential care homes, the draft Residential Care Homes (Elderly Persons) Regulation specifies requirements regarding the registration of health workers, the duties of operators, the duties of home managers, space and staffing, location and design, and safety precautions for residential care homes. Provisions for appeals are made in the draft Residential Care Homes (Elderly Persons) (Appeal Board) Regulation.

The legislation when enacted will prohibit new homes which cannot meet the licensing standards from entering the market.

We consider that the standards to be imposed are the minimum acceptable standards and we expect that most of the existing homes will be able to comply with the conditions imposed under the law. However, should it be necessary, the Administration will put in place alternative arrangements for all residents affected by closure of substandard homes. The Bought Place Scheme will be expanded for this purpose.

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

## **SEWAGE TUNNELS (STATUTORY EASEMENTS) BILL**

### **Resumption of debate on Second Reading which was moved on 21 April 1993**

*Question on Second Reading proposed.*

MR EDWARD HO: Mr President, the Sewage Tunnels (Statutory Easements) Bill provides for the creation of easements and other rights over land for the purpose of the construction and operation of sewage tunnels.

The sewage tunnels will form an integral part of the Strategic Sewage Disposal Scheme which will contribute significantly in controlling the serious water pollution problem. Under the Strategic Sewage Disposal Scheme,

construction of a sewage tunnel system will commence in late 1994 to transport sewage to major treatment plants before disposal through an oceanic outfall.

"Sewage tunnels" are defined as underground tunnels and associated underground structures for the transfer of sewage. The sewage tunnels to be constructed will pass through private land.

Under common law the general rule is that the owner of the surface of land also owns everything above and beneath it. The Government cannot construct or operate tunnels under such land unless it has obtained the owner's consent or the right to do so is reserved by the Government when the land is granted or leased to the owner, or an easement is created by legislation to enable the Government to construct or operate the tunnels.

The Bill mainly makes provision for the following aspects:

- (a) to establish a procedure which the Government will adopt when sewage tunnels are constructed; and
- (b) to establish a procedure for those people who suffer loss or damage as a result of construction of such tunnels to claim compensation.

The Bill was introduced into this Council on 21 April 1993. A Bills Committee of seven Members was formed and commenced scrutiny of the Bill on 23 July 1993. Altogether, we held five meetings, including four with the Administration. As Chairman of the Committee, I would like to take this opportunity to thank my colleagues in the Committee for the time and effort they put in the discussion and the Administration for their prompt response and co-operation.

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

The main issue which has been thoroughly discussed is the minimum depth requirement for the sewage tunnels. The Administration has assured the Committee that the sewage tunnels will be laid very deep underground and will be embedded in high quality rock layer. The current design is that the tunnel will be laid at least 30 metres down within the rock layer and about 100 to 150 metres below the surface. As piles for foundation of buildings on the surface run no more than five metres into the rock layer in most cases, they will have no negative impact on the structure of the sewage tunnels or vice versa. Also, given current tunnelling technology, the practical adverse effects which the construction works may have on buildings on the surface should be minimal.

Despite this assurance, the Committee is concerned that the Bill does not impose any obligation on the part of the Government to lay the tunnel at a sufficiently safe distance below the surface. After detailed discussion, it is agreed to include in the Bill a minimum depth requirement of a cover to such

tunnels or tunnel works of not less than 30 metres of bedrock. I shall move the necessary amendment at the Committee stage.

The objections provision has also been discussed. Under this provision, notice of a plan showing the proposed route of a sewage tunnel, the land affected and the right to object will be published in the Gazette, before the creation of an easement. However, the objection is restricted to people having an interest in land situated on the route of a tunnel. Such objection is further restricted to the route only. The Committee has raised concern over these restrictions. The Administration explains that construction of the tunnel will only affect the abovementioned category of people and any other person who wishes to express views on the plan, not related to the creation of easements, can do so through other available channels. As regards the scope of the objection, the Administration clarifies that the intention is that objection may be made against the alignment as well as the depth of the proposed tunnel. Reference to both route and depth will be added to the Bill. The Committee is satisfied with the explanation. The amendment will be moved by the Administration at the Committee stage. The Administration has also assured the Committee that all reasonable requests for information from prospective objectors will be entertained and due publicity will be given when a plan is gazetted.

The Committee has also considered in some detail the question of compensation. It is noted that any person who has suffered loss or damage to land, including any diminution in the value of the land, or property situated on land as a result of the creation of rights can claim compensation. It is also confirmed that under the exceptional circumstances where the route of a tunnel so constructed deviated from that in the original plan, the compensation provision will equally apply. However, the Committee considers that the wording should be amended to remove any doubt. The Administration will move the relevant amendment at the Committee stage to clarify this point.

The Committee considers that the time limit of 12 months for filing claims for compensation is too short, taking into account similar provisions in other Ordinances and the detailed information to be included in the claims. After some discussion, the Administration agrees to provide more flexibility and to amend the relevant clause to the effect that the Lands Tribunal should have the discretion to extend the claims period for a further five years from the time when the right to compensation first arises. The Committee is not entirely satisfied as the extension to the time limit will be subject to an application process and the approval of the Lands Tribunal. However, as there will be sufficient legal safeguard, through the stipulation of a minimum depth requirement, that the proposed sewage tunnels will be laid very deep underground and in view of current engineering knowledge and experience, tunnel works should cause little or no damage to the surface environment. Hence it is unlikely that the question of compensation will arise. On this basis, the Committee accepts the amendment which will be moved by the Administration at the Committee stage.

There is also concern that the procedure to be adopted by the Crown to notify affected individuals of its intention to exercise rights over their land has not been clearly stated in the Bill. In response, the Administration will move an amendment for clarification at the Committee stage.

Given the Administration's assurance that all vertical shafts will be constructed on Crown land and all tunnel works will be carried out underground, the Committee has found it hard to visualize any situation in which the exercise of the Crown's rights may be obstructed but accepted the Administration's explanation that it would be necessary to provide for all possible scenarios.

Finally, the Committee has expressed concern over the wide powers given to the Building Authority to refuse or withdraw approval to any building works which are considered incompatible with sewage tunnel works. It is not clear whether a claim for compensation can be filed for loss sustained as a result of the decision of the Building Authority. To address this concern, the Administration will move an amendment to confirm that compensation is payable under such circumstances.

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.

With these remarks, I support the Bill.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I am grateful to the Honourable Edward HO, the Chairman of the Bills Committee to Study the Sewage Tunnels (Statutory Easements) Bill, and to other Members of the Committee for their careful and detailed consideration of this legislation.

In the course of their deliberations on the Bill, a number of issues and concerns were raised by the Bills Committee. The issues were mainly related to the minimum depth requirement for the proposed sewage tunnels and to compensation claims and notification procedures. I will cover these aspects one by one; and to address the concerns of the Bills Committee, I will also move several amendments during the Committee stage.

#### *Minimum depth requirement*

As regards the depth of sewage tunnels, it has always been the Administration's intention that these tunnels should be laid very deep underground. A minimum depth was not originally specified in the Bill mainly to allow flexibility in the design of the tunnels. Having taken on board the Bills

Committee's suggestion that our intention should be more clearly defined in legislative terms, we agree that the rights to be created under the Bill to allow the construction of tunnels should only be exercisable where there will be a cover to the tunnels of not less than 30 m of bedrock.

#### *Compensation claims*

As regards the compensation claims period, under clause 12(2) of the Bill, claims may be made within 12 months of the loss or, in certain circumstances, of its discovery. Some Members of the Bills Committee were doubtful as to whether this period would be sufficient in all cases. The Administration has explained that it would not be practical to extend the claims period for too long as difficulties in establishing evidence for the verification of claims would increase with the passage of time. To allow for more flexibility in the procedures, however, we now propose that while the claims period should remain at 12 months, extension of up to five years at the discretion of the Lands Tribunal should be provided for. This would bring the clause in line with similar provisions in, for example, the Roads (Works, Use and Compensation) Ordinance.

I should nonetheless reiterate that, with existing engineering knowledge, we believe that little loss or damage will result from the tunnel works. We expect that compensation claims will arise only under very rare circumstances therefore.

#### *Notification procedures*

It is against this background that we should approach the question of how affected land owners should be notified of the Government's intention to create rights under the Bill. Clause 4 now provides that the notice of draft sewage tunnel plans should be gazetted. The public may inspect these plans which will show, and identify the land situated on, the route of the tunnels. A suggestion was made that all individual owners affected by the exercise of rights should be served separate notices. But this would be difficult not only because of the very large number of land owners likely to be involved, but also because of the practical problems in tracking them all down. We do recognize the importance of adequate publicity however. So the gazetting of plans will be accompanied by suitable publicity through the media.

Bills Committee Members have suggested that the Administration should provide all necessary information to prospective objectors. I can confirm that the Administration will entertain all reasonable requests for information from prospective objectors to the fullest extent possible.

There are other amendments which we have agreed with the Bills Committee to clarify the legislative intent. For instance, the wording of clause 14 on obstruction to the exercise of rights under the Bill will be recast. Clause

5(1) will also be amended to specify that objections may be made to the depth as well as route of the tunnels. I will elaborate during the Committee stage.

Mr President, this legislation is necessary to facilitate the construction of sewage tunnels as part of the long-term strategy for sewage disposal. The present proposals take into account professional views and have been agreed with the Bills Committee.

Thank you, Mr President.

*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).*

## **COMPANIES (AMENDMENT) (NO. 2) BILL 1993**

### **Resumption of debate on Second Reading which was moved on 17 February 1993**

*Question on Second Reading proposed.*

DR HUANG CHEN-YA (in Cantonese): Mr President, the Bill before us involves proposals on a number of different issues covered by the Companies Ordinance. The more significant ones include adjusting the due date for private companies to file annual returns with the Companies Registry, providing for an index of directorship of listed companies, strengthening the special procedures for voluntary winding-up of companies, and introducing a degree of flexibility for companies limited by guarantee.

The Bills Committee scrutinizing the Bill has received a number of submissions in which very useful suggestions were put forth. Members are grateful for these suggestions, many of which have been accepted by the Administration. The positive response from the Administration is also warmly appreciated.

As the Administration will highlight at the Committee stage the amendments proposed by the Bills Committee, I shall concentrate on the other major issues that Members have considered in the course of deliberation.

The Bills Committee was particularly concerned about the proposal for setting up a limited index of directorship of listed companies. Members noted that the existing section 158C, which was introduced in 1984, already requires the Registrar of Companies to keep and maintain a comprehensive index of company directors for public inspection as from a date to be appointed by the

Governor. Members were of the view that this existing provision should be brought into operation as soon as possible.

The Administration explained that the introduction of a comprehensive index of company directors had been reviewed when the proposed amendments in the Bill were first considered. But the resources needed for setting up and maintaining this comprehensive index were beyond what could reasonably be obtained in the near future. The Standing Committee on Company Law Reform had therefore concluded that a limited index should be accepted as an interim measure, and that a comprehensive index should be provided when resources became available. The Administration assured Members that the implementation of a comprehensive index has to date remained a long-term objective.

Members were informed that the target date for setting up the limited index is mid-1994, and that the index will be open to the public as soon as it is completed. Members were anxious that the index of directors should be made available at the earliest possible date. They urged the Administration to ensure timely completion of the limited index, and also to aim at an early introduction of the comprehensive index.

Another issue that the Bills Committee has given careful consideration to is the proposal concerning the appointment of provisional liquidators under section 228A, which provides for voluntary winding-up of a company in case of its inability to continue business. Members have received representation that the appointment of provisional liquidators should not be restricted to accountants or solicitors, as there are members of other professions who have sufficient knowledge, qualification and experience to undertake the work.

The Bills Committee has examined the reasons for restricting eligibility for appointment of provisional liquidators. As advised by the Administration, section 228A deals with emergency situations where the directors can initiate voluntary winding-up of a company by a speedy process of statutory declaration. A provisional liquidator is appointed in such circumstances as temporary custodian of the company's property, the role of which is different from that of a liquidator. It is the job of a provisional liquidator to preserve the assets and, as far as possible, the status of the company until the members and creditors have decided whether it ought to be wound up and who should be appointed its liquidator. The provisional liquidator has to carry out a financial investigation of the company to discover all the assets he is charged to protect. He will have to consider the rescue bids and the best possible way to protect the value of the assets. He may in certain circumstances have to carry on the business of the company. This is thus a very specialized task which needs the degree of experience, competence and trust usually associated with members of the accountancy and legal professions. In considering the suitability for appointment as provisional liquidator, it would be necessary to take into account not only the knowledge, qualification and experience of the members of these professions, but also their code of practice, ethical rules and disciplinary

proceedings to ensure that a high standard of professional ethics is maintained among the members.

Members agreed that the proposed restriction on appointment of provisional liquidator is appropriate at this stage. If there are other professions that can demonstrate at a later date that they are up to the full requirements for the task, amendment to the relevant provision can be considered.

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

SECRETARY FOR FINANCIAL SERVICES: Mr President, I am most grateful to Dr HUANG Chen-ya and the Bills Committee for their careful scrutiny of the Bill and for their helpful suggestions for improvements.

The new provisions inserted into the Companies Ordinance by this Bill will provide for a more sensible timetable for submission of annual returns by private companies and more pragmatic voting arrangements for companies limited by guarantee, as well as providing the necessary framework to enable the Registrar of Companies to compile an index of the directorships held by directors of listed companies. In addition, the Bill seeks to tighten up the special procedure for voluntary windings-up under section 228A of the Companies Ordinance.

Under the new arrangements for the submission of annual returns, private companies will no longer be required to submit their returns to the Registrar within 42 days of the company's annual general meeting. Instead, they will be allowed 42 days from the date of the anniversary of the company's incorporation. This will help to alleviate the problems associated with the current uneven flow of annual returns, which flood the Registry at the beginning of each calendar year following the annual round of AGMs, most of which are held at the end of the previous year. We have taken on board the concerns expressed by the Hong Kong Society of Accountants and others about the original proposal to shorten the period for submission of returns for private companies from 42 days to 28 days. We appreciate that private companies may have directors who spend a good deal of their time outside of Kong Kong and that this might make it difficult for such companies to complete and submit their annual returns within a 28-day period. Therefore, I will be moving an amendment to the Bill at Committee stage to extend the period available to private companies under the new arrangements to 42 days.

In relation to the proposed directors' index, as Members of the Bills Committee pointed out, directors who do not hold a Hong Kong identity card will not, under the published Bill, be required to disclose any alternative form of identification. We have thus agreed with the Committee to require company directors who do not possess Hong Kong identity cards to provide the Registrar with information about their passport numbers, although it is acknowledged that

such information may not be as effective a form of identification as an ID number. Further particulars will also be sought from company secretaries to bring the requirements on them more into line with the requirements on directors. These points will be introduced as amendments at the Committee stage.

Members of the Committee expressed the wish that the proposed index should become operational as soon as possible. The Bill provides for existing listed companies to submit details of their directors within three months of the commencement of the relevant provisions. We anticipate therefore that, allowing time for compilation of the data, the index should be in operation and available for public inspection by the autumn of 1994.

Members of the Committee also wished to see the early implementation of the comprehensive index of all the directorships of directors of both public and private companies, as provided for under section 158C of the Companies Ordinance, the setting up of which has remained our long-term objective. Given that there are now over 400 000 private companies incorporated under the Ordinance, the Council will appreciate that this project is likely to require substantial additional resources. The Registrar of Companies should be in a position to quantify this requirement more precisely once he has the practical experience of the index of directors of listed companies to refer to. Nevertheless, I take this opportunity to reconfirm our intention to implement the comprehensive index in the course of the next few years, in the light of the experience gained from the index of directors of listed companies. We are currently exploring possibilities for obtaining the necessary resources for this project.

Regarding the provisions relating to the special procedure for voluntary windings-up, the Bills Committee drew our attention to the potential practical difficulties of compliance with the requirement to secure the signatures of a majority of directors on a single statutory declaration before a liquidation under section 228A of the Ordinance may commence. The Committee pointed out that many directors are regularly carrying on business overseas. We agreed therefore that for the purpose of a winding up application under section 228A, we will accept separate written statements signed by the directors recording the necessary resolution and verified by one single declaration submitted by one of the directors. This latter requirement is essential, given that the declaration is the instrument which triggers the liquidation. I shall put the position beyond doubt through an amendment to be moved at Committee stage. Certain other minor amendments to these provisions will also be moved to accommodate technical and clarificatory points raised by the Law Society.

We have been in dialogue with the Institute of Chartered Secretaries and Administrators in Hong Kong (ICSA), which had sought to have chartered secretaries included among professionals qualified for appointment as provisional liquidators under section 228A. While neither the Administration nor the Bills Committee felt that it would be appropriate to recognize members

of the ICSA for this limited purpose at present, we have made it known that we remain open-minded for the future, and that we would look upon the implementation by the Hong Kong ICSA of its proposals to enhance its independence and its ability to regulate its members as a positive step in this regard.

Mr President, with these remarks, I recommend the Bill to Members.

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

Bill read the Second time.

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

### **Committee stage of Bills**

Council went into Committee.

### **SEWAGE TUNNELS (STATUTORY EASEMENTS) BILL**

Clauses 1 to 4, 6, 7 and 9 were agreed to.

Clauses 5, 8 and 11 to 15

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, I move that the clauses specified be amended as set out in the paper circulated to Members.

I move that clause 5(1) be amended. The intention is that any person who has an estate or interest registered in the Land Registry in any land situated on the route of a proposed tunnel may object to the depth as well as the route of the tunnel. Clause 5(1) should be amended to include reference to "depth" in the provision.

I move that clauses 8(1) and 12(2), (5), (6), (7), (8) and (9) be amended.

The amendment is required as the duties of the Director of Buildings and Lands under these clauses have been taken over by the Director of Lands following the reorganization of the Buildings and Lands Department.

I move that clause 11(5) be amended.

Clause 11 provides for procedures for the rectification of sewage tunnel plans to accord with the route of a tunnel as constructed. The amendment is proposed to clarify that the validation provision at clause 11(5) should not prejudice the right to compensation under clause 12.

I move that a new subclause be added to clause 12.

Under clause 12(1), the Crown is liable to pay compensation to any person who has suffered loss or damage to land as a result of the creation of rights under the Bill. The proposed addition of subclause (1A) is to put beyond doubt that the liability extends to loss or damage as a result of any decision of the Building Authority to refuse or withdraw or impose conditions on approval of building plans under the proposed section 17A of the Buildings Ordinance.

I move that clause 14 be amended.

Clause 14 provides that any person who, having been notified of the Crown's intention to exercise rights created under the Bill, wilfully obstructs the exercise of such rights commits an offence. The amendment seeks to clarify the notification procedures.

I move that clause 15 be amended.

The amendment is to add a definition of "proposed sewage tunnel works" to the proposed section 17A of the Buildings Ordinance so as to clarify the intention.

Thank you, Mr Chairman.

#### *Proposed amendments*

#### **Clause 5**

That clause 5(1) be amended, by adding "or depth or both" after "route" where it secondly appears.

#### **Clause 8**

That clause 8(1) be amended, by deleting "Director of Buildings and Lands" where it twice appears and substituting "Director of Lands".

#### **Clause 11**

That clause 11(5) be amended, by deleting "Where" and substituting "Subject to section 12, where".

**Clause 12**

That clause 12 be amended —

(a) by adding -

"(1A) For the avoidance of doubt, "loss or damage as a result of the creation of rights under this Ordinance" in subsection (1) includes, where such rights have been created, any loss or damage as a result of a decision of the Building Authority under section 17A of the Buildings Ordinance (Cap. 123)."

(b) in subclauses (2), (5), (6), (7), (8) and (9), by deleting "Director of Buildings and Lands" and substituting "Director of Lands".

**Clause 13**

That clause 13 be amended, by deleting the clause.

**Clause 14**

That clause 14 be amended, by deleting the clause and substituting —

**"14. Offence to obstruct exercise  
of right of Crown**

(1) Any person who, having been given notice by the Crown of its intention to exercise rights created under section 10 in respect of any land, wilfully obstructs or interferes with the lawful exercise of those rights at any time specified in the notice commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.

(2) For the purpose of subsection (1) "notice" (通知) means written notice given -

- (a) not less than 1 day before the earliest time specified in the notice;
- (b) to the defendant personally.

(3) Nothing in this section shall be construed as imposing on the Crown an obligation to give notice under this section prior to the exercise of any of the rights created under section 10."

### **Clause 15**

That clause 15 be amended, by deleting the proposed section 17A(2) of the Buildings Ordinance (Cap. 123) and substituting —

"(2) In this section -

"proposed sewage tunnel works" means sewage tunnel works likely to be undertaken in connection with a proposed sewage tunnel referred to in a notice published in the Gazette pursuant to section 4 of the Sewage Tunnels (Statutory Easements) Ordinance ( of 1993);

"sewage tunnel works" has the same meaning as "tunnel works" in the Sewage Tunnels (Statutory Easements) Ordinance ( of 1993)."

*Question on the amendments proposed, put and agreed to.*

*Question on clause 5, 8 and 11 to 15, as amended, proposed, put and agreed to.*

### Clause 10

MR EDWARD HO: Mr Chairman, I move that clause 10 of the Sewage Tunnels (Statutory Easements) Bill 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 proposed amendment will ensure that the sewage tunnels are laid at a sufficiently safe distance below the surface by specifying a minimum depth requirement of 30 metres of bedrock. Coupled with current tunnelling technology, tunnel works should therefore have no negative impact on the surface environment.

My colleague, Mr Ronald ARCULLI, shares my view on this amendment.

Mr Chairman, I beg to move.

*Proposed amendment***Clause 10**

That clause 10 be amended, by adding —

"(1A) Rights shall only be exercisable under subsection (1) where there is a cover to the sewage tunnel or tunnel works, as the case may be, of not less than 30 metres of bedrock."

*Question on the amendment proposed, put and agreed to.*

*Question on clause 10, as amended, proposed, put and agreed to.*

New clause 12A	Claims out of time
New clause 14A	Ordinances under which matters may be submitted to the Tribunal for determination

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

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS Mr Chairman, I move that new clauses 12A and 14A as set out in the paper circulated to Members be read the Second time.

New clause 12A provides an addition to seek that upon application to the Lands Tribunal the normal period of 12 months for making compensation claims may be extended by a period of up to five years at the discretion of the Lands Tribunal.

I move that clause 13 be deleted and a new clause 14A be added as set out in the paper.

Clause 13 gives jurisdiction to the Lands Tribunal to determine compensation by reference to section 11(1) of the Lands Tribunal Ordinance (Cap. 17). We are advised that the same effect will be achieved by including the Bill in the schedule of Ordinances under which matters may be submitted to the Lands Tribunal for determination under the Lands Tribunal Ordinance. The proposed amendments are to give effect to the latter approach, which is simpler and more appropriate.

Thank you, Mr Chairman.

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

Clauses read the Second time.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, I move that new clauses 12A and 14A be added to the Bill.

*Proposed additions*

**New clause 12**

That the Bill be amended, by adding —

**"12A. Claims out of time**

(1) Subject to subsection (2), if notice of a claim is not delivered to the Director of Lands before the expiration of the period specified in section 12(2) in respect of that matter, the right to claim compensation for that matter shall be barred.

(2) The period referred to in subsection (1) may, upon application made to the Lands Tribunal either before or after the expiry of that period, be extended in accordance with this section.

(3) Notice of an application under subsection (2) shall be given to the Director of Lands by the applicant.

(4) The Lands Tribunal may extend the period within which notice of a claim must be delivered to the Director of Lands if it considers that the delay in delivering notice of the claim was occasioned by mistake of fact or mistake of any matter of law (other than the relevant provision in section 12(2) or by any other reasonable cause or that the Crown is not materially prejudiced in the conduct of its case or otherwise by the delay.

(5) An extension may be granted by the Lands Tribunal under subsection (4) with or without conditions for such period as it thinks fit but not in any case exceeding 5 years from the expiration of the period referred to in subsection (1)."

**New clause 14**

That the Bill be amended, by adding before section 15 —

**"Lands Tribunal Ordinance**

**14A. Ordinances under which matters may be submitted to the Tribunal for determination**

The Schedule to the Lands Tribunal Ordinance (Cap. 17) is amended by adding -

" of 1993. Sewage Tunnels (Statutory Easements) Ordinance.".

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

**COMPANIES (AMENDMENT) (NO. 2) BILL 1993**

Clauses 1 to 4, 6 to 10, 12, 13, 15 to 17, 19, 20 and 24 were agreed to.

Clauses 5, 11, 14, 18 and 21 to 23

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

Clause 5 is amended to extend the period during which a private company may file its annual return from within 28 days after the most recent anniversary of the company's date of incorporation to within 42 days. Other related consequential amendments are also made to this clause and to clause 22.

Clause 11 is amended to provide that where a director or company secretary does not hold a Hong Kong identity card, he will be required to give the number and issuing country of any passport he may hold. The clause as amended also requires company secretaries to supply additional personal particulars thus bringing the requirements on directors and secretaries more into line with one another. A new clause 11(d) is added to make it an offence punishable by a fine if a listed company fails to file the requisite information on its directors within three months after the commencement of the relevant provisions. This should ensure that data on which the index will be based is made available in good time. Consequential amendments are also made to the Fifth Schedule under clause 21.

Clause 18 is amended to require information about directors and company secretaries of overseas companies registered under Part XI of the Companies

Ordinance similar to that required in relation to directors and secretaries of locally incorporated companies under clause 11. This will put the requirements for overseas companies on an even footing with those for locally incorporated companies.

Clause 14 is amended by adding a new sub-clause to clarify that there can be separate written statements by directors recording their resolution at a meeting that the company cannot, by reason of its liabilities, continue in business and that they wish to put the company into liquidation under section 228A. The statutory declaration verifying these written statements must however be made by one of the directors and delivered to the Registrar. The clause is further amended by adding a requirement that evidence of the appointment of a provisional liquidator be delivered to the Registrar at the time the statutory declaration is delivered. This is to ensure timely appointment of the provisional liquidator. Failure to comply with this requirement, or failure to convene meetings of the company and the creditors of the company, will be made an offence liable to a fine under another amendment to the clause. Consequential amendments are also made to clause 23.

The proposed amendment to clause 14(f) is to put it beyond doubt that the provisional liquidator will remain in office until a meeting of creditors of the company is convened or if that meeting is adjourned, until any adjourned meeting is resumed. Clause 14(g) is a technical amendment proposed by the Law Society for the purposes of clarification.

Mr Chairman, I beg to move.

*Proposed amendments*

**Clause 5**

That clause 5 be amended —

- (a) in the proposed section 109(1A), by deleting "28" and substituting "42".
- (b) in the proposed section 109(1B)(a) and (b), by deleting "28" and substituting "42".

**Clause 11**

That clause 11 be amended —

- (a) in paragraph (a), in the proposed section 158(2)(a), by adding "or, in the absence of such number, the number and issuing country of any passport held by him" after "(if any)".

(b) in paragraph (b) -

- (i) in the proposed section 158(2A)(e), by adding "or, in the absence of such number, the number and issuing country of any passport held by him" after "(if any)"; and
- (ii) by deleting "and" at the end.

(c) by adding -

"(ba) by repealing subsection (3)(a) and substituting -

"(a) in the case of an individual, his present forename and surname and any former forename or surname (including, in the case of a Chinese secretary, the Chinese characters for any such forename or surname they are used by such secretary), any alias, his usual residential address, his nationality and the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him; and";

(d) in paragraph (c), by deleting the full stop at the end and substituting "; and".

(e) by adding -

"(d) in subsection (8) by repealing "(3), (4)" and substituting "(2A), (3), (4), (4A)".

#### **Clause 14**

That clause 14 be amended —

(a) by adding before paragraph (a) -

"(aa) in subsection (1) by repealing "make (at a meeting of the directors), and deliver to the Registrar, a statutory declaration" and substituting "resolve at a meeting of the directors and deliver to the Registrar a statutory declaration by one of the directors verifying written statements signed by the directors recording the *resolution*";

(b) by adding -

"(ba) in subsection (3) -

- (i) by repealing "the directors" where it first occurs and substituting "a director"; and
- (ii) in paragraph (b) by adding "and deliver evidence of the appointment to the Registrar with the statutory declaration" after "winding up";".

(c) in paragraph (c), by adding before the proposed section 228A(3A) -

"(3AA) A director who fails to comply with subsection (3)(b) or (c) shall be liable to a fine."

(d) by deleting paragraph (f)(i) and substituting -

- "(i) in paragraph (a) by repealing "for 28 days or such longer period as the Official Receiver" and substituting "until a meeting of creditors of the company summoned under subsection (3)(c) or, if that meeting is adjourned, any adjourned meeting,"; and".

(e) in paragraph (g), in the proposed section 228A(7A), by deleting "ordinary".

## **Clause 18**

That clause 18 be amended —

(a) in paragraph (a) -

- (i) in the proposed section 333(2)(a)(i), by deleting "and his nationality" and substituting ", his nationality and the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him";
- (ii) in the proposed section 333(2)(aa)(iv), by deleting "and" at the end;
- (iii) by adding after the proposed section 333(2)(aa)(iv) -

"(iv<sub>a</sub>) the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him; and"; and

(iv) by deleting "and" at the end.

(b) by adding -

"(aa) by repealing subsection (2)(b)(i) and substituting -

"(i) in the case of an individual, his present forename and surname and any former forename or surname (including, in the case of a Chinese secretary, the Chinese characters for any such forename or surname if they are used by such secretary), any alias, his usual residential address, his nationality and the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him; and";".

(c) in paragraph (b) by deleting the full stop at the end and substituting "; and".

(d) by adding -

"(c) in subsection (4) by adding -

"(ca) the expression "identity card" has the meaning assigned to it by section 158(10)(c);".

## **Clause 21**

That clause 21(3) be amended —

(a) in paragraph (b), in the proposed paragraphs 7 and 7A, by adding, as the last column -

"

Number and Issuing Country of any passport (Note 16A)
"

(b) by adding -

"(ba) by repealing paragraph 8 and substituting -

"8. Particulars of the secretary of the  
company at the date of the return

Name, any alias and nationality (Notes 12, 13 and 17)	Address (Notes 17 and 18)	Hong Kong Identity Card number, if any (Note 16)	Number And Issuing Country of any passport (Note 16A)

"

(c) in paragraph (c), by deleting "and" at the end.

(d) in paragraph (d), by deleting the full stop at the end and substituting a semicolon.

(e) by adding -

"(e) in the Notes -

(i) in Note 12 -

(A) by adding "or secretary" after "a Chinese director"; and

(B) by adding "or secretaries, as the case may be" after "register of directors";

(ii) in Note 13 -

(A) by adding "or secretary" after "a Chinese director"; and

(B) by adding "or secretaries, as the case may be" after "register of directors"; and

(iii) by adding -

"16A. If the director or secretary has given the number of a Hong Kong identity card held by him, there is no need to give this information.".

## Clause 21

That clause 21(4) be amended, in the proposed Part IIA —

(a) in paragraph 9, by adding, as the last column -

"	Number and Issuing Country of any passport (Note 15A)
	".

(b) by repealing paragraph 10 and substituting -

"10. Particulars of the secretary of the company at the date of this return.

Name, Any alias and nationality (Notes 12, 13 and 16)	Address (Notes 16 and 17)	Hong Kong Identity Card number, if any (Note 15)	Number And Issuing Country of any passport (Note 15A)

"; and

(c) in the Notes -

(i) in Note 12 -

(A) by adding "or secretary" after "a director"; and

(B) by adding "or secretaries, as the case may be" after "register of directors";

(ii) in Note 13 -

(A) by adding "or secretary" after "a Chinese director"; and

(B) by adding "or secretaries, as the case may be" after "register of directors"; and

(iii) by adding -

"15A. If the director or secretary has given the number of a Hong Kong identity card, there is no need to give this information."

**Clause 21**

That clause 21(5) be amended —

- (a) in paragraph (a), in the proposed paragraph 4 of Part III, by adding, as the last 2 columns -

"

Hong Kong identity card number, if any (Note 8)	Number and Issuing Country of any passport (Note 8A)
	".

- (b) by deleting paragraphs (b), (c), (d) and (e) and substituting -

"(b) by repealing paragraph 5 and substituting -

"5. Particulars of the secretary of the company at the date of  
this return

Name, any alias and nationality (Notes 5, 6 and 9)	Address (Notes 9 and 10)	Hong Kong Identity Card number, if any (Note 8)	Number And Issuing Country of any passport (Note 8A)
			"; and

(c) by repealing Note 8 and substituting -

- "8. (a) If the director or secretary has been issued with an identity card in Hong Kong under the provisions of the Registration of Persons Ordinance (Cap 177), the number of the identity card should be given.
- (b) If this column does not apply, please insert "not applicable".
- 8A. If the director or secretary has given the number of a Hong Kong identity card held by him, there is no need to give this information."."

### Clause 22

That clause 22 be amended, in the proposed paragraph (e)(i) and (ii), by deleting "28" and substituting "42".

### Clause 23

That clause 23(b) be amended, by adding before the proposed entry relating to section 228A(4B) -

"228A(3AA) (relating to subsection (3)(b))	Director failing to appoint a provisional liquidator or deliver evidence of appointment	Summary \$25,000
228A(3AA) (relating to subsection (3)(c))	Director failing to cause meetings of the company or creditors to be summoned	Summary \$25,000 -".

*Question on the amendment proposed, put and agreed to.*

*Question on clauses 5, 11, 14, 18 and 21 to 23, as amended, proposed, put and agreed to.*

Council then resumed.

**Third Reading of Bills**

THE ATTORNEY GENERAL reported that the

**SEWAGE TUNNELS (STATUTORY EASEMENTS) BILL** and

**COMPANIES (AMENDMENT) (NO. 2) BILL 1993**

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

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

Bills read the Third time and passed.

**Members' motions**

PRESIDENT: I have accepted the recommendations of the House Committee as to time limits on speeches for the motion debates and Members were informed by circular on 29 October. The mover of the motion will have 15 minutes for his speech including his reply; other Members 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.

**INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

MR LEE WING-TAT moved the following motion:

"That in relation to the Shipping and Port Control (Amendment) Regulation 1993 published as Legal Notice No. 309 of 1993 and laid on the table of the Legislative Council on 6 October 1993, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance for amending subsidiary legislation be extended under section 34(4) of that Ordinance until 24 November 1993."

MR LEE WING-TAT: Mr President, I move the motion standing in my name on the Order Paper. The motion seeks to extend under section 34(4) of the Interpretation and General Clauses Ordinance until 24 November 1993 the period referred to in the Shipping and Port Control (Amendment) Regulation 1993. The said Regulation involves the designation of restricted areas so that, except with the permission of the Director of Marine, no vessel with superstructure exceeding certain height limits shall enter any area in the waters adjacent to the Tsing Tsuen, Tsing Yi and Ap Li Chau Bridges.

In order to minimize the effects of the heights restrictions on vessels currently operating in the Rambler Channel using the Tsing Yi South Bridge and the Tsing Tsuen North Bridge, the Administration proposes to adopt a permit system to allow vessels of up to 20 m to enter the restricted area through the Tsing Tsuen North Bridge.

Members of the Subcommittee studying the Regulation have reservations on the fairness and effectiveness of the proposed permit system where it is to be operated at the discretion of the Director of the Marine. The Subcommittee will need more time to clarify all the related issues with the Administration. Any decision of the Subcommittee will be subject to consultation with the House Committee.

Mr President, I beg to move.

*Question on the motion proposed, put and agreed to.*

## **EMPLOYEES' COMPENSATION**

MR LAU CHIN-SHEK moved the following motion:

"That this Council urges the Government to set up a central compensation fund for employees, so as to give better protection to industrial accident victims."

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

*Improving the employees compensation system*

Today's motion is that this Council urges the Government to set up a central body and take over the management of employees compensation which includes the collection and safekeeping of the insurance premiums and the disbursement of compensation. At present, employees compensation schemes are separately managed by private insurance companies.

Many Members may ask: Since employees compensation in Hong Kong has always been the responsibility of private companies, why are you "abruptly" initiating centralization? To answer this question, we must know the purpose of the employees compensation system and find out how the existing arrangements are falling short of it. Then, we must get to the heart of the problem and deal with it effectively. I think that management, be it central or private, is just a means to an end. I hope that today's debate will start off with a discussion of "how to improve the employees compensation system effectively". I hope that it will not become an ideological debate of which is better: centralization or privatization.

*Failure to attach importance to industrial safety*

Of course, workers file claims for compensation only when they are victims of industrial accidents. I am particularly sensitive to any mention of an accident. Every year, Hong Kong sees more than 200 000 accidents in which the victims end up in emergency wards. Most of them are industrial accidents which number over 100 000. But we pay far less attention to industrial accidents than we do to traffic accidents. This, I believe, is evident from the lopsided coverage that the electronic media give to traffic accidents, which number just over 20 000 a year. What disturbs me even more is that while Hong Kong every year sees more than 200 fatalities from occupational accidents and about 100 numbers and man-slaughters, there is clearly more interest in homicides than in deaths from industrial accidents.

There is no doubt at all that better industrial safety should be our first and foremost concern. If we fail to attach importance to industrial safety and the safety of employees, no matter how high the compensation is, it serves no meaningful purpose other than compensating the worker for the loss of his blood and life.

*Linking insurance premiums to safety records*

Hong Kong's employees compensation system has nothing at all to do with industrial safety. This, I think, is the greatest flaw of the existing system.

A very important principle of the environmental policy is "the polluter pays." The purpose is not only to penalize polluters but also to provide an incentive to keep the environment clean. Similarly, in some foreign countries, the purpose of requiring employers to take out insurance for employees is not simply to have a pool of money for paying out compensation. The more important purpose, where "the rate of the insurance premium is in inverse proportion to the employer's safety record", is to encourage employers to improve industrial safety. The truth is that insurance premium rates linked to safety records are an effective market mechanism that encourages employers to take active steps to prevent industrial accidents.

*Insurance companies do not care about safety*

Regrettably, Hong Kong's private insurance companies, when setting employee insurance premium rates, think only in terms of making a profit and earning a commission. It never occurs to them to link insurance premium rates to employers' safety records. Some insurance companies sell employee insurance to their big clients by way of doing them a favour. These companies pay even less attention to the safety records of the insured.

Of course, one cannot blame the insurance companies and insurance agents for wanting to make a profit and earn a commission. But their failure to encourage better industrial safety and their failure to help to bring about a

reduction in industrial accidents cause a wasting of human resources. There is a "social cost" to this and it has to be borne by the community as a whole.

Therefore, I believe that only a central non-profit-making body can use insurance premium rates effectively as a mechanism for promoting industrial safety, which is our first and foremost objective.

*Injured employees should receive adequate compensation*

Industrial accidents affect their victims differently. Some victims suffer minor injuries. Some require hospitalization. Some are incapacitated temporarily. Some are partially or totally incapacitated for life. Some will have to change their jobs. Some will never be able to work again. Some lose their limbs. Some even become vegetables. Of course, some simply die.

Mr President, of course, injured employees and the surviving families of deceased victims must receive adequate and instant compensation. This should be the clearly stated goal of the employees compensation system. Regrettably, the existing system is far from being satisfactory.

Where employers buy employee insurance from private insurance companies of their choice, it often happens that some employees are not covered or the insurance coverage is not adequate. Sometimes, insurance companies refuse to sell employee insurance (particularly to small employers). For these reasons, some injured employees fail to receive adequate compensation or fail to receive it until claims are finally settled in time-consuming processes.

A central body will effectively take care of the matter of insurance coverage for all employees, including the matter of insurance coverage for the self-employed. It will have effective access to such information as how many employees there are in a particular company and how much a particular employee's salary is. It will thus be able to figure out accurately how much insurance premium each employer must pay. All employees will then be covered by the employees insurance system.

*Improving the claim processing procedure*

It must be ensured that injured employees are paid adequate compensation. Prompt disbursement is also very important. This refers particularly to the payment of wages and medical expenses and the payment of compensation to the surviving families of deceased victims.

Now, when an employee injured in an accident files a claim for compensation, he has to follow a very complex procedure. In addition, he needs to have the co-operation of his employer and the insurance company. Many problems often arise during the process. For instance, the employer may deny that the employee was injured in an industrial accident or the insurance company may drag its feet in arriving at a compensation figure. The employee

in such cases must wait a long time before receiving the compensation. Sometimes, he will have to take his claim to the court before it can be settled.

The claim processing procedure must be improved. One effective way to do so is to let a central compensation body take care of the payment of compensation. If an employee's claim is legitimate, the compensation should be paid right away. This will be very good for both the employee and the employer.

*Labour insurance is not commercial business*

Mr President, some may ask: Why start a central compensation fund that will take business away from the private sector? I must stress that taking out insurance for employees is a statutory obligation of employers and that injured employees have a legal right to reasonable compensation. Therefore, the entire employees compensation system is a service provider. It should never be regarded as a commercial business.

In fact, of the amount that is paid each year by employers in insurance premiums, only a small portion is paid out as compensation to injured employees. The lion's share goes to rebates, reinsurance fees, agents' commissions, the insurance companies' administrative expenses and their shareholders. Take 1992 for instance. According to the statistics given by the Commissioner of Insurance, the total amount of premiums paid for employees insurance that year was \$1.56 billion. According to the Labour Department's figures, only less than \$600 million was paid out as compensation to employees. In July this year, this Council amended the Employees' Compensation Ordinance to increase the amount of compensation pay-out by an estimated \$180 million per year. But the insurance industry is asking for a \$500 million increase in the amount of insurance premiums. I cannot help but ask: How can a \$500 million increase in insurance premiums be commensurate with a \$180 million increase in compensation pay-out?

Very clearly, a central fund to sell insurance to employers, if set up, will save a lot of money that is to be spent on reinsurance, commissions, administration and remove the profits of the insurance companies. In addition, the central fund can invest its money to earn additional interest income. By increasing income and cutting expenses, the central fund will stand to gain several hundred million dollars a year. It can then, firstly, increase compensation pay-out without adding to employers' costs and provide additional money for improving industrial safety and for supporting injured employers during recuperation. Secondly, it can lower insurance premium rates, to the benefit of both employees and employers.

*Precedent for central fund*

Of course, some will probably say that a centrally managed fund is inefficient and tends to be wasteful of social resources, to the ultimate detriment

of everybody. But I would like to tell you clearly that not only do central compensation systems exist in foreign countries, but there are also precedents of a central compensation system in Hong Kong. In the area of employees compensation, the Government set up a central compensation fund for victims of pneumoconiosis as early as 1980. In 1990, the Government set up the Employees Compensation Assistance Fund.

Take the Pneumoconiosis Compensation Fund as an example. A committee composed of employers, employees, experts and government representatives is responsible for collecting levies and managing the fund by investing it and using it to pay compensation to employees. The Committee has been doing well. We should study this example. In fact, the Government is now planning to set up a compensation fund for occupational hearing loss. Therefore, if the Government acts quickly to set up a central employees compensation fund, the separate funds now in existence or under consideration can all be incorporated into it. This will make the entire employees compensation system more effective and more efficient.

*Suggestions on the Fund's operations*

I believe that the points made above have fully established the advantages of a central compensation system. I suggest that the Government should quickly legislate the establishment of such a Fund. In addition, a committee in charge of the Fund should be set up, composed of employees, employers, government representatives and experts. With regard to the day-to-day management of the Fund and the processing of the claims, consideration may be given to letting non-civil servants manage the Fund as in the case of the Pneumoconiosis Compensation Fund or letting civil servants manage it as in the case of the Protection of Wages on Insolvency Fund. I believe that such a central management body will not be less efficient than the present system where management responsibilities are scattered.

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

*Question on the motion proposed.*

MR TAM YIU-CHUNG (in Cantonese): Mr President, section 5 of the Employees' Compensation Ordinance provides that if, in any employment, personal injury by accident arising out of and in the course of the employment is caused to an employee, his employer shall be liable to pay compensation. Section 40 also provides for compulsory insurance against employers' liability mentioned above. Obviously under the law, it is obligatory on employers to be liable for employees' injuries resulting from accidents at work. Employers, therefore, take out insurance for their employees. In actual terms, employers can only take out such kind of compulsory policy with private insurance companies. And such a practice has proved to be riddled with problems. This mechanism cannot ensure employers to be held wholly responsible for their

mandatory liability under the law. Let me give a few examples to illustrate this point.

I have here an insurance policy taken out by an employer on a watchman under his employment. Like most of the other employers, he took out employees insurance with a private insurance company merely to fulfil his legal obligation. He did not scrutinize the terms on the policy before adding his signature to the document. This employer in question has all along been taking out insurance on his employees in line with the same policy without knowing that the policy contains certain terms not in the interests of the employees. The document is valid but it renders sterile the employers' liability stipulated under the law. The crux of the matter is that it is specified in the policy that the employees insured shall not exceed 65 years of age. The employer made enquiries with the Accident Insurance Association and was told that such term is made in the light of the fact that employees should retire at the age of 65 and no longer be under employment. I find the explanation very unsatisfactory. It seems that employees at the age of 65 or above are discriminated against. Does it imply that people over 65 should be compelled to retire or else they would not be eligible for insurance cover?

Moreover, labour insurance has other restrictions apart from the insurer's age. Workers in some dangerous trades such as those engaged in cleansing work of the external walls of high-rise buildings or working on gondolas, for instance, usually have difficulty in persuading any insurance companies into providing them insurance against labour accidents.

The example mentioned just now shows how undesirable to leave it to the private insurance company to ensure the employers' fulfilment of compulsory liability in terms of insurance cover. The underlying principle of commercial practices of private insurance companies runs counter to the social responsibility which employers have to meet by compensating their employees for injuries by accidents arising out of employment. This is a point of which we should take note.

I have also received some other calls for assistance. A Mr KWUN working at the kitchen of a restaurant was scalded by boiling hot cooking oil early last year. He was awarded compensation in the sum of about \$170,000 in March this year. The law provides that payment shall be made by the employer within 21 days and exceeding which a supplement shall be payable. In excess of three months, the employer must pay a higher supplement. yet the employer still kept on prevaricating on the excuse that the insurance company had not settled the claim. Mr KWUN's compensation was still outstanding. Although the Labour Department wrote to the employer and urged him to expedite the payment time and again, the efforts had proved to be in vain. Meanwhile, Mr KWUN failed to make a full recovery. And his doctor advised him not to engage in kitchen work any more. But Mr KWUN continued to work in kitchen, despite the intense heat, for fear that he might not get his compensation at all. The case has been dragging on until the end of August. In the

meanwhile, Mr KWUN was under the employer's unreasonable intimidation and threat from time to time. Finally, he received four post-dated cheques which could be cashed in four consecutive weeks. Mr KWUN, therefore, had to go to the bank in the specific weeks. However these four post-dated cheques did not settle the payment in full and the payment in arrears was to be further pressed for. This case is indeed bewildering. Why should an employee have to go through so much trouble in getting the compensation, due to him? From the assessment of damages to the receipt of compensation, the employee has to make a lot of efforts, and be subject to enormous pressure. This is unnecessary. We learn from some information papers that 65% of the premiums are spent on reinsurance and to meet commission payment and administrative cost. In other words, only 35% of the premiums actually go to employees as compensation payment. And such operating cost does not include the Government's administrative expenses. It shows that the existing employees compensation mechanism in Hong Kong is dear in terms of its operating cost. In that case, for every \$100 premium, \$65 go to the insurance company as operating cost and only \$35 are paid out as compensation for the affected employees. Such an unbalanced proportion gives one the impression that the existing employees compensation mechanism is in favour of the insurance companies rather than the employees. In view of this, I feel that the present mechanism has deviated from the original objective of the employees' compensation scheme with the insurance company's interests placed before that of the employees. It is evident that a reform must be made to the existing mechanism.

Experiences of other advanced countries tell us that a centrally administered employees compensation fund is effective and simple and the operating cost is very low as well. I have put forward similar proposals to this Council a number of times in the past. In the *Report of the Joint Steering Committee on Occupational Health and Safety* released by the Government in December 1991, it was revealed that a study was to be made on the central employees compensation fund system and a report would be submitted to the Labour Department in 1992. However, at a time when 1993 is drawing to a close, I have yet to see the Labour Department's report which would make available to us relevant data for full deliberation. Such data could assist us, for instance, to determine how to replace the existing system with a new one, the new mode of contribution, and ways to consolidate all the existing central compensation funds, like the Pneumoconiosis Compensation Fund.

With these remarks, I support the motion.

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

DR LEONG CHE-HUNG: Madam deputy, before taking our summer break colleagues of this Council worked extra hard to push through two Bills on labour compensation. They are the Pneumoconiosis Compensation and the Employees' Compensation Amendment Bills. They are far from perfect. But

since we did not want to delay any improvements to the benefits of our workers, we were prepared to touch up the package at a later time.

Now is the time.

Madam deputy, piecemeal amendments to separate legislations are insufficient. We need an overall direction. We must tackle the problem by taking the bull by the horns. With the Administration's claim of considering setting up compensation schemes for noise-induced hearing loss and low back pain, it is high time for an overhaul. A centrally administered employees' compensation fund, which covers various occupational injuries and diseases, should be the way in the right direction.

At present, employers in the private sector are required by law to take out labour insurance for employees. Yet such practice only brings flimsy protection to workers. The claim procedure is far too long, as exemplified by my honourable colleague TAM Yiu-chung just now. Insufficient coverage taken out by employers cuts back on a worker's compensation. And what would happen if a private insurance company were to collapse? Would workers' hard earned sums be reduced to ashes?

Worst of all, a large percentage of these insurance premiums is designated for administrative fees, instead of serving the prior aim of compensating workers.

Last year, for example, some 65% of the insurance premiums was spent on administration, commission, reinsurance, and went to the pockets of the insurance companies. In 1991, such "administrative costs" accounted for 59% and up to 53% in the previous year.

The implication of rising administration cost is simple — the private sector manages employees' compensation premiums with declining cost-efficiency.

For workers' benefits, a significant cut in administration costs would raise the compensation amount, without asking employers to pay for more. With sufficient funds, it would be easier to make regular payments to the injured and sick worker, so as to replace the current lump-sum payment practice. Injured workers would then have a better chance for re-assessment and have their compensation amount adjusted should their health condition further deteriorate.

To achieve such significant cost reduction is not a dream. A number of Asian and western countries have succeeded to slash the administrative cost to around 10% of the premium by introducing a centrally administered compensation. No more overlapping administrative work by different private insurance companies. No more unacceptable levels of commission and profit claims.

Unfortunately, our Government has not learnt these experiences of our neighbours. At the resumed debate on the Second Reading of the Employees' Compensation (Amendment) Bill on July 21, the Secretary for Education and Manpower told this Council, and I quote:

"Any increase in employees' compensation benefits must be funded by a corresponding increase in insurance premium ..... government or quasi-government agencies may not necessarily provide insurance cover more efficiently and economically than the private sector."

It is obvious that officials are united in using such an excuse to rebut the clarion call for the Government to set up a national retirement scheme and a compulsory medical insurance.

I agree to the setting up of a central and statutory body to administer all employees' compensation schemes. Instead of buying private insurance for workers, employers would put levies into a central fund. The level of levy would be determined by the risk level of individual industries, as well as the occupational safety and health track record of individual companies.

Such a central employees' compensation fund should embrace, of course, the existing Pneumoconiosis Compensation Fund, the Employees' Compensation Assistance Fund, as well as the future compensation funds for occupational hearing loss or low back pain.

Apart from paying compensation, the reserve of such a central fund should also cover education and publicity for occupational health and safety, as well as rehabilitation services for the injured and sick workers.

In the meantime, the Government should also improve the existing Pneumoconiosis Compensation Scheme.

The Pneumoconiosis Compensation Fund Board should include representatives of the affected workers, so as to take into account their needs.

The fund should also extend its coverage to rehabilitation services for pneumoconiotics. With limited public medical resources, it would be inappropriate for pneumoconiotic workers to compete with other chest and lung chronic disease patients for rehabilitation services.

The medical profession which I represent urges the Administration strongly to review the assessment of pneumoconiotics' incapacity by introducing a more comprehensive lung function test. That would help to offer the most reasonable level of compensation to the victims.

For the past few years, labour officials have told us time and again that the Bill on noise-induced hearing loss would soon be tabled in this Council. Yet, time and again, we are dejected by ending Legislative Council Sessions without a glimpse into this Bill.

The Bill needs to be in place as soon as possible.

For our 2.8 million working population, it is important to set up a fair and comprehensive compensation system. But it is equally important to prevent occupational injuries and diseases.

I therefore urge the Government to promptly make it compulsory under the law for workers to undergo pre-occupation and regular post-occupation health checks. The statutory requirements for every industry and company to set up safety committees should also be pursued without further delay.

Madam deputy, our hard working people are the jewel of our crown. They are the foundation for Hong Kong's stability and prosperity. To win their hearts, the Government should have the determination to set up a comprehensive system embracing occupational health prevention, education, compensation and rehabilitation.

With these remarks, I support the motion.

MR CHIM PUI-CHUNG (in Cantonese): Madam deputy, I must first make it clear that I do not support this motion. The reasons are as follows: Firstly, how is Hong Kong's existing system of government constituted? It is a system of which all the people of Hong Kong are constituents. If we want our Administration to be responsible for every matter, that means the people of Hong Kong, that is the taxpayers, will have to be responsible for everything under the sun. In such circumstances, it is natural that some people will profit at other people's expense and some will suffer. Can the Administration take care of every single problem or aspect of activity in Hong Kong? Do we have the responsibility to take care of ourselves first while the Administration has to take the ultimate responsibility of taking care of us?

Secondly, we have to understand that the insurance scheme concerned covers people from different social strata and walks of life. They belong to different trades and their risk exposures are different. So if they are to be covered by the same insurance scheme, some people will surely profit at the expense of the others. Today when human rights and freedom are generally upheld, is there any reason for requiring one to constantly subsidize another? If one does not try to strengthen oneself, if one does not take care of oneself but shift the responsibility to the Administration, which virtually means shifting the responsibility indirectly to the taxpayers, that will be a very unfair, irrational and undemocratic thing to do.

Thirdly, there are many different trades in Hong Kong and among them the insurance trade does insurance business. If the Administration can now take the place of the insurers, later it can also compete with other service operators or providers such as those in the medical sector, the financial sector and so on. And eventually each and every sector will be taken over by the Administration. So this would be a very bad beginning. Besides, we must not forget that the Administration is now trying hard to privatize various government organizations. Take the example of the "meter" policy where the Administration has admitted that its efficiency is not satisfactory, and the administrative overheads may be higher than that incurred by a private company. So the operation concerned has now been privatized. In this light, who can now guarantee that the operation of an insurance scheme by the Administration will be more cost effective than that run by private companies?

Therefore, I doubt the feasibility of such a proposal.

Furthermore, we have to understand that the Administration, as a co-ordinating organ, need to have regard to everything. It has to consider the views of Members of this Council who represent different sectors of society, it has also to see to it that the functions of the Government are carried out in a reasonable manner. Some Members who support the proposal have a very strong representative base. Their view is that the proposal will entail a very high cost. This is in fact a technical problem and not the most fundamental one. So we have to assess the problem from a technical as well as a legal point of view so as to find out what the effect will be if the proposal is implemented. The law has clearly provided that employers must take out insurance policies for their employees. If they have not done so, they have already breached the law, and it is not just a matter of when the employees will get the compensation and how much they will get. We can only ask the government departments concerned to pinpoint who is responsible by way of enforcing the relevant law. But we should not move such a motion simply because the relevant cost is high, the compensation payments for the workers are delayed and the amount of compensation is small. That is indeed shifting the responsibility to all other innocent people of Hong Kong, because the money comes from other taxpayers. If the Administration incurs huge expenditure in the area of compensation or other areas, the burden will naturally be passed on to taxpayers.

It is beyond doubt that our hope is for the continuous advancement of society such that it can catch up with other developed countries and regions in providing comparable or even better social services to the public. However, we must also bear in mind that Hong Kong is not a society heading towards socialism. Politicians can of course make their own demands or indeed make demands out of certain motives of their own. They have the right to do so. But we have to understand also that policies claimed to be fair but indeed are not so will not get the approval of the general public. Proposals that are advantageous and will bring substantive benefits to the public will naturally be supported by the public, the authorities concerned or those who have an interest therein.

However, this way of thinking is against the principle of free and fair competition.

The insurance industry has indicated that from 1989 to 1991 the industry lost \$600 million in this area of business. This is the figure given to me by the industry. Of course, I am not too sure how they arrived at such a figure.

My suggestion to the Administration in this respect is that it should proceed against those employers who have not taken out insurance policies or have taken out insufficient insurance coverage for their employees, review the relevant Ordinance, simplify the relevant policies of insurance as much as possible, and enable the policy holders to obtain compensation as quickly as possible. If the amount of compensation is changed or insufficient, the government departments concerned should rectify the situation out of its own initiative or arrange for the members of the public or the workers concerned to obtain reasonable compensation as soon as possible, so as to reduce the operation cost and enable the different parties concerned to attain their objectives. Therefore, we should not put all the responsibility on the Administration which will in turn shift the responsibility indirectly onto the taxpayers. So I find Mr LAU's motion regrettable and I will not support it.

Madam deputy, I so make my submission.

THE PRESIDENT resumed the Chair.

MR FREDERICK FUNG (in Cantonese): Mr President, the Hong Kong Association for Democracy and People's Livelihood and I fully support Mr LAU Chin-shek's proposal of setting up a central compensation fund system for employees. In fact, early last year, the Association pressed the Labour Department for improving the existing arrangement whereby labour insurance is taken out with private insurance companies and replacing it with a centralized system with the Government serving as the insurer. However, the Government has not responded positively so far, and I found that most regrettable.

According to my understanding, the Government does not have the slightest intention of setting up a central compensation fund for employees mainly because of two reasons: firstly, the Government holds fast to the principle of non-intervention in the free market; secondly, the officials concerned believe that whether the fund is "central" or not, it does not have much effect on the employees' well-being. In this connection, I disagree with both counts.

First of all, I fully accept that our free economic system has been conducive to the economic growth in Hong Kong in the past few decades. However, under certain circumstances, free economy also helps to bring about capital monopoly which leads to a situation whereby market prices are set at an

unreasonable level. The insurance companies claim that they suffer a loss in labour insurance, to the extent of \$500 million as Mr CHIM Pui-chung has just said. However, a large portion of the premiums they receive may have probably gone to commission and administrative fees. The loss will in turn become an excuse for increasing the premium while the insured simply do not have any bargaining power at all. The figures provided by Mr LAU amply serve to prove that this situation is unhealthy. Recently, the authorities concerned widened the scope of the Employees' Compensation Ordinance in some areas and this has triggered a huge 40% rise in premium. The situation is indeed worrying. Therefore, to act responsibly, the Administration should definitely not stick blindly to the rules of free economy. It should ensure that the livelihood of the people at the grassroot level would be protected. Since a central protection system can reduce operation costs, centralize resources, promote occupational safety and health, we simply cannot accept that the Government does not intend to consider this proposal.

I understand the Government's belief that even the premium is high, it will affect the employers only. However, I must point out that a high premium would at least have an impact on the employees in two ways. Firstly, the employers, for fear of any further increase in premium, will naturally resist, and object to, the proposed expansion of the scope of employees' compensation. Secondly, escalating staff costs, to a certain extent, make reasonable pay rises seemingly less justifiable and non-skilled or semi-skilled employees, in particular, will find it harder to negotiate their pay level with their employers. These two points demonstrate that a substantial increase in premium will have adverse effects on employees' livelihood.

It cannot be denied that low-income employees are most prone to accidents in the course of duty. In order to give them the fastest and biggest compensation, it is essential to map out and implement a central insurance scheme as soon as possible.

During the remaining time, I wish to respond to the views raised by Mr CHIM just now. First of all, I think we, directly elected Members, should learn from Mr CHIM. I remember he once said he would not speak for the insurance industry after he was elected. Nevertheless, he has changed his mind and spoken in this debate entirely in the interests of the insurance industry. Yet he does not understand Mr LAU's motion. That explains why he himself also admits that he is not so sure about some points at issue.

Expenses on salaries and commission may actually be attributable to the loss that he mentioned in his speech. To safeguard employees' interests, the most important thing is that the money paid by employers should be used mainly as compensation to employees, rather than going to the pocket of any third party. As Mr TAM Yiu-chung and Mr LAU Chin-shek have both pointed out just now that as much as 65% of the premium is disbursed in the form of commission and administrative costs. Should this be the case, is such an insurance system an appropriate one?

Secondly, Mr CHIM remarked that the proposed central insurance system has to be subsidized by taxpayers. I beg to differ. In fact, taxpayers do not have to pay any fees basically. The whole idea simply involves handing the administration and co-ordination of the insurance fund over to a central body. Actually, the fund is established with the premium paid by employers, so the liability would not be shifted to taxpayers. I hope that Mr CHIM, after understanding the situation, will change from opposing the motion to supporting it when he casts his vote later. I believe that this proposed insurance system will be beneficial to Mr CHIM himself as well as his employees and with a stronger sense of security, his staff may work harder so that Mr CHIM can earn more money.

With these remarks, I support the motion.

DR CONRAD LAM (in Cantonese): Mr President, currently there are nearly 100 000 workers who are injured or even lose their lives as a result of accidents occurring during employment every year. Among workers who sustain such injuries, there are over 10 000 workers who are assessed and confirmed to have suffered from a certain degree of permanent incapacity every year. It is indeed a heavy blow physically and mentally to workers who sustain injuries in industrial accidents, and so do their families, let alone those who lose their lives. What made us feel particularly upset is that when injured workers seek to claim compensation as provided under the law, they frequently run into all sorts of obstacles under the present system. It takes a considerable time for most of them to get the compensation they deserve. To add insult to injury, some of them even receive no compensation at all in the end.

Workers who are injured at work may have to be hospitalized for a period of time. As required under the law, workers suffer from such injuries should be entitled to receive two-thirds of their wages during their hospitalization. But more often than not, employers tend to delay payment for such wages under various pretexts. The most frequently used tactic is that they simply refuse to accept that the injuries are sustained by workers at work. Under the present system, workers, in order to recover the wages in question, can only bring their case to the court, fix a date for hearing and take civil proceedings against their employers. In some cases, after numerous delays, it may take as long as one and a half years before they can recover two-thirds of their wages to which they are entitled. Moreover, for those who may suffer permanent partial incapacity due to injury sustained at work, they, in order to be eligible for the statutory compensation, apart from hospitalization, may even be required to undergo assessment by the authorities concerned. Sometimes they may even be subject to re-assessment. In the case of incapacity of workers who sustain serious injuries, before compensation can be sought from insurance companies, their assessment results even have to be endorsed by their employers, and agreements to the above effect have to be duly signed between them and their employers. Sometimes in an attempt to reduce the amount of compensation, insurance company would introduce various measures to stall

workers' claim for compensation. In certain cases, it takes a worker two to three years altogether to finish the whole process from the time he sustained the injury till he finally obtained his compensation. This is indeed unacceptable.

Under the present compensation system, insurance and compensation matters are dealt with separately, and there is no central body to co-ordinate and carry out the relevant tasks. Such a system incurs numerous problems, including insufficient insurance coverage and cumbersome compensation procedures. Furthermore, inco-operative employers and insurance companies always make it impossible for workers to get their due compensation at an early date. Sometimes it is even necessary for them to take the case to the court for settlement. This results in further delay and in a waste of social resources. If the entire compensation system is to be run by a central body, then the time for claiming compensation can be greatly reduced. Moreover, such an arrangement can minimize labour disputes as well as make it unnecessary to go to court. I believe the establishment of such a body is beneficial to employees, employers and the community as a whole.

Mr President, with these remarks, I support the setting up of a centralized employees' compensation system.

MR HENRY TANG (in Cantonese): Mr President, there is actually nothing new about the motion on a central compensation fund for employees moved by Mr LAU Chin-shek today. If we are aware of the various mechanisms as regards employees' compensation to which the Administration has already committed itself, we will know that centrally administered funds like the existing Pneumoconiosis Compensation Fund and the Employees Compensation Assistance Fund as well as the Occupational Noise-induced Hearing Loss Compensation Fund, which will shortly be established, are funds similar to what Mr LAU Chin-shek proposes. However, as the above funds are all independent institutions each with its own management, I am not at all sure whether this is the most efficient way of operation. I am not sure whether it would be more cost-effective if all the above funds are merged and managed as one fund. I wonder if the Administration has any measures to tackle all those irregularities arising from the existing practice where employees' compensation is handled by individual insurance companies. I hope the Administration can respond positively on this. At present where employees' compensation is handled by private insurance companies, the administration fees, commission as well as the actual amount of compensation payout involve a huge sum. This being so, complaints arise from parties concerned. The insurance industry claims that the service does not generate profit; employees complain about the long waiting time before they can receive compensation and delays due to various reasons, and employers like us are not happy with the insurance companies' reaping huge profits. As complaints are rife, I hope the Administration would not prevaricate this time. Instead, it should make a determined endeavour to examine whether a central employees' compensation fund is a viable mechanism which deserves consideration.

It is the worry of the authority concerned that with the establishment of a central employees' compensation fund, there would be a gradual shift in Hong Kong towards resorting to proceedings at common law against employers for negligence in workplace casualty cases and the quantum of damages thus resulting may far exceed the coverage under the Employees' Compensation Ordinance bringing a heavy burden to the Administration if it were to commit itself to a central compensation fund. I, however, think that this worry is unnecessary. Laws are made by people. The legislation can be couched in clear terms to the effect that the central employees' compensation fund only applies to compensation sought under the Employees' Compensation Ordinance and does not apply to civil actions at common law whereby actions for damages for negligence are brought against employers.

Mr President, Hong Kong is an economic society which strives for efficiency. On this particular issue, victims of workplace accidents should be given compensation as early as possible. On the other hand, employers, upon paying premiums, should adequately ensure in the most cost-effective way the work safety of their workers as well as ensure that the premiums are spent for the benefit of the workers themselves. I certainly understand the Administration's reservation on the shift of a private operation to a so-called nationalized system and its skepticism as to whether this should really be the way forward for Hong Kong. I therefore would like to urge the Administration to discard its preconception and seriously examine whether Mr LAU's motion is feasible.

Mr President, my colleagues of the Liberal Party and I would abstain from voting on this motion. The Liberal Party, however, reserves its stance with regard to this proposal until findings of the study are submitted to this Council when a final decision on our stance will be made.

Mr President, these are my remarks.

MR JAMES TO (in Cantonese): Mr President, the drawback of the existing employees' compensation system lies in the extremely lengthy investigation procedures that an injured worker has to undergo before he could get the compensation due to him. In the meantime, the worker will be subject to the strains of day-to-day survival. In addition, insurance company may have difficulty in making an early payment of compensation because of problems arising from the insured amount. A centrally administered employees compensation fund, if set up, could streamline the application procedures which workers have to go through to enable them to receive compensation within a reasonable period of time.

I would like to illustrate the shortcoming of the existing compensation system by quoting a case. Mr LAU was a construction site worker. He found a job associated with site works in a factory. On 15 October 1992 when he tried to lift a heavy object, Mr LAU lost his balance and fell back as the object was

too heavy for him, resulting in his low back bumping against an iron bar. He was injured. However, Mr LAU's employer dared not admit that he was injured in the course of his work and instead alleged that he already had had low back pain before he joined the factory.

The dispute could not be mutually settled and eventually the case was brought before court. Meantime, his employer sacked Mr LAU on 16 February 1993. Conciliation attempts by the Labour Department were fruitless. Finally he went to the Labour Tribunal to seek its assistance in claiming his entitled leave and wages in arrears. There was not, however, a follow-up concerning compensation for his injury at work. When his case was finally heard at court, the employer suddenly admitted that Mr LAU was really injured at work. Yet the insurance company delayed the payment of compensation for his injury at work and two thirds of his wages for the past one year or so because disputes over how Mr LAU's wages should be calculated still remained unsolved.

As regards the insured amount, sometimes an employer may, acting from expedience or for money saving purpose, tend to take out a policy for an amount less than what his workers actually earn. For this reason, disputes between employer and employee are bound to occur when it comes to compensation.

There is another more complicated point concerning this case. Since the employer eventually admitted that Mr LAU was injured at work, then Mr LAU's dismissal was unlawful in the first place. Yet when Mr LAU applied to the Labour Department for emergency relief, he was found not eligible because the employer had not explicitly indicated that he would not pay Mr LAU his wages. Once again Mr LAU's hope of receiving any compensation was dashed. As the employer had admitted that Mr LAU had been injured at work, Mr LAU could only pin his hope on seeking the payment of wages in arrears from his employer but his employer adopted a couldn't-care-less attitude and ignored his requests. Under the circumstances, Mr LAU was completely helpless. One year or so after his injury he still could not get his entitled wages and compensation.

Under the existing system a worker has to overcome various obstacles created by employers and insurance companies. A central fund, therefore, is the answer to address disputes between uncooperative employers and insurance companies over the insured amount. And cases such as Mr LAU's compensation can be more promptly made and employees no longer have to desperately seek help everywhere.

I cite only one example here but, in fact, a good many other examples can serve better for supporting Mr LAU Chin-shek's motion. I hope the Government could demonstrate the resolve and consider in earnest the setting up of a central compensation fund for employees if this motion is agreed to.

With these remarks, I support the motion.

MR HOWARD YOUNG (in Cantonese): Mr President, Mr LAU's motion is to urge the Administration to set up a central compensation fund wholly undertaken by the Government. Judging from the perspective of protecting the safety and livelihood of the workers, the motion merits sympathetic consideration and is understandable. However, I find Mr LAU's arguments insufficiently strong and unconvincing. We, therefore, cannot jump to the conclusion that the setting up of a central compensation fund is the only way out.

Just now, Mr Henry TANG said that some people complained about the profiteering of insurance companies, and several Members also criticized that the compensation rate is too low. I have also consulted the industry to see whether the compensation rate is really so low. If the gap between the compensation pay-out and the premium is really so wide, it is apparent that the system is riddled with flaws. Later, I got some data which show that the compensation rate, in fact, amounts to about 67% (of course, some people may argue that this figure may not be reliable) and that there was a slight increase during the recent years. However, if you accept that 67% is an objective and reliable figure, then you would not say that the compensation rate is too low.

Many Members commented that the level of commission which is over 30%, is too high. This is in fact far from being a balanced statement. Neither should we feel jealous of their substantial commission, or think that it is not desirable for insurance companies to make a profit. Perhaps some Members do not know how the insurance industry operates. In fact, there are many industries operating on a commission basis in Hong Kong. If you say that it is not desirable or odd to operate on a commission basis, then I can point out that many industries in Hong Kong, say the tourism industry and the travel agencies, rely on commission as their main source of income. Is the Government to cut the commission of such kinds of industries by all means? Although I am not directly involved in the insurance industry, while I engaged in the travel business, my travel agency also acted as an agent for travel insurance. The 35% commission we got seems to be very substantial. However, I found many travel agencies in Hong Kong unwilling to be agents for travel insurance. Although on the surface the commission was as high as 35%, the time spent and the administration cost incurred made it not worth the effort. I am, therefore, of the view that while discussing this problem, we should not simply single out a figure and say that the high percentage of commission offered by a certain industry means that there are problems with the industry. To my knowledge, though the commissions for many kinds of insurance offered by the insurance industry are as high as 35%, quite often such commissions are returned to the insured companies through reduction of premiums.

Just now, Mr CHIM also raised a matter of principle which has also attracted a lot of controversy recently, that is whether we are adopting a socialistic approach in dealing this kind of issues. I do not want to carry this matter to extremes by saying that to propose the setting up of a central compensation fund is tantamount to practise socialism of Hong Kong style

socialism. However, if we envy other people's gain on seeing that a particular trade is lucrative, and advise the Government to operate the trade with public money in competition with the private sector, then such a move, though cannot be said to be socialistic, will breach the existing market disciplines of our economy. Mr FUNG criticized the Government for sticking too rigidly to the rules of free economy when he delivered his speech just now. I find nothing wrong with this. Indeed, Hong Kong's present success is mainly attributable to the upholding of such rules.

Mr LAU wrote to Members on 27 October, explaining the background of this motion. I have read the letter carefully, and found some of the arguments quite acceptable, such as the second point raised by him that the complicated procedures for claiming compensation have resulted in long delays for workers to get their compensation. I am of the view that this is a problem which has to be addressed and it is also a flaw of the present system. Mr LAU also said that the present separate rather than centralized way of administration was unfair because this would result in different premiums or compensation rates for certain trades and hence different charges. I find nothing wrong with this because Hong Kong is a society which cherishes free competition. It is normal that companies compete for business by offering different prices and conditions. Only with competition can there be progress and competitive prices. If we are of the view that anything involving compensation should be insured by the Government, then industrial insurance and third party insurance for vehicles should also be taken up by the Government. Although the spirit of the motion is laudable, I cannot support it because the arguments do not hold up.

These are my remarks.

MR JAMES TIEN (in Cantonese): Mr President, members of our Federation of Industries always take a great interest in industrial safety and employees compensation. Most manufacturers feel that they should do as best as they can about industrial safety. But accidents still happen, usually when they are least expected. When an accident happens, what can we do to enable the victim to receive reasonable compensation quickly? We never stop thinking about this question. Our role as employers is not the subject of today's motion debate. In fact, as far as the motion is concerned, our part as employers is done when we pay premiums to the insurance companies. How soon will an accident victim receive compensation and how much the amount will be are issues which are beyond our control.

Let us take a look at some of the figures supplied by the insurance industry. There may be some discrepancy between these figures and those supplied by Mr LAU Chin-shek. Mr LAU said that last year (that is, in 1992), the insurance industry received \$1.5 billion in premiums but paid out about \$600 million in compensation. However, according to the figures supplied by the insurance industry, \$400 million out of the \$1.5 billion received was turned over to the insurance companies responsible for the final payout. These

insurance companies' agents in Hong Kong actually received only \$1.1 billion for themselves. Again, according to the insurance industry, last year's pay-out from this \$1.1 billion was \$720 million, not \$600 million as stated by Mr LAU. The difference of \$400 million or so was the amount returned to manufacturers as commissions. We, as manufacturers, can confirm that this was so. Another \$150 million went to pay administrative expenses. Of course, we query why administrative expenses amounted to so much. In any case, according to the figures, the insurance industry sustained a \$200 million loss in 1992. The precise loss figure is \$214 million. This figure was of course also supplied by the insurance industry. We query if they really sustained so big a loss.

Let me give an illustration, Mr President. Suppose that a factory hires 500 employees and that the average salary is \$6,000 per employee per month. This factory's total annual salary expense is then \$36 million. Under existing rule, employee insurance premium equals 0.25% of this total. The factory's total annual salary expense is \$36 million, so its annual employee insurance premium expense is \$90,000. Its total annual insurance premium expense, including fire insurance and theft insurance, is roughly about \$500,000. \$90,000 is not a small figure compared with \$500,000. But it is not a large figure compared with \$36 million. Therefore, most factory owners will take out insurance cover for employees as required by law, thereby enabling workers to receive due compensation if and when they are injured in accidents.

Of course, some small factories probably do not take out employee insurance. This is why there is the Employees Compensation Assistance Fund, to which the insurance industry contribute 0.1% of their employee insurance premium. As I noted a moment ago, these receipts amounted to \$1.5 billion last year. So the insurance industry's contributions to the Fund last year, at 0.1% of the premiums, amounted to \$15 million. What kinds of people should receive compensation pay-out from this \$15 million? They are those employees who are injured in industrial accidents and who apply to the Fund either because their employers have not taken out insurance coverage for them or because the insurance companies, for one reason or another, have refused to pay. Honourable colleagues, the Fund paid out only \$2 million from its receipts of \$16 million and its cumulative balance is \$38 million. I have made the above point for you to think about. When we set up any kind of a central fund, such as this Fund, our intention is very good. But often, to be on the safe side, we let the central fund take in more than it should. The fund keeps on growing, but there will never be as many people for it to help as it is supposed to. The fact that the Fund received \$16 million but paid out only \$2 million last year is a very good illustration.

Of course, we are not 100% supportive of the way in which the insurance companies handle compensation pay-out to industrial accident victims. We all hope that the present debate will be an occasion for encouraging insurance companies to grant "no claim bonuses." Under existing rule, all factories irrespective of safety records pay employee insurance premiums at the same rate of 0.25% of total salary expense, there being no "loading." I hope that

insurance companies will charge employee insurance premiums in the same way that they charge car insurance premiums. In other words, they should charge less if a factory has a better safety record and a lower accident rate, and more if a factory has a worse safety record.

We are also a little disturbed by Mr LAU's motion. Suppose that such a central system is instituted, will the Government not go on to take over vehicle insurance as well, as suggested by Mr Howard YOUNG? We are disturbed because vehicle theft insurance is very expensive now, following a surge in vehicle theft cases in the past year or two. The annual premium for insuring a brand new Mercedes now exceeds \$100,000. Suppose that we ask the insurance companies how much they receive annually in premiums and how much they pay out annually to settle claims. If it is found that they take in much more than they pay out, can a case then be made that it will be better for the Government to take over car insurance? In a related matter, we are now thinking about a medical insurance scheme. If that should turn out to be very profitable for the insurance companies, would we ask the Government to set up a central fund to take over this business? For the many reasons cited above, Members from the Liberal Party think that the matter needs further careful study. This is why the Liberal Party, including myself, hope that the Government will further study the matter.

Mr President, with these remarks, the Liberal Party and I will abstain from voting.

MR TIK CHI-YUEN (in Cantonese): Mr President, Hong Kong has made huge economic advances during these years. The Hang Seng Index is heading rapidly towards the 10 000 mark. High-rise buildings are springing up on both sides of the Victoria Harbour. This is not a miracle. Hong Kong's success is attributable to its people, who have worked hard together for years and years.

Yet what protection has the Government given to the nearly 2.8 million working population for their toils of the past decades?

Scanning last year's occupational accident figures, we see 75 593 accidents. This means 75.6 accidents per 1 000 workers. This accident rate is higher than that in any of the three other Little Dragons of Asia. In the recently launched Airport Core Programme, the rate of industrial accidents is even higher, at 90 accidents per 1 000 workers.

Nobody wants Hong Kong's success to be founded on industrial accidents. But the truth is that the rate of occupational accidents is remaining high in the construction, manufacturing and the food industries, which together employ more than half of Hong Kong's working population.

Under such circumstances, a responsible government would take steps to make and implement a safety policy, to encourage employers to take all precautionary measures and to teach workers about industrial safety.

However, in playing its role in employee protection, the Government is lagging behind other countries. Nor is it thinking about catching up. Compared with foreign countries, which have systems of compensation for victims of occupational injuries and diseases, the Government is taking a piecemeal approach to such compensation. It lacks both the resolve and the foresight to do something about this problem.

#### 1. *The present system*

Under the present employees compensation system, where a worker in a high risk industry is injured or killed in the course of work, an application may be made for employees compensation, or a claim for "damages resulting from negligence" may be filed against the employer in civil proceedings.

But this system is woefully inadequate for the protection for employees injured or killed in industrial accidents.

For example, a construction worker whom I know was only about 30 when his back was injured in an industrial accident. The pain incapacitated him from working. With great difficulty, he managed to get back from the contractor part of the salary that was owed him. Because the amount of the compensation pay-out that he received was inadequate, he eventually had to file a claim for "damages resulting from negligence" in civil proceedings. The hearing lasted for nearly three years. In the end, he received only several hundred thousand dollars in settlement.

This case from real life shows that:

- the amount of compensation pay-out under the present system is not enough;
- it takes a long and complex process to settle a claim.

In addition, under the present system, the criteria for assessing loss due to injury do not reflect the actual degree of incapacity.

#### 2. *To the average employee and employer*

The present insurance system, in which the provision of insurance coverage is not centralized, is far from being cost-effective to the average employee and employer.

According to figures supplied by the the Accident Insurance Association, an insurance company spends 65% of its general employee insurance premiums on reinsurance, commissions and administration.

In countries which have a central labour insurance system, such as New Zealand, Canada and Britain, the operating cost of the system is less than 10% of insurance premiums. Clearly, an insurance system in which the provision of insurance coverage is not centralized unnecessarily adds to the costs of employers. Neither is it fair to employees.

In view of the shortcomings and the flaws of the present employees compensation system, the labour sector has been urging the Government for years to learn from Britain and set up a central compensation fund to handle compensation pay-out to victims of occupational injuries and diseases. One advantage of such a system is that it can save the money that, under a private system, goes to pay dividends and commissions. In addition, a central system can standardize the amount of compensation pay-out and give fuller and better protection to the victims of occupational injuries and diseases as well as their families.

Meeting Point once again urges the Government to set up a central compensation system for victims of occupational injuries and diseases. We propose a system with the following key points:

- (1) The Government should set up a statutory body to manage the central fund. Its members should include representatives of employers, employees and victims of occupational injuries and diseases, as well as professional experts.
- (2) The terms of reference of the Committee should include the management of the fund, so that the money will be used to pay compensation to victims and to pay for occupational health education and rehabilitation services.
- (3) The Committee should be able to collect levies from all business establishments in the territory. The fund should replace the present insurance system, which is not centralized. It should be merged with the Pneumoconiosis Compensation Fund and the Employees Compensation Assistance Fund.
- (4) The amount of levy from each employer should be based on how dangerous his trade is, the rate of incidence of occupational injuries and diseases, his records of occupational injuries, diseases and fatalities and the number of his employees.

The scheme proposed by Meeting Point stresses that the Government should play an overall management role. In fact, the two central funds that Hong Kong now has — the Pneumoconiosis Compensation Fund and the

Employees Compensation Assistance Fund — are managed very efficiently. In 1990, the operating cost of the former equalled only 18% of premiums.

We believe that a centrally administered employees compensation system will be more efficient than the present one, which is operated by insurance companies in the private sector.

Secondly, the Government is woefully behind in public education on occupational health and the prevention of occupational disease. Take the Pneumoconiosis Compensation Fund as an example, spending on research, education and publicity accounts for less than 5% of the Fund.

We urge the Government, by way of setting up a central employees compensation system, to take more active steps to monitor and improve the safety of the work sites and to provide accident prevention and health services.

Mr President, we are now less than three years and eight months from 1 July 1997. Of late, the Government has behaved as if it wanted to avoid making long-term policies on important livelihood matters.

For example, in the case of the Central Provident Fund, which has been sought by the public for more than 20 years, the Governor and other government officials have time and again tried to avoid dealing with the consensus opinion that has long been reached in this Council. We have no way of finding out what is secretly bothering these government officials. But I am compelled to suspect that the Government has probably contracted "central-phobia."

The three Members from Meeting Point and I hope that the Government will be quickly cured of this "central-phobia" ailment and take a rational approach to Hong Kong's present flawed employees compensation system and immediately study ways to set up a central compensation fund for victims of occupational injuries and diseases.

DR TANG SIU-TONG (in Cantonese): Mr President, just now a lot of Members have raised a number of arguments to support the setting up of an employees' compensation fund. There are, however, some problems which we need to address.

Firstly, if it is asked to serve as the final insurer, is the Government up to the job in terms of administration and management?

Secondly, there are at present about 100 companies underwriting labour insurance policies. Their total profits last year is \$900 million. In other words, each company, on the average, earned a profit of about \$9 million on paper. If the Government is to provide labour insurance, the business of these insurance companies will be affected. Will this be acceptable to the insurance industry?

Of course a lot of people are jealous of other people who make profits. However, looking at the other side of the coin, as mentioned by the Honourable CHIM Pui-chung, these companies had a deficit of \$500 million in 1991. If the Government is to take up the responsibility of providing labour insurance, the said deficit will then have to be borne, indirectly, by the taxpayers.

Thirdly, should the Government be urged to assume the responsibility of providing labour insurance and will this be regarded as encouraging the Government to take business from private firms? In so doing, it is in breach of the Government's principle of non-intervention in the free market operation, is it not?

I think it is necessary to consider the pros and cons of the above matters in the light of the interests of the majority. It is true, as Mr LAU Chin-shek pointed out, that the Government has the necessary experience to run such funds. It would not charge high administration fees and insurance premiums to the detriment of the insureds' interests. No doubt by taking up the responsibility of providing insurance cover, the Government will boost the confidence of the labour sector. A central insurance authority is not a profit-making organization. It follows that insurance premium will not be increased endlessly, let alone a situation under which there is any rejection of application for insurance cover.

I support the setting up of a central employees' compensation fund. Yet I think that it is only a stopgap measure and not a real answer to the problems in relation to industrial accidents.

In a seminar on industrial safety held last week, Mr PATTEN, the Governor, pointed out that legislation alone cannot thoroughly resolve the problem of industrial accidents. The real solution hinges on the efforts made by employers, employees and all parties concerned. I cannot agree more with him on this point. Therefore, if and when the Government assumes the full responsibilities of providing labour insurance, a proportion of the revenue should be set aside for the promotion of industrial safety. This is indeed the long-term solution to the problems arising from industrial accidents.

In the first six months of this year, according to the data provided by the Labour Department, a total of 56 persons died in industrial accidents occurring in various trades. Among them 49 died in construction accidents, exceeding by one when compared with the 48 deaths for the whole of last year. It is an indication that industrial accidents in various trades have reached a very serious level. All along, construction industry has played a very important part in Hong Kong's economy and the contribution of the construction industry to the success of Hong Kong is undeniable. It is expected that in the next few years, the new airport projects and the construction of port development facilities and massive transport network will push the construction industry towards another peak. Yet the construction industry is still incapable of successfully dealing with its "number one enemy" by bringing down industrial accidents. All the people

of Hong Kong have taken pride in the "Rose Garden" project, but nobody is prepared to see it being built on the flesh and blood of our workers. Although the Government has not neglected the significance of industrial safety, the effectiveness of its measures falls far short of the actual needs. The Government must work harder, and there must be sufficient co-operation between employers and employees so as to minimize the number of accidents because after all, human lives are the most precious of all.

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

MR MICHAEL HO (in Cantonese): Mr President, the present employees compensation system in Hong Kong is established to pay compensation to workers who sustain injuries or fatal injuries while at work. Therefore, in a debate on employees compensation, it is inevitable that the issue of industrial safety must be dealt with. My speech today mainly consists of two parts, one on the importance of industrial safety and the other on how a centralized compensation system helps to enhance industrial safety.

The incidence of injuries at work among construction workers is as high as 30% and of the 65 deaths in fatal accidents at work, 46 came from the construction industry. It is apparent that the Government is aware of the gravity of the problem. But unfortunately, the Government is merely proposing an increase in penalty and prosecution as a means to reduce the risk of industrial accidents. Such an approach is certainly not the right remedy to the problem. In this connection, I would like to urge the Government to make it compulsory for dangerous trades to set up a safety commission and encourage both employers and employees to promote industrial safety jointly and to improve the safety conditions of the workplace. Employees compensation, after all, is no more than a remedial measure. To face the issue of industrial safety squarely is the right answer.

In view of the importance of industrial safety, we also propose to incorporate the function of promoting industrial safety into the central compensation system. The existing arrangement under which employers take out insurance with private insurance companies does not help much in promoting industrial safety because insurers have no regard to the industrial accident records of their client companies before deciding on the level of premiums. The common practice is that a company would take out labour insurance for employers with the particular insurer which it takes out other insurance cover.

I hold that under such a centrally administered insurance scheme, the employees compensation system may be pegged to industrial safety record in that a higher premium is to be charged against companies with poor record of industrial safety. And to this end, archives on industrial safety of client

companies should be established. Apart from that, I would also like to suggest that a report be submitted to the agency administering the employees compensation fund by the Labour Department after each regular inspection on safety facilities of dangerous trades. Reference may be drawn from a company's past safety record when determining the level of premium. With the introduction of such measures, employers will naturally pay more attention to industrial safety if they want to keep premiums down. The Government can thus achieve a reduction of industrial accidents through the system. We can thus kill two birds with one stone.

With the establishment of the central compensation fund, industrial injuries or deaths arising out of employer' negligence may lead to civil proceedings for compensation and the legal costs which could be exorbitant may have to be borne by the fund. Similar incidents have occurred in some states in Australia. With this in mind, the Government should also consider classifying industrial injuries or deaths arising out of employers' negligence as criminal cases after the implementation of a centralized system. Industrial safety is a matter of life and death. It is hoped that the Government will take it seriously and act on the suggestions of this Council.

With these remarks, I support the motion.

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I should like to begin by thanking all those Members who have spoken in this debate this afternoon. The idea of a central compensation fund is not new. It was examined by a working group under the Labour Department in 1991. The proposal was subsequently considered in great detail within the Government. We have since come to the conclusion that the arguments are not sufficiently strong to justify a fundamental change to the present system of employees compensation. Let me explain why.

*The existing employees compensation system*

The existing employees compensation system is underpinned by two statutes, namely the Employees' Compensation Ordinance, and the Pneumoconiosis Compensation Ordinance. The Employees' Compensation Ordinance operates on the concept of individual employer liability where all employers are required to insure their liabilities with authorized insurers in the private sector. The bulk of employees compensation cases are covered under this Ordinance. By contrast, the Pneumoconiosis Compensation Ordinance operates on a collective liability basis where compensation is charged to a levy paid by the quarrying and construction industries.

There are good reasons for the pneumoconiosis compensation system to be run on a collective liability basis : it is difficult to pinpoint any employer's

exact liability; the number of trades involved is small; the risk in these trades is high; and the victims suffer irrecoverable damages which may deteriorate over time. But such a system is the exception rather than the rule.

*Perceived deficiencies of the present system*

Members have pointed to a number of deficiencies under the present system:

- first, the present system does not provide sufficient cover to employees in that some employers abuse the law by not taking out insurance cover for their employees; and that insurance companies may fail, leaving employees unprotected;
- second, victims of industrial accidents have to wait a long time for assessment and compensation;
- third, much of the insurance premium now goes to the profits of insurance companies. It is unfair to both employers and employees;
- fourth, private insurance companies have no regard to the safety record of their client companies. There is hence no incentive for companies to improve their safety performance; and
- fifth, it is inefficient for employees compensation to be operated under different schemes.

It is also argued that a central compensation system would be more efficient in operation, that administrative expenses would be reduced, and that profits would be removed, thus allowing for the insurance premium to be used in other related areas such as accident prevention and rehabilitation of injured workers.

Let me answer these points point by point.

*Insufficient cover to employees*

On insurance cover for employees, there is a common misconception that the insurance cover is for employees. This is not the case. Under the present system, employers are held liable for any liabilities under the Employees' Compensation Ordinance and at common law. The insurance cover is therefore to cater for employers' liabilities. Indeed, it is in the interest of employers themselves to take out insurance cover, for otherwise they face the liabilities personally.

Nevertheless, to cater for the small number of cases where, for various reasons, employers have not sought insurance cover and are unable to pay, the Government has set up the Employees Compensation Assistance Scheme which

will provide coverage for accident victims in such circumstances. There is therefore no need for a central system to take care of that. The same Scheme also provides coverage to employees in the event that an insurer fails to pay.

*Waiting time for injury assessment and compensation*

It is in the nature of injury assessment for serious accident cases that the victims have to be given time to recover before the extent of permanent injury can be accurately assessed. This will have to be the case irrespective of whether the insurance scheme is administered centrally or by private companies. For these cases, employees are entitled to specific periodic payments of two-thirds of their monthly salaries while on sick leave. Where employers fail to make such payments, the special loan fund that we have set up earlier this year would cater for their short-term needs while the Labour Department takes enforcement action against the employers. There should therefore be no question of undue hardship under the present system.

Where delay in compensation is due to litigation on liabilities, again the court proceedings would have to be gone through whether the system is administered centrally or not.

For minor cases involving no permanent injury and with sick leave of not more than seven days, we have already introduced a direct settlement system in 1992 to speed up the payment of compensation. The Labour Department has also issued a performance pledge in August this year. Among other things, the Department has pledged that a Certificate of Compensation Assessment will be issued to an injured employee within two weeks after medical clearance, or within three weeks after assessment by an assessment board. All these improvements have been effected without the need to change the nature of the present system.

*Excessive profits by insurance companies*

It is not for me to defend the insurance industry or to explain how they actually operate in the field of employees compensation. It is the job of the industry's representatives to explain themselves, or for those interested groups or parties to get into direct dialogue with the industry. The Government's role in the present framework of employees compensation is to ensure that employees who are entitled to compensation under the law receive the amounts that are due to them, on time and in accordance with the legal entitlements.

But I would like to use this opportunity to clarify the misconception concerning the compensation pay-out to insurance premium ratio. According to the statistics given by the Commissioner of Insurance, as far as employees compensation is concerned, net premiums to the industry after reinsurance amounted to \$1,091 million in 1992, and the net claims incurred amounted to \$721 million, representing a pay-out ratio of about 66%. The corresponding

figures for 1991 were \$874 million for net premium, \$585 million for pay-outs, with a pay-out ratio of about 67%.

However, after deducting the commissions payable (which include those paid to policy holders) and relevant management expenses, the insurance industry as a whole has suffered a loss for the past three years, as far as their coverage for employees compensation is concerned. These losses amounted to \$95 million and \$172 million for 1990 and 1991 respectively. Provisional figures from the Commissioner of Insurance indicated that the loss in 1992 would amount to about \$214 million.

*Regard to the safety record of companies*

Under an individual employer liability system of compensation, it is inconceivable that insurance companies have no regard to the insurance records of particular trades or indeed particular companies, especially where there is a clear record of high accident and claim rates. It is simply a matter of market logic that insurance companies would seek to match their insurance premium with their claims experience and the potential risks they face from their clients. Indeed, the Accident Insurance Association collects industry-wide claims statistics and advises its members on a wide range of matters, including the proper level of premiums in respect of each type of risks. It must be highly doubtful whether a central insurance agency would be able to perform better than the market in this regard.

*Grouping all compensation schemes under one roof*

To the suggestion that it would make better sense to group different employees compensation schemes under a central agency, I should remind Members that the present two system of compensation are based on different concepts of liability and are hence operated differently. A collective liability system necessarily requires a central agency to administer and operate it. But there are no perceivable benefits in operating an individual liability system under the same roof.

*Would a central agency be more efficient?*

I am very surprised to hear the argument that a central agency operating in a monopolistic environment would be more cost-effective and efficient. Few people should have more faith in market forces than the people of Hong Kong, which is itself a shining example of the triumph of market forces over central planning. Efficiency and cost-effectiveness often goes with profit motivation, not against it. Removing profits and taking away competition is no ticket to efficiency. Evidence abounds in other countries, many of which are working hard to privatize their national operations. I see no good reason, but instead a lot of downside risks, in the proposal for us to turn a competitive market system into a central monopoly. Why should we follow the muddy foot steps which are

busily being abandoned elsewhere? This is not the Hong Kong way. It would indeed be a significant step backwards if we were to adopt the motion.

### *Conclusion*

Mr President, it is the Government's role to make sure that employees' interests under the law are well protected. We have been working hard on it for many years. Recent examples of improvements include enhancement of the maximum levels of employees compensation, improvement to the schedule for assessment of permanent incapacity, a new provision to enable employees to make direct claims against an insurer under certain circumstances, the expansion of the list of compensable occupational diseases, and the setting up by the Government of a loan scheme to provide emergency financial assistance to injured employees and dependents of deceased employees who may be in hardship as a result of work accidents. The Government is far from standing still when it comes to giving "better protection to industrial accident victims."

We are also stepping up publicity and promotion efforts to prevent industrial accidents, through the Factory Inspectorate and the Occupational Health and Safety Council. We are working together with the Employees Retraining Board and the Vocational Training Council to design suitable training courses to assist those industrial accident victims who need retraining to rejoin the workforce. All these activities are well co-ordinated under the present system and are being taken good care of, without the need to create a mammoth cover-all central agency.

Mr President, I accept that there is room to improve the present system of employees compensation. But I fail to see how a central monopoly would necessarily function better than the present market system. We must not make the mistake of rushing to a fundamental change to the system, simply because it is not perfect. Such a mistake could have serious implications and could be very expensive to make good later on. Unless and until there is clear proof that the present system fails to achieve the purpose it is intended, which is definitely not the case at present, the Administration is of the view that we should not take such a drastic step as proposed in the motion. The *ex officio* Members will therefore vote against the motion.

Thank you.

PRESIDENT: Mr LAU, do you wish to reply? You have 4 minutes 12 seconds.

MR LAU CHIN-SHEK (in Cantonese): Mr President, I hope that our debate would concentrate on the compensation for industrial accident victims. The injuries sustained by these workers include the loss of limbs, eyes, and some even become vegetables. For workers who have unfortunately been injured or killed in the course of work, adequate compensation should be paid to them or

their families. As I said just now, I do not want to see today's debate turn into a debate on ideology. Regrettably, a Member still suggested that the setting up of a central compensation fund is tantamount to practise socialism. As many Members support the idea of a Central Provident Fund, does it mean that they support socialism? Both Australia and Canada have already established a central compensation fund. Does it also mean that these countries practise socialism? Mr CHIM suggested that "one should look after oneself", but I advocate "mutual care". Industrial accidents affect the workers, their families and employers. The employees compensation is a case in which employers give their money but the employees give their blood and life in return. Who benefits most from it?

A Member said some people are envious of the high level of commission of the insurance industry. I do not want to get into an argument over figures. I would only repeat the point that I made just now, that is, after the Administration revised the rate of compensation and increased the annual compensation pay-out by an estimated \$150 million, the insurance industry declare that they have to increase the total premium by \$500 million. I am not sure whether travel agencies operate on the basis of a commission system. Nor do I know any kind of business which charges commission. Yet, the commission payable to the insurance agents will add to the operating costs of the employees compensation schemes, thus making it impossible for workers to receive a higher compensation. The injured and the deceased's families indeed rely on the compensation to support their livelihood.

I would like to respond to the reply given by Mr Michael LEUNG just now. My motion aims at providing compensation to workers at a faster speed and in a more satisfactory and reasonable manner. If the insurance companies had done a good job, the Government would not have to set up two central funds and give compensation to workers whose employers do not take out any insurance coverage and to provide assistance to workers who have not yet received two-thirds of the periodic payments during their sick leave. For those companies which do not have adequate insurance coverage for its employees, such funds will not help much. One of the important points of today's motion is to improve industrial safety. Mr LEUNG seems to suggest that this should be possible. Some Members also mentioned that some insurance companies lower the amount of their premium in order to compete for business. Under these circumstances, how can we have additional resources to implement the proposal that I made earlier, that is, to improve industrial safety, let alone the provision of rehabilitation services for the workers.

I would like to thank those Members who have spoken on the motion, whether they are for or against the motion, or express regret for it. I do hope that they would vote for the industrial accident victims and improvement of industrial safety.

Thank you.

*Question on the motion put and agreed to.*

**Private Member's Bill****First Reading of Bill****PUBLIC OFFICERS (VARIATION OF CONDITIONS OF SERVICE)  
(TEMPORARY PROVISIONS) BILL**

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

**Second Reading of Bill****PUBLIC OFFICERS (VARIATION OF CONDITIONS OF SERVICE)  
(TEMPORARY PROVISIONS) BILL**

MR TAM YIU-CHUNG moved the Second Reading of: "A Bill to impose temporary restrictions on the variation of the conditions of service of certain public officers."

MR TAM YIU-CHUNG (in Cantonese): Mr President, I move that the Public Officers (Variation of Conditions of Service) (Temporary Provisions) Bill be read the Second time.

On 30 July 1993, the Administration announced that it would revise the civil service localization policy to allow public officers currently employed on overseas contract terms, if they fulfill certain conditions, to apply for transfer to local contract terms.

Since the announcement was made by the Administration, Members of this Council have found signs of worry, unrest and division within the Civil Service. We understand that local civil servants, considering their career advancement being blocked, are having misgivings about the abovesaid policy. On the other hand, we do recognize the contribution overseas officers have made towards Hong Kong. The current division among the civil servants is indeed detrimental to the well-being of Hong Kong in that it has brought about adverse effects on the services rendered to the public. The majority of Council Members have come to the view that the implementation of this revised policy, which is controversial, should be frozen immediately and that the Administration should embark on thorough discussions with various local and expatriate civil service unions or associations and listen to the opinions of the general public, in order to work out an arrangement which is considered fair or transparent and acceptable to the whole of the Civil Service and all connected parties. Unfortunately, the Administration has declined to accept this proposal repeatedly put to it by Members.

The Bill now before Council seeks to freeze the revised civil service localization policy and bar it from implementation for a short period until 20 April 1994. Subject to it being passed into law, this Bill will temporarily prohibit any variation of conditions of service of any serving civil servant employed on local or overseas conditions of service. Members' intention is to give the Administration and various civil service unions or associations more time to get down to discussions to work out a more satisfactory solution. It must be emphasized that Members keep an open mind with regard to the expiry date of this Bill. Generally speaking, this Bill would become unnecessary should the Administration decide of its own accord to initiate a freeze on its revised civil service localization policy. Conversely, should the parties fail to reach an acceptable solution before the expiry of this Bill, Members would then consider extending its effective period.

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

### **Adjournment and next sitting**

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 10 November 1993.

*Adjourned accordingly at seven minutes past Six o'clock.*

*Note:* The short titles of the Bills/motions listed in the Hansard, with the exception of the Official Languages Ordinance, Residential Care Homes (Elderly Persons) Bill and the Sewage Tunnels (Statutory Easements) Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.



## WRITTEN ANSWERS

## Annex I

**Written answer by the Secretary for Security to Mr LEE Wing-tat's supplementary question to Question 3**

I have checked with the Census and Statistics Department, the police and the Attorney General's Chambers. There is no record of any prosecutions for treason.

## Annex II

**Written answer by the Secretary for Economic Services to Mr Peter WONG's supplementary question to Question 4**

As I said at the time, our rates compare very favourably with those of other countries. By way of illustration, I have set out below International Direct Dialling (IDD) charges for a call from Hong Kong to some of our major telecoms destinations compared to those for a similar call in the reverse direction. (Hong Kong's IDD rates are charged on a six-second-breakpoint basis but this rate structure does not apply to most of our major communications partners. We have therefore used the lowest common denominator of one minute, although this tends to work to Hong Kong's disadvantage as a point for comparison.)

Country	<i>To Hong Kong</i>		<i>From Hong Kong</i>	
	<i>1st min charge</i>	<i>Per min Charge in a 3-min call</i>	<i>Per min Charge in a 6-min call</i>	<i>Flat rate per min</i>
		<i>(HK\$ equivalent)</i>		<i>(HK\$)</i>
Australia	7.9	7.5	7.4	8.1
Canada	12.7	9.9	9.2	8.9
Germany	14.5	14.5	14.5	12.5
Japan	25.7	17.6	15.6	7.9
Singapore	7.2	7.2	7.2	6.9
United States	27.9	16.3	13.3	9.8
United Kingdom	9.8	9.8	9.8	9.8

**WRITTEN ANSWERS** — *Continuous*

(Rates are those applying in July-August 1993, with the exception of the United States figure which is from January 1993. Exchange rates are as of 8 December 1993.)

Mr Peter WONG will note that, with the exception of Australia, IDD charges for calls originating from Hong Kong are lower than those for calls in the reverse direction. For a one minute IDD call between Hong Kong and Japan, the call charge from Hong Kong (\$7.9) can be less than one-third that (HK\$25.7 equivalent) from Japan.