

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 17 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.

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

THE HONOURABLE RONALD JOSEPH ARCULLI, 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 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

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

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

THE HONOURABLE MARVIN CHEUNG KIN-TUNG, 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

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

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

MR HAIDER HATIM TYEBJEE BARMA, I.S.O., J.P.
SECRETARY FOR TRANSPORT

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

DR LEE SHIU-HUNG, I.S.O., J.P.
SECRETARY FOR HEALTH AND WELFARE

MR TAM WING-PONG
SECRETARY FOR FINANCIAL SERVICES

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

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

Papers

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Employment Agency (Amendment) Regulation 1993.....	439/93
Rectification of Errors Order 1993.....	440/93
Employees Retraining Ordinance (Amendment of Schedule 2) (No. 11) Notice 1993	441/93
Declaration of Change of Title (Deputy Secretary (Civil Service) General Grades) Notice 1993	442/93
Declaration of Change of Title (Principal Assistant Secretary (Civil Service) General Grades) Notice 1993	443/93
Amusement Game Centres Ordinance (64 of 1993) (Commencement) Notice 1993.....	444/93

Sessional Papers 1993-94

- No. 28 — Annual Report of the Director of Accounting Services
and the Accounts of Hong Kong
for the year ended 31 March 1993
- No. 29 — Director of Audit's Report No. 21
on the Accounts of the Hong Kong Government
for the year ended 31 March 1993
and the results of value for money audits

Oral answers to questions**Sewage services charging scheme**

1. MR NGAI SHIU-KIT asked (in Cantonese): *In view of the recent proposal by the Government to implement a charging scheme for sewage services in 1994, will the Government inform this Council how the unfair situation of double-charging is to be avoided under "the polluters pay" principle, so that those manufacturers who have installed their own sewage treatment systems are*

exempt from paying the proposed trade effluent surcharge for the industrial and commercial sectors?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, under the proposed system of charging for sewage services a trade effluent surcharge will be applied to a small number of industry and trade accounts. This surcharge will reflect the cost of treating the more polluting effluents from some industrial and commercial premises to bring them down to the average strength of domestic sewage. The imposition of such a surcharge has already been agreed in principle with industry and takes account of the fact that in Hong Kong's particular circumstances — that is the restrictions on space and floor loading which exist in some flatted factory buildings — some operators may not be able to provide treatment for their effluents before discharge on an economic basis.

There are manufacturers, however, who will be able to install their own sewage treatment systems and pre-treat their effluents so as to reduce the polluting load which would otherwise be released to the public sewerage system. As the trade effluent surcharge will be calculated in accordance with the strength of the effluent released, the better its treatment before release, the lower the surcharge will be. There will not therefore be any double-charging of manufacturers who install treatment facilities or any unfairness. Rather, the trade effluent surcharge will send the correct environmental signal to industry: the better you treat your effluent, the less you pay.

MR NGAI SHIU-KIT (in Cantonese): *Mr President, the Administration said in the main reply that the trade and industry organizations had agreed to such a surcharge, but it also indicated late last month that a charging scheme for trade effluent was still being formulated. Will the Administration inform this Council of the progress in this respect and whether it will consult the industrial and commercial sector on the charging principles before they are finalized?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, as far as the overall charging scheme is concerned, we are in the process of public consultation and we have extended by request the public consultation period to the end of November, instead of, as originally, the middle of November. As far as the trade effluent surcharge is concerned, we have so far been discussing with industry — and we have been doing this for several years — the methodology and principles. And, as I have said, we have general acceptance of the principle of a trade effluent surcharge from industry. We are, as a result of the public consultation process, now finalizing the more detailed arrangements for the trade effluent surcharge. We will finish this work early in the new year and we will certainly consult all those affected on the detailed implementation of the trade effluent surcharge.

MR HENRY TANG: *Mr President, the Secretary has said that there will be a trade effluent surcharge imposed on some industries discharging industrial effluents. Will the Secretary confirm and clarify whether, after the trade effluent surcharge, there will not be any other effluent surcharge based on the use of water as has been proposed for domestic households? And what will the Government do regarding operators of certain industries, especially the small to medium-sized ones, who will not be able to afford any effluent discharge facilities and for whom the imposition of the trade effluent surcharge will mean too high a charge to afford?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, there are two elements in the sewage charging, as far as the system will apply to industries. There is the basic charge which will be levied in relation to discharges of effluents into the sewerage system — the same sort of arrangements for both industry and domestic households. The trade effluent surcharge, as I have mentioned, is the second part of the charging on industry and this is to, as I have explained, reduce the industrial polluting effluents to the equivalent of domestic sewage in polluting effect. There are no other charges in relation to sewerage contemplated.

I think the second part of the question is related to those industries for whom a sewage charge will affect their costs. The studies which we have done — and I think on which we have consulted trade and industry organizations — indicate that for most manufacturers the trade effluent surcharge, and indeed the whole of the sewage charging system, will have very marginal effect on operating costs. At the same time, I think Members will be aware by now that the Industry Department has recently carried out a full-scale study into the implications for industry of environmental legislation and is considering the steps which may need to be taken to assist industry to cope with these requirements. The result of that study is an action plan which I believe the Director-General of Industry will be following up.

MISS CHRISTINE LOH: *Mr President, I understand from papers circulated to the Environmental Panel of this Council that the trade effluent surcharge will be calculated by something known as the "Rapid Assessment Arrangement", whereby the charges are in fact averaged out amongst the industrial polluters. Could the Secretary confirm to this Council that this particular way of assessment is inherently unfair because it discriminates against those who are cleaner and it does not encourage those who are most dirty to do something about their pollution?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think the question of fairness here has to be applied in relation to the manufacturing sector and the rest of the community, rather than between manufacturers, the point being that, if we go through the process which is

necessary to apply a specific charge to a particular manufacturer, the time that will need to be taken to achieve any charging system at all is probably a minimum of another two years. We will be introducing that sort of specific system operation by operation, but our averaging basis is designed to enable a system of charging to be introduced next year. However, it will not be unfair in that any manufacturer, who believes that the trade effluent surcharge imposed on him as a result of averaging is unfair, will be able to appeal and have the details of his case examined.

MR JAMES TIEN: *Mr President, industry in general is very supportive of the Government's position on "polluter pays". It shares the view that this trade effluent surcharge will send the right signal to operators, which is: The better you treat the less you pay. However, will the Secretary advise this Council how certain industries, such as the bottle industries — which are big users of water, but not big polluters — will be dealt with and whether the basic water charge versus the trade effluent surcharge will be in such a proportion as will induce manufacturers to clean up their effluents? Basically what I mean is: Would the basic charge be low and the surcharge, if effluents be not properly treated, be high?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, to answer the last part of the question, I think the point is that the ordinary sewerage charge will be related to the requirements for treating effluents from domestic and industrial and commercial users which are not particularly polluting. In other words, these users receive the normal level of treatment and service. The trade effluent surcharge, as I have said, is to apply to particular polluting industries and is, if I may so put it, to require them to pay for bringing their effluents down to the normal level. So if one pollutes more, one pays more. The question of high or low, I think, is a difficult one to answer specifically because it depends from which point of view one is examining this question. I mean I have very little doubt that if this question is looked at from an individual polluter's point of view, most polluters are likely to say this charge looks a bit high. But if one looks at it from a community point of view, one would be able to say that these charges are reasonable.

PRESIDENT: Was your question not answered, Mr TIEN?

MR JAMES TIEN: *Mr President, may I be allowed to seek further clarification on this?*

PRESIDENT: Well, if your question has not been answered you may. But if you simply want another supplementary, we have to move on, I am afraid.

Shenzhen River regulation project

2. MR MICHAEL HO asked (in Cantonese): *A bilateral working group was set up by the Governments of Hong Kong and China in the early 1980s to consider plans for regulating Shenzhen River. Will the Government inform this Council of:*

- (a) *the agreements reached between the two sides since the commencement of the negotiation; and*
- (b) *those problems, apart from the technical ones, which have not been resolved, thus causing delay in the commencement of the works concerned?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, as regards part (a) of the question, the Hong Kong Government and the Shenzhen Municipal Government have reached agreement on the following aspects of the Shenzhen River Regulation Project:

- (i) the broad scope of the project;
- (ii) project financing;
- (iii) the land survey requirements for the Stage I works area;
- (iv) site investigation and hydraulic model test requirements to ascertain the possible effects of the Stage I and II works on the Lo Wu railway bridge; and
- (v) the environmental impact assessment requirements for Stages I and II of the project.

Regarding part (b) of the question, the preparatory work for the project is proceeding as rapidly as possible and we are working closely with the Shenzhen side. Design work is in progress and the environmental impact assessment is about to start. Funding approval will be sought from the Finance Committee once the design is finalized and the estimated project costs are known. Although the various complex technical issues normally associated with a project of this size and nature will need to be resolved, I do not see any reason why the project should be delayed.

MR MICHAEL HO (in Cantonese): *Mr President, the Shenzhen River has always been used as the boundary line dividing Hong Kong from China. I have learned from the government department concerned that the Shenzhen River training project will involve the straightening of river bends, and that I think will have the effect of altering the course of the river. If we are to continue to*

use the Shenzhen River as the boundary line, then some Chinese territories will become part of Hong Kong and vice versa. The first part of the reply has not mentioned the boundary issues. Have they been solved already? If not, what is the position now?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, we see no reason why the boundary issues should affect the river project.

MR MICHAEL HO: *Mr President, I would like to have a short follow-up.*

PRESIDENT: Has your question not been answered, Mr HO?

MR MICHAEL HO: *No, Mr President, it has not been answered.*

MR MICHAEL HO (in Cantonese): *Mr President, as the Shenzhen River is used as the boundary line, and if the course of the river is changed, will we take the new river course as our boundary line; and in such circumstances, how can we say that there are no implications at all?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the boundary implications of the project are being looked into separately, in the context of the ongoing talks on boundaries of administration between Hong Kong and Guangdong. As the discussion is still ongoing, it is not appropriate for me to go into details as regards the boundary talks at the moment. But I can say that both sides have agreed that we have reached a stage in these talks which makes it possible for the preparatory work on the river project to continue.

MR MICHAEL HO (in Cantonese): *Mr President, I have a short follow-up*

PRESIDENT: *I am afraid we have to move on because there is such a long queue of Members.*

MR LAU WONG-FAT (in Cantonese): *Mr President, will the Administration inform this Council if the bilateral working group has considered taking some short-term relief measures to reduce the occurrence of floods or the level of damage before the Shenzhen River project starts?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, there are no short-term measures in view as far as the Shenzhen River itself is concerned. But, if I may point out, I shall be dealing in some detail with other flood prevention measures in relation to rivers in this area in the motion debate later this afternoon.

PRESIDENT: Yes. Members should not anticipate, of course, the motion debate itself.

REV FUNG CHI-WOOD (in Cantonese): *Mr President, the two Governments have discussed about this project for over 10 years, and during this time, discussion has been suspended for a few years. Is the delay caused by the unwillingness of the Shenzhen Municipal Government to do the project or a result of procrastination on the part of the Hong Kong Government?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I do not think there is any question of anybody being unwilling to do the project or anybody else dragging their feet. I think it has to be accepted that if one is planning a fairly major engineering project on a border river there are complicated issues to be discussed and resolved. The point is that, whatever time we have taken, we have now reached agreement on the basic requirements of the project and certainly by early 1995 we will be able to get on with it.

MR FREDERICK FUNG (in Cantonese): *Mr President, I would like to ask about the project financing as mentioned in item (ii) of the first paragraph of the Secretary's reply. Past experience showed that there were always arguments when there were discussions on financing. Has there been any argument between Hong Kong and Shenzhen during the discussion on project financing? Will the project be financed jointly by the two Governments, or will it be separately financed? If the latter is the case, what is the proportion Hong Kong will be responsible for?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, we did not have any arguments at all; we had discussions. As far as the details of the costing of the project are concerned, given that the detailed design and engineering studies are continuing, I think the best thing that I can offer is that when we come to the Finance Committee for funding for the project, we will, of course, as usual, provide full details of the requirements.

MRS SELINA CHOW (in Cantonese): *Mr President, we are very concerned about the fact that the New Territories, especially the northern and northwestern parts, are largely affected by the Shenzhen River and a project for*

training the Shenzhen River is urgently needed. In order not to hold up the project, what actions will the Administration take such that the environmental impact assessment mentioned in the second paragraph of the reply will not be delayed?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, we have been looking at ways to speed up the preparatory works and to advance the project. As an example, we have asked the environmental impact assessment consultants to come up with a preliminary study report six months after the commencement of the study to ascertain as far as possible the acceptability of Stage I of the project. If the report confirms the acceptability of Stage I of the project, we may then be able to bring forward the Stage I works.

MRS SELINA CHOW (in Cantonese): *Mr President, my question has not been answered. My question is: Will the Administration, after the assessment, give up the project on the ground that its environmental impact is too great?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think it follows from the fact that we are carrying out an environmental impact assessment that we do not at this stage know what the full environmental impacts will be. However, the purpose of environmental impact assessment is to establish the environmental effects and to consider mitigation measures should those be necessary. I think preliminary indications are that this is a project which it will be possible to implement. But as to how it should be implemented and what environmental impact mitigation measures may need to be taken it will be entirely dependent on the assessment.

MR WONG WAI-YIN (in Cantonese): *Mr President, Mr EASON has said just now that the project has not been delayed. But it is learned that the discussion has been going on for 12 years since it started in 1981. Yesterday, Mr TIK Chi-yuen and I went to Shenzhen to take the matter up with the authority concerned. We learned that China and Hong Kong had already reached an agreement in 1988 that the project could be started, but the Hong Kong side suddenly stopped proceeding. May I ask Mr EASON why the Administration suddenly stopped proceeding in 1988 when both sides nearly reached an agreement on the project and why we did not resume negotiation with China until 1992? And what discussions have been held between the two sides on the training of the Shenzhen River in the past five years?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I am not sure where the Honourable Member received word that the Hong Kong Government had called off discussions, and I do not think that in

fact is an accurate description of the process of discussion that has been going on. Looking at it from one point of view, I think it is very easy to see that the time taken for necessary discussion and planning could be labelled delay. But for those involved in that work that is exactly what it is. So, I think I have already covered in my main reply the items upon which agreement has been reached and I believe that I would be repeating myself if I were to simply say all that again.

PRESIDENT: Yes, Mr WONG?

MR WONG WAI-YIN (in Cantonese): *Mr President, my question is: During the past five years from 1988 to 1992, have Hong Kong and China had any further discussions on the Shenzhen River project, and if not, why not?*

PRESIDENT: I think you have really had two supplementaries and I have got to give someone else a chance.

MR TIK CHI-YUEN (in Cantonese): *Mr President, the residents in northern and western New Territories earnestly hope that the Shenzhen River project can be completed as soon as possible, but we still have to wait 15 to 18 months for the environmental impact assessment to complete. My question is: Since the main purpose of Stage I works is to "straighten" some river bends, and such works will not in fact affect the environment, so in these circumstances, can we start Stage I works while the environmental impact assessment is ongoing so that the project can be started earlier?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think the simple answer is no. But the preliminary work on the environmental impact assessment will tell us whether Stage I of the project can be started before the full environmental impact assessment is completed.

Grants for local students at tertiary institutions

3. MR LEE WING-TAT asked (in Cantonese): *Since the Executive Council has recently approved a hefty increase in course fees of institutions funded by the University and Polytechnic Grants Committee, will the Government inform this Council:*

- (a) *of the rationale for an increase in university course fees higher than the inflation rate and for recovering 18% of teaching costs;*

- (b) *whether the grants provided under the subsidy scheme of the Committee to local students have been raised accordingly, and whether the increase can catch up with inflation; and*
- (c) *whether the Administration has considered that the hefty increase in university course fees will add to the burden of local students; and whether consideration will be given to freezing the policy in the first instance and conducting extensive public consultation before decisions on the future rate of increase in university course fees are taken?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the rationale for recovering 18% of the recurrent cost of tertiary education is to achieve a more equitable share between the students' families and the community on the cost of educating their children. We are seeking a reasonable contribution from those who can afford to pay.

Having taken into account the generally higher cost recovery rates prevailing in other countries, the enhanced and rapid funding for the accelerated expansion of tertiary education in recent years, and the availability of financial assistance to needy students, the Government decided in 1991 that the cost recovery rate for degree course fees should be increased gradually to 18% by 1997-98. This rate is considered to be a reasonable balance in sharing the cost, and is also comparable with those prevailing in countries operating similar education systems.

We provide financial assistance to needy students through the Local Student Finance Scheme. The objective of the scheme is to ensure that no qualified students will be denied access to tertiary education due to financial difficulties. The levels of maximum grants and loans are adjusted annually to take account of the actual increase in tuition fees, as well as the projected increases in academic and living expenses.

It is not expected that the increase in tuition fees will create any burden on those students qualifying for grants and loans. For the period 1991-92 to 1993-94, tertiary tuition fees for degree course have increased by 70%, from \$10,000 to \$17,000. The average financial assistance to students has increased from \$16,594 to \$36,430 in the same period, that is, an increase of 119.5%. The number of successful applicants for grants and loans in this period has risen 123% and 81.8% respectively, whereas the total amount of funds disbursed for grants and loans has increased even more sharply from \$197 million to \$786 million, that is, an increase of 299%. It is obvious, therefore, that the average student qualifying for financial assistance has actually enjoyed real increases in grants and loans over the period.

The Administration considers that the policy target is reasonable and that adequate financial assistance is in place to help those in need. We do not therefore consider it necessary to change the present policy.

MR LEE WING-TAT (in Cantonese): *Mr President, it was said in the first paragraph of the Administration's reply that "the rationale for recovering 18% of the recurrent cost of tertiary education is to achieve a more equitable share between the students' families and the community on the cost of educating their children". It was also mentioned in the fourth paragraph that tuition fees for degree course for 1993-94 were \$17,000 a year. This is about two and a half months' wages of an average worker. Will the Administration consider this fee too high for the general public, which will force those who cannot afford it to borrow a large amount of money in order to get into tertiary institutions?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I think the fourth paragraph of my reply explains fairly adequately that the increase in tuition fees is moderate compared with the very generous increase of financial assistance to all needy students. I confirm once again the policy that the Government will ensure that no qualified students will be denied access to tertiary education due to financial difficulties and this policy remains in place. I think that neither in the past nor at present have there been any cases where hardship has been caused because of increase in tuition fees. Indeed, as I said, again in the fourth paragraph, assistance to students has increased substantially and students are in fact enjoying much higher increases in assistance than increase in fees.

MR VINCENT CHENG: *Mr President, quite clearly the increase in university course fees is partly due to a rise in costs of tertiary education in Hong Kong. Can the Secretary inform this Council what measures have been taken by the tertiary institutions and the UPGC to control the increasing costs?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, as far as UPGC-funded institutions are concerned, the UPGC has a long established system to check the financial requirements of each of the institutions and to monitor and control expenditures after grants have been approved. This is, in essence, a system whereby the institutions make day-to-day management decisions to accomplish the tasks expected of them while the UPGC checks whether the necessary tasks have been achieved at satisfactory standards and what the costs involved are. There is regular monitoring by the UPGC on institutions which it funds. This system requires very detailed returns on the utilization of funds relating to student targets, to staff recruitment and to actual expenditures and costs. I should add that the UPGC is now moving on to a funding methodology which will look more closely into funding in relation to performance and this is now being developed in conjunction with the

institutions. I am sure that with this new system in place in the near future, it will give more balanced assessments of cost effectiveness and ensure that we get value for money for the investments in education in the tertiary sector.

MR STEVEN POON (in Cantonese): *Mr President, when low-income families send their children to tertiary institutions, not only do they have to pay for their tuition fees, they also would lose at the same time a helping hand who earns money in the family. Can the Administration inform this Council whether this factor would be taken into account in considering the size of financial assistance so that the amount of grants and loans will be increased to a level higher than that of tuition fees to compensate parents for the loss of earnings as a result of sending their children to tertiary institutions?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the existing financial assistance scheme is monitored and administered by the Student Financial Assistance Agency. It is assisted by the Joint Committee on Student Finance which comprises members of the community, representatives of institutions and representatives from the student unions. This mechanism caters for the needs of students. In recent years there have been two student price indices developed, one on academic expenses and the other on living expenses and both indices are more reliable and more realistic than the CPI(A). In addition, these are supplemented by student expenditure surveys done on a regular basis to prove that students are getting the assistance they need for the purpose of education. The current formula is considered to be acceptable and justified. But if there are any hardship cases, the Joint Committee on Student Finance will always look at those cases. And it did happen in the past that the committee looked at cases, based not just on means testing but also on particular hardships, and the committee approved a number of additional grants or loans based on such considerations. I think therefore that the present system is sufficient to cater for the needs of the students and their families.

DR YEUNG SUM (in Cantonese): *Mr President, will the Secretary inform this Council of the number of applications for financial assistance from students of UPGC-funded institutions in 1992-93, the number of unsuccessful applications and the reasons for refusal in general?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I do not have the details on unsuccessful applications, but I do have details on the successful ones and I could give them as examples. In 1992-93, the student population was 42 562; the number of successful applications for grants was 11 475 and the number of successful applications for loans was 14 168. The average grant was \$8,666 and the average loan was \$12,208 and the average financial assistance came to \$19,227. To the extent that these amounts cover

tuition fees and other expenses, it does indicate that the assistance given is adequate.

DR YEUNG SUM (in Cantonese): *Mr President, the Secretary's reply is in itself incomplete. I hope the Administration can provide a written reply as to the number of unsuccessful applications and the reasons for rejecting these applications.*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I will provide the information in writing. (Annex I)

Kai Tak Airport mode of operation

4. MR FREDERICK FUNG asked (in Cantonese): *Regarding the suspension of the "opposite runway" mode of operation at Kai Tak Airport, will the Government inform this Council of the following:*

- (a) *whether it is operationally feasible for the Airport to slot all the landing flights via North Kowloon into the day time so that the number of flights coming in via this approach between the hours 9 pm and midnight could be reduced to a minimum; and*
- (b) *whether the Government will, after the re-routing of flights consider for economic reasons increasing the number of flights coming in via North Kowloon, thus rendering the air traffic and landings over North Kowloon busier?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, the reason for discontinuing the "opposite runway" mode of operation at Kai Tak between 9 pm and midnight is aviation safety. The Civil Aviation Department took the decision on the advice of the United Kingdom Civil Aviation Authority Air Traffic Control Inspectorate that the opposite runway mode of operation poses a definite hazard to flight safety.

As regards question (a), there are now hardly any time slots available for landings and take-offs between the hours of 10 am and 9 pm. But we are exploring, in consultation with airlines, the feasibility of rescheduling landings as close as possible to 9 pm and the purpose of this is to cut down aircraft noise later in the evening.

As regards question (b), there will be no increase in the total number of flight movements between the hours of 9 pm and midnight as a result of the suspension of the "opposite runway" mode. However, the Director of Civil

Aviation is considering whether more flights can be scheduled between 6.30 am and 10 am, where there are still available time slots.

MR FREDERICK FUNG (in Cantonese): *Mr President, I have a point of elucidation and a follow-up question to raise. Will the Secretary elucidate his reply to part (b) of my question, when he said "there will be no increase in the total number of flight movements between the hours of 9 pm and midnight". Is this the same as saying the Administration will not increase the total number of evening flights for economic reasons (because I have used the term "economic reasons" in part (b) of my question)? My follow-up question is: The reason given for the cancellation of the "opposite runway" mode of operation is aviation safety, which in fact is depriving the 250 000 residents of Sham Shui Po and Kowloon City of the right to quietness at night. Will the Administration formalize this policy of "no increase in the number of flights" and introduce legislation to prohibit any increase in the number of flights during these hours?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, at present we have no intention, whether for economic or any other reasons, of increasing the number of flights between 9 pm and midnight. As the Administration has no intention to increase the number of flights, there is no need to make any legislative changes.

MRS PEGGY LAM (in Cantonese): *Mr President, the Secretary said in his reply that there would be no increase in the total number of flight movements between the hours of 9 pm and midnight. Will the Administration inform this Council of the number of landings and take-offs during these hours, and whether the interval of flight movements during the day is the same as it is at night or is the interval longer at night?*

PRESIDENT: Have you got the two questions, Secretary?

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, I would first deal with the second part of the question. The frequency of flight movements depends very much on the number of landings and take-offs during a certain period of time, but there is anyhow a limit as to the shortest interval. In other words, the maximum number of landings and take-offs during a certain hour is the maximum number of flight movements technically feasible within that hour. For this reason, there is no difference between the day time and the night time.

As for the number of landings and take-offs between the hours of 9 pm and midnight, since it is usually busier on Wednesdays and Fridays, I will take Wednesday as an example. The number of arrivals is seven after 9 pm, six after

10 pm and four after 11 pm and the number of departures is 11 after 9 pm, 11 after 10 pm and six after 11 pm.

DR CONRAD LAM (in Cantonese): *Mr President, recently I received a number of complaints from residents of Kowloon City that aircraft noise pollution had been getting more and more serious. They were even worried that with the development of Hong Kong's economy, noise pollution may extend beyond midnight. Will the Administration give assurances to residents that there will be no noise pollution caused by aircraft landings after midnight, and that there will be environmental improvement measures so that residents can get better sleep at night?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): *Mr President, residents in Kowloon City feel that aircraft noise has been becoming more frequent at night because between the hours 9 pm and midnight, those flights originally scheduled for landing from Lei Yue Mun now come in from West Kowloon, that is, via Sham Shui Po and Kowloon City to the Airport. The frequency of aircraft movements under this arrangement exceeds the number of flights between 9 pm and midnight mentioned earlier, which is seven flights between 9 pm and 10 pm, six between 10 pm and 11 pm and four after 11 pm. As the Administration has not considered extending the operating hours under this mode of operation, no landings or take-offs will be allowed after midnight except in emergency.*

DR CONRAD LAM (in Cantonese): *Mr President, the second part of my question is: Will the Administration take some improvement measures against noise nuisance so that residents can enjoy better sleep at night?*

PRESIDENT: That is a rather far ranging supplementary.

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): *Mr President, maybe I will try to answer that. As I have mentioned in my reply, we are considering rescheduling the landings and take-offs later in the evening to earlier hours in the evening. In other words, we hope that with more flight movements between 7 pm and 10 pm, we can cut down aircraft noise after 10 pm.*

DR SAMUEL WONG: *Mr President, could the Secretary inform this Council whether this change in the mode of operation will provide an opportunity to increase the air traffic capacity at Kai Tak Airport and whether the approach over North Kowloon is equally safe as compared with the approach over Lei Yue Mun?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, I would like to assure Members that approaches from both West Kowloon and Lei Yue Mun are equally safe. If the feasibility studies we are carrying out, namely, of utilizing the vacant slots in the early hours of the morning and shifting more of the slots into whatever slack period that may be available during the day, give a positive result, I think implementation of such slotting arrangements will increase the overall utilization of Kai Tak, slightly.

MR HOWARD YOUNG (in Cantonese): *Mr President, concerning the second part of the question, that is, "whether the Government will consider for economic reasons increasing the number of flights coming in via North Kowloon", has the Secretary received or taken note of any complaints lodged by the tourism industry and airlines that it would be impossible to arrange for landings of a hundred odd flights in the coming lunar new year; and that similar situation will occur next summer, therefore affecting the tourism industry as well as Hong Kong people who want to travel abroad?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, we do have close contact with the tourism industry and airlines, and so are aware of the questions that Mr YOUNG has raised. As I have mentioned in my reply, we hope that we can, as far as possible, make full use of the slack period during the day.

MR JAMES TIEN: *Mr President, firstly, I would like to declare a personal interest as I live in Kowloon Tong, and secondly, I hate to get up at 6.30 in the morning. Will the Secretary please inform us, in relation to the last paragraph of his answer where he says that between 6.30 am and 10 am there are still available time slots, whether such slots are closer to 10 am or around 6.30 am?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, they are spread out, actually. Obviously, nearer to 6.30 am there is a larger number, but still there are vacancies during 7 am to 8 am and between 8 am and 10 am.

Citybus services

5. MR WONG WAI-YIN asked (in Cantonese): *Since the Citybus took over the operation of 26 Hong Kong Island bus routes (including two cross-harbour routes), quite a number of complaints have been lodged by members of the public about its services. Will the Government inform this Council:*

- (a) *of the number of complaints relating to the services of the above bus routes received up to the end of October this year; the main categories of these complaints; and whether the complaints have*

increased compared to those received during the period when the China Motor Bus Company were operating these routes; if so, what the increased number is; and

- (b) what measures will be adopted in the near future to further monitor and improve such services?*

SECRETARY FOR TRANSPORT: Mr President, Citybus commenced services on 1 September this year. They operate 24 routes on the Island and two crossharbour routes. A total of 258 complaints regarding their services have been lodged with the Transport Complaints Unit over the past two months: 177 in September and 81 in October. These complaints can be classified broadly as follows:

- (a) firstly, irregular, inadequate services or missing trips — these relate to buses not keeping to timetables, commuter expectation of more buses and the company's inability to deploy sufficient buses to meet the scheduled frequency. 159 of the complaints fall under this broad category;
- (b) secondly, inadequate passenger information and facilities;
- (c) thirdly, unsatisfactory staff attitude and performance;
- (d) fourthly, the unsatisfactory condition of buses; and
- (e) fifthly, inappropriate routing and location of bus stops.

By way of comparison 50 complaints were lodged against CMB in the two months preceding its loss of these 26 routes. *Prima facie* it would appear that Citybus' performance is worse. Let me make but one observation: that with a new operator, passengers quite rightly have a higher expectation for better services. These complaints are therefore to be welcomed — they provide a further channel through which Citybus' performance can be monitored.

Mr WONG asked what steps will be taken to get Citybus to improve their performance. Responsibility rests primarily with the Transport Department. This will be achieved through regular and spot checks

- at bus termini on the number of trips;
- on bus occupancy and frequency; and
- on vehicle turnout and deployment.

Staff from the department will also board buses unannounced to observe service situations and passenger reaction. In addition, Transport Department will continue to hold monthly meetings with the top management of Citybus to review operational matters such as driver establishment and recruitment, maintenance capability and passenger feedback. As part of the franchise conditions, Citybus will be required to fulfil their obligation to install a computer terminal in Transport Department Headquarters so that on-line monitoring is possible.

Sometimes, when warnings and other measures fail, it is necessary to hit where it hurts. Members may wish to note that I have already consulted the Transport Advisory Committee and intend, early in the new year, to introduce legislation to provide for much stiffer financial penalties to be imposed on the bus companies should they fail to remedy service deficiencies.

MR WONG WAI-YIN (in Cantonese): *Mr President, the Secretary said in his reply that only 50 complaints were received in the two months preceding the take-over of services by Citybus. The number of complaints in the two months after the take-over jumped to 258, that is, a fivefold increase. Can the Secretary inform this Council if the Administration has looked into the causes for the sharp rise in the number of complaints, which is five times that of the previous figure?*

SECRETARY FOR TRANSPORT: Mr President, the main reasons for the inadequate performance by Citybus are staff shortages, bus shortages and maintenance problems. According to its franchise, Citybus indicated that they would require 182 buses to fulfil their obligations on these 26 routes. It is early days, although they have an adequate number of buses — in fact they have over 200 buses — some of these had not yet been fully fitted out and therefore the actual deployment each day varied and there was a deficiency regarding the actual number of buses on the routes.

Secondly, as regards staffing, Citybus are about 30 bus drivers short and I have been told that they intend and expect to be able to recruit this number by the end of this month.

MRS MIRIAM LAU (in Cantonese): *Mr President, when Citybus had been in operation for one day, the Transport Department evaluated its performance and gave it 80 points. Now that it has been in operation for two months, will the Secretary inform this Council how many points the Administration will give Citybus in respect of its performance? As far as this points system was concerned, were the criteria used subjective or objective? If the latter is the case, what were the objective criteria used?*

SECRETARY FOR TRANSPORT: Mr President, I do not think a points system at this time will be of much help. But I would like to assure Members that we will be undertaking a full review with Citybus at the end of December. But having said that, Citybus are themselves aware of the situation. I do not think it is for me or for the Administration to defend Citybus' performance. They are in business and they must perform better. But we will monitor their performance and, as I said, stock will be taken towards the end of December and I shall be happy to inform the Transport Panel of this Council of the results.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, the Secretary's reply is in relation to a number of complaints from the public. Apart from complaints, how many traffic accidents did Citybus have and what is the level of casualties during the period? Is the Administration satisfied with the performance of Citybus?*

SECRETARY FOR TRANSPORT: Mr President, I do not have any statistics on accidents, but I do not believe that there have been any major accidents affecting Citybus. As regards complaints, as I said, these are being monitored and I shall provide detailed figures later.

MR MOSES CHENG: *Mr President, in the third paragraph of the answer the Secretary referred to the on-line monitoring system being part of the franchise conditions. Would the Secretary advise us whether such facility has now been installed, and if not, when it will be installed, at the Transport Department?*

SECRETARY FOR TRANSPORT: Mr President, this should have been installed at the date of the commencement of operation but for various reasons Citybus have been unable to do this. However, they have assured us that this will be in place by December.

DR LAM KUI-CHUN: *Mr President, in his comparison between complaints against Citybus and China Motor Bus, did the Secretary for Transport discern a different service problem as a cause of complaint between the two companies, and if he did, what might be the underlying reason for such a difference?*

SECRETARY FOR TRANSPORT: Mr President, the broad nature of complaints is much the same between Citybus now and China Motor Bus previously, with the bulk of complaints relating to inadequate frequencies, unsatisfactory conditions and breakdowns. So the nature is very much the same. But, as I said in my reply, I believe that because it is a new service the public expects a better service and this in itself may explain the number of complaints.

But, for the record, if we compare the September and October figures, there has been a 50% drop insofar as complaints against Citybus are concerned.

MR ROGER LUK (in Cantonese): *Mr President, I would like to put a follow-up question to the Secretary: Will the Administration likewise require other companies to install computer terminals for on-line monitoring of their operations?*

SECRETARY FOR TRANSPORT: Yes, Mr President, that is the intention.

MR ERIC LI (in Cantonese): *Mr President, the Secretary's reply shows that Citybus' performance is unsatisfactory. Although the Administration will introduce legislation to impose heavier fines early next year, has the Secretary considered taking punitive actions under the existing legislation against Citybus for its inadequate performance of service?*

SECRETARY FOR TRANSPORT: Mr President, under existing legislation there are penalties for inadequate performance of service. For the first offence or inadequacy of service, it is \$10,000, leading up to \$20,000 for the second and \$30,000 for subsequent offences. But, to date, my enquiries have revealed — and I must say I am surprised — that no fines have been in fact imposed on any of the bus companies. The new measures will introduce fines per routes. So, rather than one offence, if there are deficiencies observed on 10 routes, it will be 10 times the fine and so it will be \$100,000 for the first offence. And as I said, I hope to introduce legislation by the end of January.

MR JIMMY MCGREGOR: *Mr President, could the Secretary give more information on item (d) of the list of complaints: the unsatisfactory condition of buses? Does this mean that the buses are dirty or the air-conditioning is not working? And in fact, Mr President, what proportion of the buses are old and what proportion are new?*

SECRETARY FOR TRANSPORT: Mr President, Citybus currently have a fleet of 212 buses, but 30-odd of these are still being assembled. Of this number, 107 are secondhand buses. Complaints regarding unsatisfactory condition of buses relate mainly to these old buses. And in the case of some new buses, I believe dripping water because of the air-conditioning system is one cause of complaint.

"Hong Kong permanent resident" definition

6. DR LEONG CHE-HUNG asked: *Will the Government update this Council on the progress regarding the review of the definition of Hong Kong permanent resident in Hong Kong legislation and the conditions set for granting such status to foreign nationals, especially in relation to the relevant provisions set out in the Basic Law, and of the progress of negotiation with China on this particular issue?*

SECRETARY FOR SECURITY: Mr President, Article 24 of the Basic Law specifies those categories of persons who will be permanent residents and have right of abode in the Hong Kong Special Administrative Region (SAR). This differs in several respects from the present definition of permanent resident in the Immigration Ordinance. It is our intention to amend the Immigration Ordinance to bring it in line with the Basic law. We have put proposals to this effect to the Chinese in the Joint Liaison Group.

Our proposals include the grant of permanent resident status to persons not of Chinese nationality. Under Article 24 of the Basic Law, persons not of Chinese nationality are eligible to become permanent residents of the Hong Kong SAR if they have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence.

Our proposals are under discussion in the Joint Liaison Group.

DR LEONG CHE-HUNG: *Mr President, in his main reply the Secretary indicated that it is the intention of the Administration to amend the Immigration Ordinance to bring it in line with the Basic Law. Can we have a timetable of this movement? And are there any concrete criteria the Hong Kong or the British Government would propose to the Chinese Government to quantify the conditions set out in accordance with Article 24 of the Basic Law?*

SECRETARY FOR SECURITY: Mr President, it is our intention to introduce legislation to align the Immigration Ordinance with the Basic Law as soon as we can. Certainly, we would like to do it within the next two years. That does not mean that we would necessarily bring that new legislation into effect straightaway. I do not believe that it would be feasible to bring it all into effect before 1 July 1997. We could not, for example, deprive British Dependent Territories Citizens of their right of abode in Hong Kong which could be one of the effects of alignment before 1997. And it would be difficult to apply Chinese nationality law in Hong Kong before 1 July 1997. But in the case of foreign nationals, which I think Dr LEONG was referring to, it would be feasible to have an amendment coming into effect before 1 July 1997 which would enable

foreign nationals to obtain the right of abode in Hong Kong before 1997, and certainly, we would like to do that if we can.

MRS ELSIE TU: *Mr President, may I ask the Secretary if I am correct that before 1971 non-Chinese residents living in Hong Kong for seven years did have the right of abode and that was changed around 1971? May I know why it was changed and why we are suddenly changing it the other way now?*

PRESIDENT: Do you have the answer to that, Secretary?

SECRETARY FOR SECURITY: Mr President, I do not think that that is the case. I think the effect of the amendment in 1971 was to grant the right of abode to persons of Chinese race who had lived in Hong Kong for at least seven years. It was not to deprive anybody of the right of abode in Hong Kong.

MISS EMILY LAU: *Mr President, will the Secretary explain to this Council how this alignment that he referred to in his answer would deprive British Dependent Territories Citizens (BDTCs) of the right of abode? This is the first time I have heard of this. And also, Mr President, would the Secretary inform this Council whether it is possible for the Government to enact the law as quickly as possible to give people like Mrs TU and Mr McGREGOR and others the right of abode? I mean if we cannot enter into an agreement with China, let us do it now, pending a permanent solution later. Why do we have to keep these people waiting for so many years?*

SECRETARY FOR SECURITY: Mr President, I certainly did not mean to imply that all BDTCs might lose their right of abode, but it is possible that when Article 24 of the Basic Law comes into effect some BDTCs who now enjoy right of abode in Hong Kong will lose that right. This would include people who are not Chinese nationals and who have not resided continuously in Hong Kong for a period of seven years, and have not taken Hong Kong as their place of permanent residence. It might, for example, include people who have emigrated abroad, settled abroad, obtained a foreign nationality, but who remain BDTCs.

As regards the second part of the question, it is not our wish or intention to delay this any more than is necessary. But at the same time we believe that it is in everybody's interest that we should have an amendment that has been agreed by the Chinese and will apply before and after 30 June 1997, and that is what we are working to achieve.

MR FRED LI (in Cantonese): *Mr President, we can easily see from the Secretary's reply that the main difference between the Basic Law and the existing Immigration Ordinance lies in the requirement of taking Hong Kong as a place of permanent residence. And this is not provided for under our Immigration Ordinance. The Secretary said in his reply that it would take some two years to discuss the matter in the Joint Liaison Group. But it was mentioned in the Consultation Document on the Civil Service that it was hoped that a definition of "permanent resident" could be arrived at as early as possible. Does the Hong Kong Government have any tentative definition of the phrase "taking Hong Kong as a place of permanent residence"? If yes, can this Council be so informed?*

SECRETARY FOR SECURITY: Mr President, I think I will have to make several points of clarification here. There are many differences in terms of details between Article 24 of the Basic Law and the present definition of "permanent resident" as set out in the First Schedule to the Immigration Ordinance. Certainly, it goes much further than simply the question of who has taken Hong Kong as his place of permanent residence.

Secondly, I did not say that it would take two years to reach agreement in the Joint Liaison Group; I gave no time scale. I simply said that we would certainly hope to be able to introduce and pass legislation in this Council on the lines of Article 24 within the next two years.

As regards the present definition of "permanent resident", this is really a question for the Secretary for the Civil Service in the context of the localization within the Civil Service. I seem to recall that he answered a question on precisely this subject last week when he said that for the present the definition we intend to use is the definition which is now contained in the Immigration Ordinance.

MR JIMMY MCGREGOR: *Mr President, could the Secretary say how many people in Hong Kong, roughly, fall into the same situation as Mrs Elsie TU and myself who after having been here, between us, I think for about 90 years — excuse me Elsie — (Laughter) still have no indication that we will be allowed to stay as permanent residents? In addition, could the Secretary please indicate whether this has become a political issue, something which is in the political arena rather than in the arena of discussion and negotiation between the two sides?*

SECRETARY FOR SECURITY: Mr President, I do not think it is possible to produce anything like an accurate estimate of the number of people who would find themselves in Mr MCGREGOR's position. What I would say is that I would certainly expect that it would be a few tens of thousands of people. I would not put it higher than that and I would not put it much lower than that.

On the second part of the question, I do not think that this has become a political issue. It is, like all questions relating to immigration and right of abode, a rather technical and complex issue. But, in my view, we have made reasonable progress in the discussions on this and I myself do not think that it should be too difficult to reach an agreement on this in the reasonably near future.

PRESIDENT: Mrs TU, did you have a question that was not answered earlier?

MRS ELSIE TU: *Yes, Mr President, it was not answered satisfactorily. I do not think the Secretary answered my question satisfactorily because I wanted to know why people like myself and other foreign nationals did have the right of abode before 1971 and then suddenly found we only had the right to land. If the Secretary cannot answer the question, Mr President, may I ask for a written answer?*

SECRETARY FOR SECURITY: Mr President, I think that my answer was correct and that Mrs TU is not correct. She, and persons in her position, did not have the right of abode in Hong Kong prior to 1971; they had the right to land; they were Hong Kong belongers. And I am fairly sure that that is correct and that was carried forward in the present Schedule to the Immigration Ordinance. However, if there is any difference on that and if I have got that wrong, I will provide a supplementary answer in writing. (Annex II)

PRESIDENT: Dr LEONG Che-hung, did you have an unanswered question, too?

DR LEONG CHE-HUNG: *No, Mr President, it is a fresh supplementary.*

PRESIDENT: We will have to move on, I am afraid.

PRESIDENT: I have been queried by a Member as to not calling on him in regard to a question where he had a particular electoral interest. For the information of this Council, the manner in which I call on Members for supplementaries is strictly according to the number of questions they have asked up to this point of time. That is a procedure which the then In-House wished to have in operation and which the present House Committee has endorsed.

Written answers to questions**Hong Kong as a separate statistical entity after 1997**

7. MR ROGER LUK asked: *Will the Administration advise this Council of the measures that will be taken to ensure that Hong Kong remains a separate statistical entity after 1997 in fulfilling its current obligation in providing statistical data to the United Nations and other international organizations?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, it has been an established practice for Hong Kong to supply statistics to the general public, which can also be made available to various international organizations. Such practice will continue after 1997.

As the nature of statistical work does allow any delineated territory or region to be taken as a separate entity in the compilation of statistics, the Administration does not see the need to take any particular measures to ensure that Hong Kong remains a separate statistical entity after 1997.

Blasting

8. MR CHIM PUI-CHUNG asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the number of demolition/construction projects in Hong Kong over the past three years in which the method of blasting was employed;*
- (b) *of the cost effectiveness of this method and whether it achieved the desired result; and*
- (c) *whether efforts will be made to look into and encourage more frequent use of this method?*

SECRETARY FOR WORKS: Mr President,

- (a) Over the past three years, the demolition of the desalter chimneys at Lok On Pai is the only demolition project in our records which employed a blasting technique. Blasting was considered for other demolition projects including the Kowloon Walled City, but rejected in favour of traditional methods.

On the other hand, blasting has been employed in a number of construction projects for works like site formation, excavation and tunnelling and so on, both in the private and public sector. We do

not have at hand records for the total number of such projects in the past three years; however, our records do show that a total of 88 blasting permits were issued in the period between January 1991 and October 1993. It should be noted that for one project, several blasting permits may be issued.

- (b) In general and taking into account the saving in time, demolition by blasting is more cost effective. However, in densely populated areas where a substantial amount of protective measures need to be taken, the blasting method may be more costly than conventional methods. Also, during the operation, a certain area around the site has to be kept clear of all persons, and the traffic within that area will have to be diverted. This will induce additional costs.

From an environmental control point of view, the method will shorten the duration of demolition and generally reduce both the amount of dust dispersed and the noise disturbance to the surrounding. However, all asbestos containing materials must be removed from the building before the blasting.

The demolition work at Lok On Pai was carried out successfully and achieved a desired result.

Blasting for normal construction projects is a commonly adopted traditional method. Its cost effectiveness as an engineering tool has been well proved.

- (c) There is no policy to encourage more frequent use of blasting. Basically, for government demolition/construction projects, all practical methods will be considered. The most suitable technique, taking into account any relevant special circumstances and best value for money, will be selected.

The use of blasting for demolition work in the private sector is considered by the Buildings Department on a case by case basis, taking into account the merits of adopting such method, whether the contractor possesses or can acquire the necessary expertise, and whether all safety and environmental controls can be complied with.

LRT platform planning standards

9. MR WONG WAI-YIN asked (in Chinese): *Owing to geographical constraints, certain Light Rail Transit (LRT) platforms have very limited space, thus easily causing danger to waiting passengers. Will the Government inform this Council:*

- (a) *whether there is a set of planning standards for LRT platforms; if not, how the areas of individual platforms are determined;*
- (b) *what measures can be adopted to reduce the potential danger caused by the narrow platforms (particularly the LRT platforms built along the Yuen Long Main Road) to waiting passengers?*

SECRETARY FOR TRANSPORT: Mr President, there are a total of 122 Light Rail Transit platforms. There is no laid down or specified size *per se* but 111 of these platforms are at least 3 m wide and 40 m long. These dimensions can therefore be considered to be the norm. However, because of space constraints, the width of 11 platforms ranges from 2 m to 2.5 m.

Eight of the 11 narrower platforms are along Yuen Long Main Road. Additional pedestrian crossings have been provided at Tai Tong and Hong Lok stops so that passengers can cross the road at either end of the platform. The opening of Yuen Long Southern Bypass in late 1994 will enable the further widening of the southbound platform at Tai Tong. Widening of the remaining platforms is either unnecessary because of the lower passenger volume or not possible because of road space constraints given the need to cope with adjoining vehicular traffic.

To enhance passenger safety and minimize overcrowding at the busiest stops, separate stopping positions are marked out for different routes. In addition, a passenger queuing scheme has been introduced at busy stops where platform assistants are on hand to help with crowd control during the morning peak rush.

Street sleepers

10. MR CHIM PUI-CHUNG asked (in Chinese): *According to the figures published by the Social Welfare Department, there were 1 051 street sleepers in Hong Kong in January 1993. Will the Government inform this Council:*

- (a) *of the number of street sleepers who have obtained properly arranged sheltered accommodation thus far;*
- (b) *of the latest statistics on street sleepers; and*
- (c) *whether consideration will be given to accommodating these street sleepers in suitable boat people centres which have been left vacant; if not, whether there are other methods to solve the problem in addition to the existing accommodation facilities?*

SECRETARY FOR HEALTH AND WELFARE: Mr President,

- (a) During the period from January to September 1993, 62 street sleepers have moved off the street to public housing estates, temporary housing areas, private housing, urban hostels, residential care homes, or temporary shelters.
- (b) The number of street sleepers recorded by the Social Welfare Department was 1 069 as at 30 September 1993.
- (c) As Vietnamese Detention Centres are located in remote areas in Hong Kong, it is most unlikely that they would be acceptable as accommodation to street sleepers. In addition to existing facilities and services, the urban hostel scheme for street sleepers will be expanded to deal with the problem. Seven additional urban hostels have been planned by the Social Welfare Department to provide another 230 places.

Statistical system of Hong Kong

11. MR ROGER LUK asked: *Will the Administration advise this Council whether Hong Kong is currently adopting a statistical system which is in accordance with international practices and standards and whether such a system is fully compatible with that used in Mainland China; if not, whether it is necessary to take steps to ensure compatibility after 1997?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, all along, Hong Kong has been adopting statistical standards promulgated by international organizations, such as the United Nations, International Monetary Fund and International Labour Organization, in the compilation of various official statistics.

Given the differences that exist in the economic system and structure between China and Hong Kong, it is conceivable that the two statistical systems may not be fully compatible.

While fuller compatibility of statistics after 1997 would be useful, we must bear in mind the need to keep abreast with international standards. The degree of compatibility that would be achieved depends, therefore, as much on the further development of the statistical system in China as that in Hong Kong by that time.

Declaration of interests for Housing Authority and LDC members

12. MR LAU CHIN-SHEK asked (in Chinese): *Will the Government inform this Council of the following:*

- (a) *whether the Hong Kong Housing Authority and the Land Development Corporation have in place a system for members to declare their interests as well as a set of procedures for dealing with conflict of interest; if so, please provide information on those systems and procedures;*
- (b) *whether information relating to the declaration of interests by members of the above-mentioned bodies at the policy-making level is open for public inspection; if not, what the reasons are;*
- (c) *what measures are being taken to monitor and deal with conflict of interest involving those members in the discharge of their public duties; and*
- (d) *the Government authorities with which the public can lodge their complaints in this regard and the procedures for handling such complaints?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, in respect of both the Housing Authority (HA) and the Land Development Corporation (LDC) regarding controls declaration of interests by their members are in place.

Housing Authority

- (a) The Standing Orders of the Housing Authority require its members, including the Chairman, to register their pecuniary interests in writing to the Secretary within 30 days of their appointment, and thereafter between 1 and 30 April in every ensuing year. The register includes information on the following:
 - (i) proprietorships, partnerships or directorships of companies;
 - (ii) remunerated employment, offices, trades, professions or vocations;
 - (iii) substantial shareholdings in companies; and
 - (iv) land and property holdings of a substantial value or from which a substantial income is derived in Hong Kong.

The Standing Orders also stipulate procedures for dealing with situations where a potential conflict of interest may arise. For example, when any member has a direct personal or pecuniary interest in any matter under consideration by the Authority, he must, as soon as practicable after he has become aware of it, disclose this to the Authority. In the absence of objections from other members, the Chairman of the Authority shall decide whether a member disclosing an interest may speak or vote on the matter, may remain in the meeting as an observer, or should withdraw from the meeting. If any member objects, members other than the member disclosing an interest shall decide by voting.

Where a known direct pecuniary interest exists, circulation of the relevant papers to the members concerned may be withheld. Where a member is in receipt of a paper for discussion which he knows presents a direct conflict of interest, he is also required to inform the secretary of the meeting concerned prior to discussion of the item.

- (b) The register of members' interests is kept by the Secretary of the Housing Authority and can be made available for inspection on request by any member of the public.
- (c) It is incumbent on the Chairman of the Authority and the Director of Housing to ensure that the Standing Orders are adhered to in the best interest of the Authority and the community. Experience over the years has shown that members have responded to this requirement in a responsible way. Possible conflicts of interest in the discharge of public duties are also considered in the appointment of members to the Authority.
- (d) If members of the public have any complaints regarding declarations of interest, they can lodge them with the Chairman of the Housing Authority or the Secretary for Planning, Environment and Lands.

Land Development Corporation

- (a) Section 6(1) of the First Schedule of the LDC Ordinance provides that "A member of the Corporation who is in any way directly or indirectly interested in a contract made or proposed to be made by the Corporation, or in a contract made or proposed to be made by a servant or agent or a partner of the Corporation or, by a body corporate established by the Corporation which is brought up for consideration by the Corporation, shall disclose the nature of his interest at a meeting of the Corporation; and the disclosure shall be recorded in the minutes of the meeting of the Corporation, and the member shall not without the permission of the Chairman take part

in any deliberation of the Corporation with respect to that contract and shall not in any event vote on any question concerning it".

In addition to the above statutory requirement, the LDC's Standing Orders require that "a member shall declare at Board meetings or Committee meetings, his direct personal or pecuniary interest, if any, and the nature of such interest in any matter that is being discussed".

The Managing Board of the LDC has since March 1992 required all members to declare their interests in any relevant companies or organizations. Members also update their declarations of interests on a six-monthly basis. Changes are also reported at Board meetings.

- (b) When a Board member has an interest in any contract made by the Corporation, details of the contract and the nature of the member's interest will be disclosed in the Corporation's annual report which is available to the public.
- (c) The operations of the LDC are closely monitored by the Government. In the case of conflict of interest, section 6(1) of the First Schedule of the LDC Ordinance sets out clearly that members shall not, without the permission of the Chairman, take any part in any deliberation of the Corporation with respect to the particular contract or matter and shall not in any event vote on any question concerning it.
- (d) The public can lodge complaints regarding declarations of interest with the Chairman, LDC or the Secretary for Planning, Environment and Lands. Any such complaints will be investigated having regard to the LDC Ordinance and the need to maintain high standards in the conduct of LDC's business.

Lifeguards' qualifications

13. MR ALBERT CHAN asked (in Chinese): *In view of the public concern arising from the recent discovery of forged qualification documents used by lifeguards, will the Government inform this Council of the measures:*

- (a) *to ensure that the quality of lifeguards meets the approved standard;*
- (b) *to be taken against the operators of private swimming pools who employ lifeguards without approved qualifications; and*
- (c) *to deal with those lifeguards who are using forged qualification documents?*

SECRETARY FOR RECREATION AND CULTURE: Mr President,

- (a) Private swimming pools are controlled and licensed under the Swimming Pools (Urban Council) By-laws and the Swimming Pools (Regional Council) By-laws.

Under these By-laws, a person can be employed as a lifeguard only if he possesses a certificate of competency in life saving and first aid issued by an association approved by the municipal councils for that purpose, that is a valid bronze medallion or higher qualifications awarded by the Royal Life Saving Society. Such qualifications are valid for three years, and holders must be re-examined every three years.

The licensee of a private swimming pool is responsible for ensuring that the lifeguards employed by him meet the necessary requirements. If he has doubts about the qualifications and the authenticity of any document held by a lifeguard, he has a duty to seek confirmation from the issuing authority. If a forged document is discovered, he is also obliged to report this to the police.

Lifeguards employed by the two municipal councils must meet the same qualifications. Additionally, they have to go through an interview, a practical life saving test and other tests on artificial resuscitation, swimming, colour blindness, eye-sight, and so on.

- (b) Under the same By-laws, a licensee is required to provide at least two lifeguards during opening hours, unless exempted by the municipal councils. Any licensee contravening this provision is guilty of an offence and is liable on conviction to a fine of \$1,500 and when the offence is a continuing offence, to an additional fine of \$25 for each day during which it is proved to the satisfaction of the court that the offence has continued. District Health Inspectors of the municipal councils inspect licensed private swimming pools at least once every month and check on the lifeguards and their qualifications. Since the discovery in September of forged certificates, the municipal councils have stepped up such inspections and reminded licensees of swimming pools of their legal obligation.
- (c) Uttering a forged document is a serious offence. Any person who is found using a forged document is liable to prosecution under the Crimes Ordinance.

Waiting time for receiving consultation in government clinics

14. MR LEE WING-TAT asked (in Chinese): *Will the Government inform this Council:*
- (a) *of the average daily number of patients attending government clinics in various districts in the territory; what percentage this represents in the total number of patients attending public and private clinics respectively;*
 - (b) *of the average waiting time for receiving consultation in Government out-patient clinics in various districts; and*
 - (c) *whether there are plans to deploy more doctors and nurses to district clinics and to include a specified waiting limit as a performance pledge item?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the answer to the three-part question is as follows:

- (a) Over the last 12 months, the average daily number of patients attending government clinics was 13 046. This represents about 15% of the total number of patients attending public and private out-patient clinics.
- (b) Patients attending government clinics for treatment of episodic illnesses are given appointments at the clinics. They are attended to within one hour of the appointed time. Patients with chronic diseases are given advanced appointments for follow-up. These patients are seen within 30 minutes of the appointed time.
- (c) The deployment of staff at government clinics is kept under regular review by the Director of Health. They are adjusted as necessary to meet service needs. The maximum waiting times for patients at clinics have already been stipulated and publicized as a performance pledge by the Department of Health.

Competition policy study reports

15. DR DAVID LI asked: *In his 1993 policy address (paragraph 13), the Governor refers to the ongoing work of the Consumer Council in conducting competition policy studies specific to individual industries. These industries include supermarkets, broadcasting, telecommunications, gas supply, and banking services. Will the Administration inform this Council whether in the process of compiling its reports, the Consumer Council is consulting direct with*

the said industries in the interests of ensuring reports that are fair and fully reflect industry concerns?

SECRETARY FOR TRADE AND INDUSTRY: Mr President, the Consumer Council has undertaken to consult relevant industries or their trade bodies as appropriate on draft reports of its sector-specific studies on competition before finalizing them.

Vietnamese boat people

16. DR TANG SIU-TONG asked (in Chinese): *Will the Government inform this Council:*

- (a) *whether it will appeal to other countries in the International Conference on Refugee Problems due to be held at the end of 1993 for more positive commitments to help Hong Kong solve its problem of stranded Vietnamese boat people;*
- (b) *the amount of money still owed by the United Nations High Commissioner for Refugees (UNHCR) to Hong Kong for the care and maintenance of the boat people stranded here; when the UNHCR is expected to be able to repay all the money owed; and*
- (c) *with regard to UNHCR's claim that Hong Kong is the most expensive place to provide for the Vietnamese boat people, how the outlays for these boat people have been spent for various purposes (for example, personal emoluments of the staff of the detention centres, security measures, subsistence and welfare expenses for the boat people, and so on); whether the appropriation of financial resources for these purposes is subject to monitoring and regular review?*

SECRETARY FOR SECURITY: Mr President,

- (a) A meeting of the Steering Committee of the Comprehensive Plan of Action is tentatively scheduled to take place in Geneva in January 1994. At that meeting, the Government will seek to secure from the international community the commitments necessary to bring about an early resolution of the Vietnamese migrant problem.
- (b) The UNHCR is committed to meeting the cost of the care and maintenance of the Vietnamese migrants in Hong Kong. However, they have failed fully to discharge this obligation. As at 31 October, the UNHCR owed the Hong Kong Government \$837 million. While there is no precise timetable for the repayment

of this debt, the Government has recently been reassured by the UNHCR that they remain committed to honouring their obligations to us and that they continue to make every effort to raise the necessary funds to enable them to repay the outstanding amount.

- (c) In the current financial year, it is estimated that the Vietnamese migrant problem will cost the Government about \$1 billion. Detention is the most expensive item within this overall figure with the Correctional Services Department incurring costs in the order of \$540 million and the police about \$70 million. Other items include status determination (\$170 million) and medical services in the camps (\$52 million).

Expenditure on Vietnamese migrants is incurred by government departments and, in common with all such public expenditure, is closely monitored.

The UNHCR estimate that their actual expenditure on the Vietnamese migrant problem in Hong Kong in 1993 will be \$226 million, broken down as follows:

	<i>\$m</i>
Care and maintenance of Vietnamese migrants	37
Services in the camps including promotion of the Voluntary Repatriation Programme	62
Charter of aircraft	26
Reintegration assistance to Vietnamese on repatriation	36
Administration costs	65

Total	226
	====

Green Managers

17. MRS PEGGY LAM asked (in Chinese): *The Governor indicates in his policy address on 6 October 1993 that all government departments will appoint their own "Green Managers". Will the Administration inform this Council:*

- (a) *of the position regarding the implementation of this scheme;*

(b) *whether this scheme will have any financial implications, such as the creation of new posts or payment of an extraneous duties allowance;*

(c) *of the criteria for the appointment of "Green Managers"; and*

(d) *whether assessment has been made to see if there are adequate qualified persons to assume the role of "Green Managers" to ensure the effective implementation of this scheme?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

(a) Heads of departments and branches have been called upon to nominate their "Green Managers" before 31 December 1993 through a General Circular issued on 10 November 1993.

(b) The scheme will have no financial implications as regards the creation of new posts or payment of additional allowances.

(c) Heads of departments and branches have been advised that "Green Managers" should preferably be appointed at directorate level. Otherwise no special criteria have been laid down.

(d) "Green Managers" appointed at the level required will have the necessary management experience to implement housekeeping measures within their own departments and branches. To assist them, the Secretary for Planning, Environment and Lands will issue written guidelines and establish a working group from among them to exchange views and experience and to monitor the implementation of the scheme.

Waste paper recovery

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

(a) *of the annual expenditure on procurement of paper for use by all its departments;*

(b) *of the ways that waste paper is disposed of in departments;*

(c) *whether it will consider promoting the recovery of waste paper in all departments; and*

(d) *of the increase in public expenditure if only recycled paper is to be used whenever possible in the service?*

SECRETARY FOR THE TREASURY: Mr President, the information sought is as follows:

- (a) The estimated expenditure in 1993-94 on procurement of paper for use by all government departments is \$67.5 million. This comprises \$49 million by Printing Department for purchase of printing and security paper and so on; and \$18.5 million by Government Supplies Department for purchase of photocopying and duplicating paper.
- (b) Since 1990 departments have been encouraged to separate waste paper before collection for recycling. Over 70 departments and buildings are now actively involved in this scheme. In 1992, 1.8 million kg of waste paper were separated for recycling in government offices.
- (c) The Government will continue to promote the recycling scheme and explore new initiatives.
- (d) It is estimated that to use recycled paper wherever practical for printing would add about \$12 million a year to government expenditure on paper alone.

Compensation due to Walled City residents

19. DR CONRAD LAM asked (in Chinese): *As the computation of the amount of compensation due to some Walled City residents has still to be finalized, will the Government inform this Council:*

- (a) *of the number of such cases to date;*
- (b) *of the reason why the computation of compensation has remained outstanding in these cases; and*
- (c) *when all computation of compensation is expected to be finally settled?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) The number of Kowloon Walled City compensation cases which have yet to be resolved is 123 out of a total of 14 639 offers of compensation made.

- (b) These cases may be broadly classified as follows:
- (i) in 32 cases the Government's offer of compensation has not been accepted and no review of the offer has been applied for;
 - (ii) in 67 cases claims for higher compensation with supporting documents or appeals against the Government's offer of compensation have been submitted and are being reviewed; and
 - (iii) in 24 cases although the results of appeals against the Government's offer of compensation have been made known the decision has not been accepted and compensation has not been collected.
- (c) We expect that in all cases where documents have been submitted a final offer will be made by 31 March 1994. Any remaining appeals should be decided by 31 March 1995, but the exact timing will depend on how many appeals are lodged. There is a time limit of five years from the date when the amount of compensation is finally determined for compensation to be collected.

First Reading of Bills

BILLS OF LADING AND ANALOGOUS SHIPPING DOCUMENTS BILL

IMPORT AND EXPORT (AMENDMENT) (NO. 2) BILL 1993

CENSUS AND STATISTICS (AMENDMENT) BILL 1993

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

Second Reading of Bills

BILLS OF LADING AND ANALOGOUS SHIPPING DOCUMENTS BILL

THE ATTORNEY GENERAL moved the Second Reading of: "A Bill to replace the Bills of Lading Ordinance with new provisions with respect to bills of lading and certain other shipping documents."

He said: Mr President, I move that the Bills of Lading and Analogous Shipping Documents Bill be read a Second time.

The purpose of this Bill is to reform the legal remedies available under contracts of carriage of goods by sea. Under the common law, only the two parties to a contract of carriage could sue or be sued under the contract. Where, as often happened, goods were sold and resold during the course of sea transit, the buyer was unable to sue on the contract of carriage for loss or damage to his goods.

The current Bills of Lading Ordinance, which was closely modelled on the English Bills of Lading Act 1855, goes some way to overcome this problem. The Ordinance provides that, in certain circumstances, a person may sue under a contract of carriage of goods by sea even though he was not a party to the contract. However, in order to do so he must satisfy two conditions: first, he must be the consignee or indorsee of a bill of lading and, second, he must have acquired the full property or ownership in the goods "upon or by reason of such consignment or indorsement". These two requirements cause difficulty when ownership has not passed, or has passed, but for different reasons.

The most common and serious problem concerns sales of parts of bulk cargoes. Even where the buyer has paid for his share of the cargo, and received a bill of lading, he will not obtain ownership until his share has been physically identified, which invariably happens after discharge from the ship. As a result, the buyer cannot sue the carrier for breach of contract if the goods were damaged or lost during the sea voyage.

Another problem with the existing legislation is that it does not apply to documents such as sea waybills and delivery orders, which are widely used in the shipping industry. Buyers who acquire such documents are still subject to the common law principles and cannot sue the carrier for breach of contract.

The Bill, which is based on the United Kingdom Carriage of Goods by Sea Act 1924, addresses these legal problems. It overcomes the difficulty associated with the passing of ownership of goods by simply providing that any lawful holder of a bill of lading has the right to sue the carrier. It therefore severs the link between the passing of ownership of goods and the right to take legal proceedings under the contract of carriage.

The Bill also gives rights of action to a person identified in a sea waybill and to the person entitled to delivery under a ship's delivery order. As regards obligations, the Bill provides that any person entitled to sue and who makes a claim against the carrier is placed under the same liabilities as if he had been an original party to the contract of carriage. So that for instance, a person who demands from the carrier delivery of goods covered by a bill of lading, sea waybill or ship's delivery order becomes liable for any cost of carriage that may be owing.

The Bill empowers the Secretary for Trade and Industry to make regulations relating to electronic data interchange. In the future, documents such as bills of lading which are now transmitted in documentary form could be replaced by computer generated alternatives transmitted by electronic data interchange. When this occurs, the legislation could be adapted to accommodate future trading practices without the need for primary legislation.

Mr President, the Bill is technical but we should not lose sight of the real benefit it will provide to the commercial community in Hong Kong. This Bill has received wide support from legal, shipping and insurance interests. It will help ensure that Hong Kong remains a leading commercial and shipping centre.

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

IMPORT AND EXPORT (AMENDMENT) (NO. 2) BILL 1993

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

He said: Mr President, I move that the Import and Export (Amendment) (No.2) Bill 1993 be read a Second time. This Bill seeks to strengthen our ability to tackle smuggling by making the major smuggling offences triable on indictment with increased maximum penalties.

Smuggling causes serious security problems to Hong Kong, feeding organized crime, generating car theft and posing a danger to legitimate marine traffic.

We have taken action to tackle the problem on three fronts: legislation, enforcement and liaison with China. Our strategy has achieved considerable success, particularly in reducing smuggling by speedboats, and vehicle theft.

The problem has been contained, but it remains a concern. While the opportunity for huge profits remains, smuggling is likely to continue.

The current penalties are inadequate for serious smuggling offences and do not provide a sufficient deterrent. We propose that the maximum penalties of major smuggling offences in the Import and Export Ordinance be increased to seven years imprisonment and a fine of \$2 million. The existing penalties of two years imprisonment and \$500,000 for summary conviction would remain unchanged.

Mr President, I believe that the proposals will serve as a deterrent and enhance our ability to curb smuggling.

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

CENSUS AND STATISTICS (AMENDMENT) BILL 1993

THE SECRETARY FOR FINANCIAL SERVICES moved the Second Reading of: "A Bill to amend the Census and Statistics Ordinance."

He said: Mr President, I move the Second Reading of the Census and Statistics (Amendment) Bill 1993.

At present, under the Census and Statistics Ordinance, the Governor in Council may, by order in the Gazette, direct that a census of population or a statistical survey be conducted by the Commissioner for Census and Statistics.

As part of an ongoing exercise to streamline the operation of the Executive Council, the Census and Statistics Ordinance has been reviewed to identify any minor powers currently vested in the Governor in Council that may be devolved. As a result it has been determined that the power to make subsidiary legislation for the conduct of statistical surveys should be transferred from the Governor in Council to the policy secretary concerned. However, the transfer of such power should not apply to the conduct of a census of population. Unlike statistical surveys which only involve samples of households or business firms, census-taking is an operation which will affect the community very widely. The Administration considers, therefore, that the Executive Council's specific approval should still be required for the launching of a census of population.

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

BOILERS AND PRESSURE VESSELS (AMENDMENT) BILL 1993**Resumption of debate on Second Reading which was moved on 13 October 1993**

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

Bill read the Second time.

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

BOUNDARY AND ELECTION COMMISSION (AMENDMENT) BILL 1993**Resumption of debate on Second Reading which was moved on 27 October 1993**

Question on Second Reading proposed.

MR ANDREW WONG: Mr President, the Boundary and Election Commission Ordinance stipulates that the Commission shall submit to the Governor by 31 December 1993 its recommendations of the 1994 district board and the 1995 municipal council constituency boundaries.

Prior to the submission to the Governor, the Commission is required to produce provisional recommendations for public consultation for 30 days. These recommendations have to be based on the number of elected seats provided for in law.

To allow the Commission to start work on the demarcation of constituency boundaries, amendments have been made to the District Board Ordinance specifying that the number of elected members in district boards should be subject to the overall total number not being substantially greater or less than 338.

In view of the discussions between Britain and China on issues relating to 1994-95 electoral arrangements, no amendments have yet been made to the number of elected seats on the two municipal councils provided for in the Urban Council and Regional Council Ordinances.

If the Commission is to adhere to the original date of submitting recommendations on municipal council constituency boundaries by 31 December 1993, the Commission would have to release by the end of October 1993 its provisional recommendations based on the existing number of elected municipal council seats. This is clearly undesirable if changes are to be made to the number of such seats at a later stage.

A Bills Committee was formed to study the current Bill which seeks to provide for an extension of the statutory date from 31 December 1993 to 30 April 1994 for the Commission to submit its recommendations to the Governor on constituency boundaries for the 1995 municipal council elections. The Administration informed Members that the proposed date had taken into account the time needed to seek approval of the Governor in Council on recommendations and to gazette subsidiary legislation on constituency boundaries well ahead of the Legislative Council recess in July 1994. This would give Members time to consider whether any amendments to the subsidiary legislation are required.

The Administration advised that, even with the proposed extension, the time schedule remains very tight. To allow the Commission's recommendations to be based on a different number of elected seats, it would be necessary for amendments to the relevant provisions to be enacted by February 1994.

In response to Members' concern, the Administration confirmed that the proposed extension in the Bill would not affect the voter registration exercise.

The municipal council elections in March 1995 will be using the 1994 final voter register. Voter registration will begin from 1 April 1994 with publication of the provisional voter register before 22 June 1994. The final voter register, including details of every single elector's constituency, will be published before 8 August 1994.

Mr President, Members are generally satisfied that the Bill is both appropriate and necessary. Members, however, wish to seek the Administration's assurance that a submission date will not be further postponed.

Members also took the opportunity to discuss with the Administration the time frame for introducing legislation on electoral arrangements for the overall 1994-95 elections. The Administration stressed that this would be an extremely tight schedule. As an illustration, the voting age should be determined before the commencement of voter registration and related publicity work. Hence, if a lower voting age, that is, lowering from 21 to 18, is to be adopted for the 1994 district board elections and the 1995 municipal council elections, the provisions on voting age will have to be amended by February 1994 in time for the voter registration exercise. Members were nevertheless informed that a definitive legislative timetable cannot be set at this stage because of the current talks on the 1994-95 electoral arrangements between the British and Chinese Governments.

With these remarks, Mr President, I support the Bill.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, I am very grateful to the Bills Committee for its effort in examining this Bill under a very tight timetable. I also wish to thank Mr Andrew WONG, Chairman of the Bills Committee, for his clear explanation of the reasons for this Bill.

Mr WONG has also spoken on the concern of some Bills Committee Members as to whether the submission date of 30 April 1994 would be further extended to meet any exigency arising from the Sino-British talks on the 1994-95 electoral arrangements. I wish to make clear that 30 April 1994 is already the latest practicable date if the Administration is to complete all the necessary administrative and statutory steps in establishing the municipal council constituency boundaries before this Council goes into summer recess in July 1994. It is essential that the constituency boundaries are finalized by that time if the 1994 final voter register is to be published according to the statutory timetable, that is, before 8 August 1994.

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).

OVERSEAS TRUST BANK (ACQUISITION) (AMENDMENT) BILL 1993**Resumption of debate on Second Reading which was moved on 27 October 1993***Question on the Second Reading of the Bill proposed, put and agreed to.*

Bill read the Second time.

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

Council went into Committee.

BOILERS AND PRESSURE VESSELS (AMENDMENT) BILL 1993

Clauses 1 to 3 were agreed to.

BOUNDARY AND ELECTION COMMISSION (AMENDMENT) BILL 1993

Clauses 1 to 3 were agreed to.

OVERSEAS TRUST BANK (ACQUISITION) (AMENDMENT) BILL 1993

Clauses 1 to 3 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

BOILERS AND PRESSURE VESSELS (AMENDMENT) BILL 1993**BOUNDARY AND ELECTION COMMISSION (AMENDMENT) BILL 1993 and**

OVERSEAS TRUST BANK (ACQUISITION) (AMENDMENT) BILL 1993

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

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

Bills read the Third time and passed.

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 13 November. The mover of the motion will have 15 minutes for his speech including his reply and another five minutes to reply to proposed amendments. Other Members, including movers of amendments, will have seven minutes for their speeches. Under Standing Order 27A, I am required to direct any Member speaking in excess of the specified time to discontinue his speech.

FLOODING PROBLEM IN WESTERN AND NORTHERN NEW TERRITORIES

MR TIK CHI-YUEN moved the following motion:

"Since flooding in the western and northern parts of the New Territories in successive years has endangered the people's lives and livelihood as well as the economy and environment, this Council urges the Government to:

- (a) expedite the allocation of funds so that the Shenzhen river training scheme can be implemented in mid-1994;
- (b) give priority to the realignment of the rivers as planned and allocate more resources for cleaning up the watercourses, so that improvement works can be completed as soon as possible;
- (c) consider duly, in such processes as land planning and granting of land, the need for flood prevention and control and step up monitoring work in this respect; and promptly review the mechanisms for disaster warning, contingencies, relief and follow-up actions, so as to avoid the loss of lives and properties as a result of flooding."

MR TIK CHI-YUEN (in Cantonese): Hong Kong is universally acknowledged to be a modern metropolis. Its economic development in recent years has been the envy of many advanced countries. Last year, in *per capita* national income, Hong Kong out-ranked the United Kingdom and many other developed countries. New town development and urban renewal in Hong Kong have greatly improved the residents' living environment. However, Mr President, I must show everybody what lies behind this facade of prosperity: The numerous inhabitants of the New Territories are still living in a degraded environment. They have to live with floods, which still occur frequently though preventable. A case in point is Tak Yuet Lau, a village in north New Territories. This village was flooded on three separate occasions this year. Life and property there are not as safe as they should be.

In Hong Kong, floods as a problem have gotten worse, not better, with economic and social progress. Floods have increased in number, instead of decreasing, over the past five years. There were 204 flood reports during the year 1989-90. In that year, during the first 10 months alone, there were already 899 (almost 900) flood reports, half of them in the New Territories. Clearly, the problem is getting worse.

Mr President, in moving a motion debate today on the problem of flooding in western and northern New Territories, my intention is to make this Council and the general public understand how serious this problem is. It is hoped that Legislative Council pressure will then be brought to bear upon the Government to speed up the improvement works. Heretofore, when only local groups and villagers were actively involved in asking the Government to take up its responsibility, the Government was, regrettably, indifferent. It saw no evil and heard no evil. So I think that pressure must be brought to bear upon the Government from a higher level, the Legislative Council level. I hope that this intention of mine will be supported by all Members.

I believe that Members can still recall how badly the two instances of extensive flooding in the New Territories this year — one in September and the other at the beginning of this month — affected the everyday life of the local inhabitants. During those two flooding incidents, representatives from all major political parties visited the scene to find out what happened. Clearly, everybody cared. I hope that we will, in today's motion debate, speak with one voice to urge the Government to take up a greater responsibility for, and make a greater commitment to, flood prevention.

Mr President, for many years, Meeting Point members who serve as councillors in the various tiers of boards and councils have cared greatly about the problem of flooding in western and northern New Territories. We think that the main causes of the problem are:

1. The Shenzhen River overflowing

The Shenzhen River is the principal watercourse for western and northern New Territories and for the Shenzhen Municipality. It has undergone changes over the years and is now a winding, shallow and narrow stream that cannot drain off rain water fast enough after a heavy rainstorm. For water from the Indus River to reach the mouth of the Shenzhen River it now takes seven whole days. Officials of the Drainage Services Department have said on a number of public occasions that a primary cause of flooding in western and northern New Territories is the overflowing of the Shenzhen River. They have also said that the problem will not be solved until the Shenzhen River training project is completed.

2. Silting up of watercourses

Random and massive dumping of industrial and agricultural wastes by both Hong Kong and Shenzhen has been going on for years. Silting has made the watercourses shallow and narrow. In western and northern New Territories, streams are silt-filled and polluted. Over the years, the Drainage Services Department has taken no active steps to dredge the streams. Changes in land use in the New Territories have resulted in streams being filled or obstructed. Despite the promulgation of the Town Planning (Amendment) Ordinance of 1991, another 150 or so hectares of land in the New Territories has since been converted to unauthorized use. This has seriously undermined the role of the streams as nature's storm drain system and thus contributed to the problem of flooding.

3. Slow progress in river training projects

The Government began many years ago to make plans for river training projects in western and northern New Territories. Progress of the projects has been slow. While under way, each project is a potential cause of silting and flooding. Nor has the Government taken a square look at the problem of connecting storm drains to sewage drains. The result is flooding in the New Territories after every rainstorm.

Mr President, the Drainage Services Department on 7 October this year presented a paper to this Council's Lands and Works Panel. The paper said that the causes of serious flooding in north New Territories on 26 September were heavy rain, unauthorized changes in land use, the dumping of rubbish and agricultural wastes in the watercourses and the opening of the sluice gate at Shenzhen Reservoir. Apparently, the Government blamed the problem on the weather, the villagers and the Shenzhen Municipal Government. There was no mention at all of the Government's own fault. Yet, from our analysis above of the causes of the problem, it is clear that the Government has an inescapable responsibility, a heavier responsibility than anyone else's.

In view of the above, Meeting Point has three suggestions to make for solving the flooding problem in western and northern New Territories:

1. Taking the actual step of allocating money for training the Shenzhen River

It was in the early 1980s that the Government first made preparations for dealing with the overflowing of the Shenzhen River. Studies and analyses have been made; discussions have been held with the Chinese side. But the Government has been dragging its feet in getting the projects started.

It was not until this year, after the two recent serious flooding incidents, that the Government acknowledged the urgency of the problem. The actual projects will now be launched after an environmental impact assessment is made. We request that the Government should move ahead of schedule: It should allocate money in the 1994-95 year for these projects and get the actual projects started in 1994. This will convince the public that the Government really intends to carry out the projects and to have them completed quickly, and that the Government really intends to solve the problems that we are now facing.

Speeding up the training of the watercourses

The Government has waited until this year before putting in hand the projects for training the main watercourses in western New Territories. In the Government's estimate, these projects will not be completed until 2003. But we want minimal damage to life and property in the New Territories in the rainy seasons of the coming years. So the Government should speed up western New Territories projects that are now in progress and complete them soon, on a priority basis. If the projects are completed one day sooner, the inhabitants will stop worrying about floods one day sooner.

Allocating additional resources for removing silt in watercourses

In the year 1993-94, the Government plans to spend a total of about \$6.5 million on cleaning up and maintaining the storm drains and sewage drains in western and northern New Territories. Hong Kong's storm drains and sewage drains are now 2 800 km long and lengthening by an additional 50 km a year. One may find a few million dollars a year insufficient for effectively mitigating the silting problem of the watercourses. During the past five years, half of all the reported flooding incidents in Hong Kong occurred in the New Territories. Clearly, additional resources are needed for doing away with silting in streams and watercourses in western and northern New Territories.

2. Strict law enforcement against unauthorized changes in land use

Strictly enforcing Town Planning Ordinance

The enactment of the Town Planning Ordinance of 1991 has brought no improvement in the situation of unauthorized changes in land use in the New Territories. It is estimated that another 150 hectares of land has since been converted to unauthorized use, in most cases as storages, as parking sites for containers or container trucks or for site formation works. The Government recently announced summary procedures for prosecuting persons involved in unauthorized land use conversion. However, where a defendant is found guilty, the heaviest fine imposed is just over \$80,000. This is less than the monthly cost of operating a container truck parking site (which is about \$100,000)! How can a fine be an effective deterrent when it is cheaper than the cost of operating a business?

Meeting Point thinks that the Government must review existing rules and impose heavier penalties on persons involved in unauthorized land use conversion. The law will then be more effective as a deterrent.

Carefully scrutinizing land grants and works projects

The Government should conduct a review to find out if existing processes for land grants include consideration of matters like draining and silting. Also, the Government should step up its co-ordination efforts to ensure the smooth dovetailing of infrastructural works such as roads and landfills with the works projects on the granted sites.

3. Quickly putting in place a rapid response disaster relief and compensation mechanism

Quickly making contingency plans to deal with flooding

It is evident, from past experience, that the Government does not have sound contingency plans and a relief mechanism for dealing with disasters, such as flooding in western and northern New Territories.

We have three suggestions to make:

- (1) The Government should set up a permanent professional body to co-ordinate emergency actions in case of a disaster of any kind.

- (2) The Government should improve communications with the public. Among other things, it should set up district liaison bodies with members of the public participating.
- (3) There should be community-wide flood warning systems. The Government at one time tried out such a system in western and northern New Territories. This system enabled the inhabitants of the New Territories to take early precautionary measures against floods. We suggest that the Government should set up a flood warning system for low-lying parts of western and northern New Territories and do so quickly, before the advent of the next rainy season.

Setting up a disaster compensation system

The Government follows no set rules in dealing with the aftermath of disasters like the floods of western and northern New Territories. Compensation is now paid out of some charitable funds. Disaster victims receive only small amounts of money for meeting their most pressing needs. The Government should quickly conduct a review and set up a sound compensation system so that disaster victims may be quickly screened and immediately given reasonable aid or assistance.

Mr President, the Rev FUNG Chi-wood has moved an amendment to my motion. The main point of his amendment is that the Government should be urged to set up a comprehensive and sound compensation system. I have already made this point an important point of my motion. I recall that my motion originally contained eight points. I have reduced them to three in response to Members' suggestions that the motion should be more compact. In fact, we have long asked the Government to consider this sort of mechanism and I have mentioned this earlier on in my speech. This being so, I feel that the Rev FUNG's amendment serves no useful purpose. In addition, I understand that this Council's Community and New Territories Affairs Panel has already written to the Government to urge for a study of such a system. It will be even more pointless for me to oppose the amendment simply because somebody has moved an amendment. Therefore, to show this Council's solidarity and to prevent the Government from seeing disagreement in this Council and using it as an excuse for shirking its responsibility, Members from Meeting Point will vote for the Rev FUNG's amendment.

Mr President, floods have been bothering the inhabitants of western and northern New Territories for several decades. Allocating money for the flood prevention projects and getting these projects started cannot brook one moment's delay. Meanwhile, the Government should step up law enforcement to prevent unauthorized changes in land use and prevent the random dumping of waste materials into streams and watercourses. Over the long term, the Government should make contingency plans and put in place an effective

response mechanism for dealing with disasters including relief and compensation, thus giving members of the public suitable protection.

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

Question on the motion proposed.

PRESIDENT: Rev FUNG Chi-wood has given notice to move an amendment to the motion. His amendment has been printed in the Order Paper and circulated to Members. I propose to call on him to speak and to move his amendment now so that Members may debate the motion and the amendment together.

REV FUNG CHI-WOOD moved the following amendment to Mr TIK Chi-yuen's motion:

"To add after "(c) consider duly as a result of flooding" the following:

"; and (d) review the rate of cash assistance for emergency relief; the coverage of such relief and the eligibility for making applications so that the cash assistance can meet the practical needs of the flood victims and that any improvement measures should have retrospective effect in relation to the floods that occurred in September 1993."

REV FUNG CHI-WOOD (in Cantonese): Mr President, I rise to move an amendment to urge the Government to review the rate of cash assistance for emergency relief, the coverage of such relief and the eligibility for making applications so that the cash assistance can meet the practical needs of the flood victims. Let us look back at the extensive flooding in north New Territories in September this year. The General Chinese Charities Fund administered by the North District Office paid out to just over 900 families an average of just over \$1,500 each. Some villagers, failing to receive notice in time, did not apply for relief. Therefore, the United Democrats of Hong Kong (UDHK) hope that the Government will give suitable assistance to these flood victims of north New Territories and to the more recent flood victims of Lantau and Tuen Mun. Let us look now at the flood in north New Territories. It was a bad flood. In most places, the flood waters were waist-deep or deeper. In many rural families, furniture and electrical appliances were ruined, with damage exceeding \$10,000 per family. Yet the General Chinese Charities Fund paid out only about \$1,500 per family to the flood victims. \$1,500 was the average amount. Some families received only \$500 each. Some received \$2,000 each. Others received \$5,000 each. It is hoped that the Government will provide relief through additional channels and thereby let victims receive higher amounts of cash assistance. On 19 October, residents of north New Territories visited the local District Office to present a petition, requesting that each victim family be

paid \$5,000 regardless of income and that the Government start a new round of registration for residents who had never received any assistance.

Next, on 31 October, residents from north New Territories went to Government House to present a petition. Up to now, however, they have received no specific response from the Government. This is why I hope that Members will support my amendment and urge the Government to give greater assistance to rural flood victims. According to the City and New Territories Administration, the General Chinese Charities Fund paid out a total of about \$1.5 million in connection with the flood in north New Territories. In addition, voluntary workers in north New Territories, from donations collected, paid out a total of about \$540,000 in amounts varying from \$500 to \$1,000 per victim family. I estimate that about 1 500 rural families were affected by the flood and need relief. If each family is to receive \$5,000, less the amount that has already been paid out by the General Chinese Charities Fund, this will require the Government to come up with about \$6 million or so through other channels. I believe that this will not be a hard thing for the Government to do. In addition, I must point out that some villages were very seriously affected by the recent flood in Tuen Mun but have not received any assistance to this day. The amounts of cash assistance received by the victims on Lantau, too, are far from adequate.

The Government has not yet published a detailed report on the late September incident of extensive flooding in north New Territories. The Government does not admit that the flood was caused mainly by delays in projects for training the Shenzhen River and other streams. In the Government's estimate, after the projects are completed, the Shenzhen River will be able to drain off rain water four times as fast as it does now. Therefore, I believe that, if the projects for training the Shenzhen River had been launched a few years earlier, the first phase of the projects would already have been completed and the extent of flooding in north New Territories this time would have been much smaller. UDHK urge the Government to get the projects started right away. They have already been delayed long enough, mainly because, in my belief, the Government has belittled the importance of the projects. The Government thought that the projects were expensive; it also thought that the chances of flooding were not high. The Government attached no importance to life and property in the New Territories. This is really disappointing. More than a year ago, this Council's Community and New Territories Affairs Panel already did its best to urge the Government to get the relevant projects started expeditiously. But the Deputy secretary for Planning, Environment and Lands at the time disclosed that the projects would not be cost-effective. It was very fortunate that no life was lost during the serious flood of September. Still, serious damage was done to property, crops and poultry. I believe that, after the recent lesson, the Government has stopped belittling the life and property of villagers and will move soon to train the rivers and streams. Projects for training the Shenzhen River cannot be started right away. They must wait one year pending the completion of the environmental impact assessment. Actually, the environmental impact

assessment should have begun many years ago and should have been completed by now. If the assessment exercise had begun years ago, it would have been possible to start the projects for training the Shenzhen River right now. At least one year could have been saved.

I should like to point out, specifically, that the Government must train several other streams in addition to the Shenzhen River. Examples are the Sheung Yue Ho and the Indus River. Regrettably, the Government has said nothing specific about when projects for training these other streams can be started. I hope that the Government will announce a timetable within half a year, thereby assuring the residents of north New Territories. I suggest that there is no need to wait until the completion of Phase III of the Shenzhen River projects before starting the projects for the other streams. In fact, the training projects for the other streams can proceed simultaneously with the training projects for the Shenzhen River. The Indus River and the Sheung Yue Ho are totally within Hong Kong's territory. They are not like the Shenzhen River, which is between Hong Kong and China. The Government cannot use the excuse that a timetable has to wait until discussions are held with China. Training the Shenzhen River alone will not be enough. The Indus River and the Sheung Yue Ho must also be trained if the problem of flooding in north New Territories is to be fully solved.

Mr President, we cannot ignore threats to rural life and property just because the rural population is small. Such should not be the attitude of a responsible administration. UDHK hope that the Government will quickly take actual steps to allocate money for training the Shenzhen River, the Indus River and the Sheung Yue Ho, so as to provide the residents of north New Territories with a safe environment where life is not threatened by floods. I believe that everybody in Hong Kong will support the Government's spending on training the streams. Though the projects will be costly, they are very essential and they are pressingly necessary, for floods are a threat to rural life and property.

Mr President, I so submit. I ask Members to sympathize with the rural residents and support my amendment.

Question on the amendment proposed.

MRS SELINA CHOW (in Cantonese): Mr President, as we all know, the residents of western and northern New Territories have suffered enough from frequent floods. The Liberal Party is deeply concerned and wants the Government to take a wide range of actions for solving the problem. We of the Liberal Party are basically in agreement with, and supportive of, Mr TIK Chi-yuen's motion and the Rev FUNG Chi-wood's amendment. Liberal Party colleagues Mr Howard YOUNG and Mr LAU Wong-fat will be speaking later on to elaborate further on our positions and views with regard to the two motions.

The Drainage Services Department has already laid down long-term and short-term measures for dealing with the problem of flooding in the New Territories. One long-term measure is the training of the Yuen Long and the Shenzhen systems of streams. Their capacities will be increased and they will be made less winding so that the danger of their overflowing may be less. Another long-term measure is the construction of dams and pumping facilities. The short-term measures are the measures that the Government will be taking for maintaining the streams, for improving the small drainage channels, for managing the flood plain and for installing flood warning systems. The governments of Hong Kong and Shenzhen have been discussing the problem for more than 10 years and have reached a consensus. Speaking for ourselves, we of course hope that the first phase of the projects will be started right away. But there is one special point that I would like to make: An environmental impact assessment must precede the launching of the important flood prevention projects. We already discussed this matter during question time earlier on. The environmental impact assessment will take roughly between 12 and 15 months. About this, I have two concerns: Firstly, the assessment exercise will take too long and this may delay the launching of the Shenzhen River training projects. Secondly, the assessment exercise may find that the projects will disturb or damage the environment and it may consequently recommend against the projects in their entirety despite their importance to the protection of life and property in the New Territories. Since the safety of life is at issue, the environmental impact assessment should begin and be completed expeditiously, proceeding along two tracks: A preliminary environmental impact assessment should be completed in not more than six months. Thereupon, work will begin on those projects that, according to the preliminary assessment, will not have a negative environmental impact. This two-track method will undoubtedly enable the projects to be launched sooner and completed sooner. More importantly, it will make the environmental impact assessment an exercise to provide information that can be used as the projects proceed, not an exercise to be pursued for its own sake in total disregard of the protection of human lives; this will then not slow down the projects in their entirety.

The Government will need to have access to and easement over private land in maintaining the watercourses. It has accordingly already presented a Land Drainage Bill to this Council that will give extra power to government officials to enter private property to do necessary work for maintaining and cleaning up watercourses. This piece of legislation is an important part of our overall strategy for dealing with the problem of flooding in the New Territories. I therefore urge its earliest possible passage.

Mr Edward HO of the Liberal Party, when scrutinizing the Bill, commented on one of its provisions. This is the provision empowering the Government to order an occupier of property to demolish at his own expense any structure on his property that may obstruct a watercourse. In Mr HO's opinion, such a provision will be unfair to the occupier. The structure originally may not have been obstructive. It may have become obstructive only because the watercourse has changed its course under natural conditions. If the

Government is given the power to order occupiers of property to demolish obstructive structures at their own expense, this may victimize an innocent occupier by inflicting a financial loss on him or a material loss since an obstructive structure may be a house or a small factory useful to him. Secondly, since it is the Government that wants the obstructive structure to be cleared, and since natural factors are to blame, the occupier really should not be held responsible. We request that the Bill be amended to provide that the Government shall bear the cost of the demolition and not to require the occupier to pay the tab. In addition, the Government should pay reasonable and appropriate compensation to any person who can prove that a government project is detrimental to his property including lands and structures. Such a person should be able to file a claim on the Government for compensation.

The recent flood damage to the pumping station at Tuen Mun caused the 430 000 residents of the area to be without water supply for four days. This shows that floods in western and northern New Territories are indeed a serious and pressing problem. Colleagues from the Liberal Party visited the scene to find out what happened. We are very sympathetic with, and concerned about, the suffering of the local people. In connection with this disaster, we want to ask one question: the Government knew on the 15th that the 430 000 residents of the area would be without water supply for many days as a result of damage to the pumping station. Why did it not immediately set up a high-level inter-departmental working group to co-ordinate the relief effort? This state of affairs left much to be desired. We think that the Government should immediately conduct a review. In the event of a similar disaster in the future, a mechanism should be in place to decide on setting up a high-level co-ordinating body. We also call for hearings to find out why the disaster happened and how similar disasters may be prevented in the future.

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

MR TAM YIU-CHUNG (in Cantonese): Mr President, flooding has occurred in the western and northern New Territories for successive years, jeopardizing the life and property of the residents in these areas. On 26 and 27 September this year, exceptionally serious flooding overwhelmed these areas again. This instance of serious flooding is believed to be closely related to the delay in the commencement of the Shenzhen River regulation project.

The drainage capacity of the Shenzhen River is low because of its many bends and shallow riverbed. This has constituted a constant threat of flooding to the residents on either side of the river. The governments of the two territories, being long aware of this problem, started to discuss the training of the Shenzhen River and examine the works design of a river regulation project in as early as the 1980s. But regrettably the project has not gotten off the ground even up to this moment.

Since the flooding of 26 September, the Democratic Alliance for the Betterment of Hong Kong, for the purpose of getting the Shenzhen River regulation project under way, has contacted the officials of the Shenzhen Municipal Government and the Planning, Environment and Lands Branch of the Hong Kong Government to inquire about the progress of the project. According to our understanding, the project is divided into three stages. The first stage is mainly to reconstruct and straighten the river bends at Lok Ma Chau and Liu Pok; the second stage is mainly to widen and deepen the part of Shenzhen River stretching from the bend at Lok Ma Chau to the estuary and the part from the bend at Lok Ma Chau to the bend at Liu Pok; and the third stage is mainly to widen and deepen the part of Shenzhen River stretching from the upper reaches of the bend at Liu Pok to the intersection with the Sha Wan River. The whole project is very important to the early solution of the flooding problem.

The China Environmental Science Research Institute has compiled between 1985 and 1986 an assessment report on the environmental impact of the Shenzhen River regulation project. A Chinese official has pointed out that according to that full and comprehensive assessment report, which was done by a state-level organization, the regulation project, especially the first stage, will not cause ecological damage to the surrounding areas, and so the first stage should be able to start in accordance with the original project design.

The Chinese side has subsequently forwarded the assessment report to the Hong Kong Government, but the department concerned of the Hong Kong Government has not up to now made any comment on that assessment report.

Meanwhile, the Hong Kong Government is insisting on a "comprehensive and thorough" environmental impact assessment being conducted prior to the commencement of the project. This will inevitably delay the commencement of the project. According to the requirements of the Hong Kong Government, the assessment will take 12 to 15 months. So unless the Hong Kong Government is going to make appropriate adjustments in its environmental requirements on the whole project, the project cannot start until the beginning of 1995, which is already the earliest possible time. Coupled with the fact that the whole project will take six years' time to finish, is it not true that the residents in the New Territories will have to wait until the year 2000 to have the threat of flooding removed? What is even more worrying is that the environmental impact assessment has not started yet and what its findings will be is still an unknown factor. So it is still uncertain that the project will eventually commence.

The Democratic Alliance for the Betterment of Hong Kong considers that the protection of the environment and the ecological well-being and the protection of the life and property of the people on either side of the river are equally important. As the China Environmental Science Research Institute has already conducted a comprehensive assessment on the environmental impact of the river regulation project, I think the Hong Kong Government can make

reference to the findings of this assessment and consider taking such findings as the basis for conducting its own assessment. If such findings turn out to be deficient supplementary assessments can be conducted. This will be more practical and in line with the interests of the people of Hong Kong than conducting a separate comprehensive environmental impact assessment of its own, which will surely delay the commencement of the project.

Mr President, the Shenzhen River regulation project cannot be further delayed. If the Administration does not commence the project as soon as possible, I am afraid that the residents and the economic interests of the western and northern New Territories will continue to be under the threat of flooding in the next few years. Therefore, I urge our Administration to commence the project as soon as possible in order that the threat of flooding against the residents in the western and northern New Territories can be removed earlier.

With these remarks, I support the two motions.

MR LAU WONG-FAT (in Cantonese): Mr President, it is no exaggeration to say that floods have been incessant in Hong Kong in recent years. After every rainstorm, flooding is bound to occur in many parts of Hong Kong, especially in western and northern New Territories which covers an extensive area. On a few occasions, flooding reached disastrous proportions, causing deaths and injuries and heavy property losses in addition to greatly inconveniencing the people in their everyday life. In the New Territories, flooding has become a cause of widespread bitter complaints.

This Council always pays great attention to the problem of flooding. A debate was held on the problem as far back as in 1987, when the Government was urged to take remedial measures. I followed up on the matter a year ago and asked the Government what short-term and long-term measures it had for solving the problem of flooding in the New Territories. I spoke in good earnest, but the Government had scant regard to what I said. This Council's concern was, in the Government's view, only the Council's own business; the Government sidestepped and prevaricated. The Government seemed totally helpless about flooding, which continued to occur year after year, becoming increasingly serious. The extensive flooding in north New Territories in September this year and the flooding of the Tuen Mun pumping station a week ago once more exposed the Government's gross inadequacies both in preventing floods and in dealing with flood emergencies.

Mr President, we know of course that it is beyond human strength to put an end to all natural disasters. Still, we can do our best to devise effective measures for preventing disasters and dealing with emergencies. We can reduce the frequency of disasters occurring and we can contain the damage when a disaster does occur.

The causes of floods are undoubtedly numerous and varied. A recent theory popular in official circles is that floods in the New Territories are caused by stacks of containers on land converted to unauthorized use. I do not rule out the possibility that this may be the cause of floods at specific locations. But it is neither true nor responsible to say it is the cause of all floods. For instance, it was not the cause of the flooding of the Tuen Mun pumping station the other day, which cut off the water supply to the more than 400 000 residents of the area for several days. The cause of that disaster was the Government's inadequate flood prevention planning, the unclear responsibilities of government departments and a government road construction project, which caused storm drains to be blocked. Luckily, government officials from all departments concerned did their best to deal with the aftermath of the Tuen Mun disaster, where flooding led to the disruption of water supply. But for this, the consequences would have been more serious.

The authorities concerned cannot escape blame for the frequent occurrence of floods in the New Territories. The Government has never fully studied the relationship between New Territories development and flooding. Nor has it made a proper overall plan for flood prevention or properly monitored the implementation of any such plan. I believe that members of the public are fed up with the Government's foot dragging in flood prevention. A responsible and competent government will not become entangled endlessly with studying the causes of a problem of burning urgency while failing to act expeditiously and effectively to solve the problem. If this continues to be the Government's approach, people will begin to wonder if it is really interested in solving the problem.

During this Council's 1987 debate on the problem of flooding in the New Territories, I suggested that the Government should set up an anti-flood group. I also suggested that, before any construction project was approved, the contractor should be required to give an undertaking that a storm drain system would be in place before construction was to begin. The contractor could begin construction only after the anti-flood group had examined and approved the storm drain system. The anti-flood group would also co-ordinate the efforts of all government departments for managing and maintaining the New Territories storm drain systems. I think that these past suggestions of mine remain practically meaningful today.

Not long ago, the Government decided that, before any public works project could be approved, a study had to be made of its environmental impact. In view of the seriousness of the flooding problem, I feel that the Government really must make an exception of flood prevention projects.

The Government should work more closely with China in training the Shenzhen River. The Government must allocate sufficient resources to enable the Shenzhen River projects to be launched and completed sooner. Until these projects are completed, the residents of north of New Territories cannot say that they are not facing a serious flood threat.

Mr President, while flood prevention planning is important, even more indispensable is contingency planning for dealing with flood emergencies. I think that the Government should set up an interdepartmental group to command and co-ordinate rescue operations. In addition, the Government should set up emergency rescue centres at locations where floods are frequent. Rubber life-boats and other emergency rescue equipment should be stored there. When there is a rainstorm warning, rescue staff should be sent to man these centres. The Government should also study and devise a more effective flood warning system to give timely warning to locations prone to flooding.

Lastly, I think that the amount of cash assistance now being paid out to flood victims is clearly too small to be helpful. It is particularly inadequate to farmers who need money for home and farm rehabilitation. The amount is insignificant, like "a drop in the ocean." The Government should sharply increase the amount of cash assistance so that flood victims may receive relief that is meaningful in practical terms.

The Rev FUNG Chi-wood's amendment is putting forth a proposal which is to carry retrospective effect. While retrospectivity is not in the tradition of Hong Kong, I do not intend to oppose his amendment on this ground alone. Heung Yee Kuk welcomes any suggestions that will bring real benefits for the farmers of the New Territories.

Mr President, I so submit.

MR MICHAEL HO (in Cantonese): Mr President, my comments today will focus on the question of flooding in western New Territories on the basis of some information provided by the New Territories West branch of the United Democrats of Hong Kong. Summing up many of the observations lately, we can see that many of the recent instances of flooding are connected with modifications of land use. Many of the agricultural lands in western New Territories have now been leveled and filled up and illegally modified for use as car parks, container storages or other purposes. These modifications of land use have indicated precisely that there is problem with law enforcement and we have failed to effectively bring prosecutions. The use of land is beyond any effective control in the absence of strict lease enforcement. And the problem of flooding will never be solved if we continue to exercise inadequate control.

The flooding in Sha Po Tsuen last year or in Tan Kwai Tsuen this year can be attributed obviously to the clogged drainage channels and probably to the defective assessment by the authorities concerned of the impact of some works projects on drainage. We therefore suggest that a reassessment be conducted by the authorities concerned as soon as possible.

It is indeed regrettable to note that hundreds of thousands of residents in Tuen Mun were denied supply of potable water as a result of the pumping station at Fu Tei, Tuen Mun having been overwhelmed by flood water which

damaged all the water pumps therein following the heavy downpour on the morning of 5 November. However, the most regrettable aspect of this latest instance of flooding is that even the Tuen Mun town centre was affected when in the past flooding would occur in the rural areas only. Serious flooding and numerous landslips also occurred at Tuen Mun's Chi Lok Fa Yuen — a place very close to the town centre. From these several instances of flooding, it is evident that the problem of flooding in western New Territories has been going from bad to worse. I now turn back to the Tuen Mun pumping station incident. When UDHK vice-chairman, Mr HO Chun-yan, and I made a site visit to the pumping station on 6 November, we saw that just over 10 feet from the station main gates was a muddy works site of the Tuen Mun Territory Development Office. No wonder large quantities of mud and soil were washed into the pumping station during heavy downpour when it is just over 10 feet away from the works site. Therefore, I suggest that the authorities concerned should introduce immediately some flood prevention measures for pumping stations or any other important infrastructure which has a bearing on the people's livelihood, in order to prevent the latter from being seriously affected in any future flooding. At the same time, I also suggest that a comprehensive assessment be conducted as quickly as possible of the impact on drainage of all works projects now or in the future.

Here I should like to talk again about a question I have raised earlier on, that is, the Shenzhen River training scheme. In fact, I raised the question today hoping very much that the Administration will tell this Council what problems there actually are with the Shenzhen River training scheme which has been under discussion for so many years, so that we may have a better idea of the difficulties encountered and decide how best to speed up its progress. In its reply earlier this afternoon, the Administration said that boundary issues were discussed at another forum. Very obviously, we have now realized that boundary issues are one of the problems. It appears we can hardly begin training works on the Shenzhen River if we do not resolve the boundary issues. We hope that the Secretary for Planning, Environment and Lands will tell honourable colleagues in this Council, in his reply to be given later, what other difficulties there are apart from technical ones. In Hong Kong today indeed I do not see any technical problems. But what we might encounter, I think, would be political ones.

Finally, I should like to make a few points in response to the Honourable TIK Chi-yuen's describing the Rev FUNG Chi-wood's amendment as "unnecessary". I am indeed puzzled by the description. It is true that the Community and New Territories Affairs Panel has decided to write a letter to the Administration. But we all know that there is obvious difference between urging the Administration to do something by way of a Council resolution and urging it to do the same by way of a panel letter. However, I must express my appreciation of the four Members from Meeting Point for supporting the Rev FUNG Chi-wood's amendment.

Mr President, I so submit.

MR FREDERICK FUNG (in Cantonese): Mr President, two serious flood disasters devastated western and northern New Territories and during the past two months. I believe that, from now on, whenever it rains, the residents of these areas will not have a good night's sleep, for fear that they may wake up to find that their furniture has been ruined by flood waters or that no water is coming out of the tap. They are worried and their worries can be blamed totally on unauthorized land use conversion and failure on the part of the Government to devise long-term measures for the training of streams and rivers. And they have to suffer through no fault of their own.

Between the motion and the amendment, the Association for Democracy and People's Livelihood (ADPL), including myself, thinks that the amendment is more attentive to the interests of those members of the public who have suffered property losses from flooding since September 1993. However, I feel that there are problems that are not totally addressed by the motion, even if it is amended. My remarks would, therefore, focus on these problems.

Firstly, Mr TIK Chi-yuen urges the Government to take concrete steps expeditiously to appropriate money for the Shenzhen River projects, so that these projects may begin in mid-1994. I am very supportive of this proposal. However, I am afraid that, without the support of Shenzhen Municipal Government, which necessarily must be involved, the projects will be twice as hard to carry out and only half as effective. So I hope that the Government will maintain better co-ordination with Shenzhen Municipal Government and have the Shenzhen River projects undertaken jointly by the two sides.

Secondly, the third paragraph of the motion, if given effect, will undoubtedly do some good towards the control of the flooding problem. But I am afraid that, even though there will be no more serious flooding as in the past, no total amelioration of the situation of ubiquitous pools of water could be achieved. The motion merely deals with plans that should be made from now on, but what about problems already in existence before 1991 when the Town Planning Ordinance came into effect. The Government cannot invoke this Ordinance to prosecute those who converted land to unauthorized use before 1991. According to the Planning Department, about 900 hectares of farmland in the New Territories has been converted into open air container depots or storage spaces, including more than 500 hectares converted to such use prior to the effective date of the Ordinance. I am therefore not optimistic that the motion will be effective for fully solving the problem.

In fact, I believe that the Government is already giving active consideration to how this problem can be solved. The ground for this belief is a recent report which says that the Government is considering resuming the land involved by paying compensation or by land exchange so as to improve the storm drain system. But I doubt that this is a good method. The land in question is 500 hectares in area. If the Government is to pay compensation, that will be a heavy financial burden. If the Government is to grant land in exchange, that will be a heavy strain on land availability. Also, will the

resumption time be the proper redevelopment time? This factor should be taken into account, or the land may stand idle after being resumed by the Government.

I hope that the Government will give consideration to two possible methods for tackling planning problems in existence well before 1991. Firstly, if a flood victim can prove that the flood was due to unauthorized land use conversion, the Government should help him to file a claim against the person or corporation responsible for the unauthorized conversion with an aim to establish a precedent. There are lots of flood victims. I believe that the precedent when established will, by serving a warning of some degree, cause others involved in unauthorized land use conversion to act on their own initiative to keep their property well drained. As a result, even "pools of water", as I just mentioned, will disappear. Secondly, in a consultative document, *Comprehensive Review of the Town Planning Ordinance* which was published in July 1991, one method was mentioned, namely, the concept of "amortization". ADPL, including myself, thinks that the Government should actively explore this idea. The idea refers to the compulsory termination without compensation of a non-conformity at the end of a specified period of time. The non-conforming use must be changed to conform to the zoning plan. Because it will be some time before the specified period is reached, the parties concerned will have ample time to earn enough money to recover their original investment and to convert the land back to authorized use. The consultative document, based on American experience, holds that the notice given for the closure of open air storage spaces should generally be quite short. It may vary from several months to several years, depending on the case. I feel that, when amending the Town Planning Ordinance, the Government may wish to consider introducing the said idea to Hong Kong. This will indirectly contribute to the solution of the flooding problem.

Lastly, the Government must pay attention to potential environmental problems where construction projects are underway. I suggest that the Government should require contractors to create a post similar to that of Safety Officer. The people holding these positions may be able to nip problems in the bud. They can help minimize the effects of projects under construction on members of the public. As far as I know, many of the conditions that led to the recent Tuen Mun flood were caused by contractors' disregard for the environment while their projects were under construction. Earth was dumped everywhere and numerous holes were dug in the ground. Therefore, I believe that, if there had been persons responsible for addressing such matters on a professional and regular basis, the flood disasters would not have been as bad as we saw.

With these remarks, I support the amendment.

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

MR HOWARD YOUNG (in Cantonese): Madam deputy, a colleague of mine is a resident of Tuen Mun district and is a typical fan of the TV series *Pao, the Judge*. She told me this morning that in one of episodes in the series shown last week, Judge PAO said, "When YU of the Xia Dynasty was working on the river training programme, he did not enter his place of residence even though he passed by it three times." This is because, according to PAO, YU had transformed his love for his family into a love for the common people. My colleague was deeply moved on hearing this. Knowing that there is going to be a debate in this connection today, she asked me whether it was possible to request the government officials to give some of their love for their families to the residents of western and northern New Territories by helping them solve the problem of flooding.

Just now Mrs Selina CHOW has, on behalf of the Liberal Party, made an analysis, from a macro point of view, of the problem of flooding which has plagued western and northern New Territories. She elaborated on how infrastructural works should be carried out to improve river channels with a view to eradicating the problem of flooding. However, given the fact that the natural topography of western and northern New Territories is somewhat similar to that of a flood plain, and that the level of certain areas even fall below sea level, infrastructural works may not necessarily be a remedy for completely resolving the crisis of flooding. Therefore I propose that certain measures be taken by the Government and the local residents in order to prevent the dangers which even infrastructural works cannot eliminate.

One of the measures I propose is the installation of a sound and effective flood warning system to warn residents before the approach of floods, particularly residents who live in remote areas so that proper preventive measures can be taken. Of course the sooner the system can warn the residents, the better. After all one cannot expect them to receive the warning until such time when they are already adrift in plastic barrels in the water. There was once a warning system which sent out warning signals in the form of siren, but it was rejected by the residents on the ground that the siren was too loud. This is because if the siren is to be audible both far and near, residents who live in the vicinity of the siren will have a hard time and their eardrums will definitely suffer. I suggest that the Government should set out to study the possibility of tackling the problem by means of a computerized flood forecasting and warning system and to ensure, as far as possible, that each household or each small community is tapped into the warning mechanism, or, to set up an on-line network of telephones capable of giving taped warnings at the same time. These ideas are worth studying. With the help of the advanced technology available in Hong Kong, I believe it is not difficult to put such ideas into practice. Of course it is important also to consider the cost-effectiveness of such ideas. It is no longer practical for us to adhere to the primitive method of passing the message by word of mouth as adopted at the time of YU of the Xia Dynasty.

The second aspect which I would like to talk about is public education and participation. In a visit to the flooded area, members of the Liberal Party were told by the local residents that flood water cannot be diverted because of silting of channels. For example, the reason for the breakdown of the pumping station is that sand and cement from construction sites nearby had silted up the drainage system of the pumping station. Moreover, in the normal course of events, channels are silted up not merely by construction materials and waste, but also by such objects as domestic odds and ends, plastic bags or even sofas. As things stand, flooding is not entirely a matter of the design of these channels. If Mr A who lives in that district had not dumped the sofa in the wilderness, or Mrs B had not scattered plastic bags about, the disaster could have been avoided this time, as a matter of fact. Residents of western and northern New Territories must understand that the enemy they have to deal with is one which does not show a regular track of behaviour. What they must do in their daily life is to maintain a cautious and alert attitude and to keep the community clean. The Government should educate the public to the effect of not abandoning waste materials indiscriminately. In short, we must all bear this painful lesson in mind as a reminder in our daily life. In addition, I have to commend the people who have worked so hard to rescue the residents in this flood, including the staff of the Drainage Services Department and other departments. Their spirit of selflessness in serving the community is admirable.

And now a few words about the Emergency Relief Fund. Yesterday a number of our colleagues conducted a thorough investigation and visited several departments, including the Agriculture and Fisheries Department, City and New Territories Administration, Health and Welfare Branch and even the Social Welfare Department. It was only after painstaking efforts that we were finally able to get the information and the correct name of the Relief Fund. It turns out that grants from this Fund are made by the Social Welfare Department, while applications are being processed and referred for action by several different departments at the same time. I hope that such a devious manner of processing application will neither confound the public nor delay the payment of grants from the Relief Fund, which as a result will defeat the true purpose of emergency relief.

My standpoint and that of my colleagues in the Liberal Party is that we hope payments can be made as soon as possible to the victims of such disasters. The Relief Fund will not serve its purpose unless it can be used to help residents rebuild their homes.

As for the question of whether payments from the Fund should have retrospective effect, I think it warrants careful consideration, because in the case of Hong Kong, the principle of retrospective effect in general does not apply to the laws here. Although "retrospectivity" has become a very popular topic recently, we still consider it necessary to think twice before taking any actions.

No matter what people say, whether it be "pointless" or "helpless", I and my colleagues from the Liberal Party support the amendment motion.

MR WONG WAI-YIN (in Cantonese): Madam deputy, since I joined this Council two years ago, I have repeatedly highlighted in the debates on the policy address and the budget that the two major problems of western and northern New Territories are traffic congestion and flooding.

Traffic congestion is of course a big problem: The residents of the New Territories are spending more and more time on the roads; their late arrival at work has major repercussions on the economy. But the consequences of floods are even more serious: There are losses of lives in addition to economic and property losses. It appears that the Government still has not recognized the gravity of the problem though there were several severe flooding incidents recently. Today, the Honourable TIK Chi-yuen moves a motion on the flooding problem in western and northern New Territories. It provides us an opportunity to find out how serious the problem is and to speak with one voice to urge the Government not only to take a serious view of the problem but also to allocate additional resources for solving it. Thus, the scourge of floods in the New Territories will be eliminated.

Flooding is a problem long faced by the residents of western and northern New Territories. What is new and unprecedented is the severity of the floods in recent years. There were heavy property losses and the safety of the residents were threatened. The most severe floods occurred on 5 August last year, 26 September this year and the 5th of this month. Let us look at the severe floods that hit western New Territories and Lantau Island on the 5th of this month. We see several problems: Firstly, the Government appeared unprepared for these flood emergencies, probably thinking that the rainy season had passed by November. Many nullahs were silt up. It is evident that the department concerned has neglected the clearance of the drainages prior to and immediately after the downpours. As a result, the Tuen Mun new town was hit with a severe flood. In Tan Kwai Tsuen, Yuen Long, flood prevention measures have been taken and a nullah of between 20 feet and 30 feet in width has been built. But even this nullah overflowed. Has the Drainage Services Department made a mistake in calculating its optimum capacity when designing this nullah? When there are heavy rainstorms in the future, will this nullah, which is several dozen feet wide, overflow again, causing the village to be flooded?

Secondly, there is the problem of landslides. During the latest downpour, landslides occurred at Tan Kwai Tsuen in Yuen Long and at the Alpine Garden in Tuen Mun. The conditions were very bad. Some time ago, at a Yuen Long District Board meeting, we asked a representative of the Geotechnical Control Office whether there were dangerous slopes in Yuen Long. He replied in the negative. Yet, during the latest downpour, there was a landslide from a slope near Tan Kwai Tsuen in Yuen Long, causing the collapse of three houses. Did the Geotechnical Control Office negligently omit something in its study of dangerous slopes?

Thirdly, the pumping station of the Tuen Mun Water Treatment Plant was flooded and completely taken out of action, causing the 430 000 residents of Tuen Mun to be without water supply. No water in the midst of a flood? This is a big irony. I urge the Government not only to find ways to improve the pumping station of this Treatment Plant, but also to take a good look all over Hong Kong to see if there are similar problems with pumping stations elsewhere, particularly in low-lying parts of the New Territories. If problems are found, remedial measures must be taken before the advent of next year's rainy season.

Madam deputy, while the overflowing of the Shenzhen River is the major cause of floods, the problem is often aggravated by local factors. Natural watercourses used to be able to drain off rainwater in the New Territories. Prolonged neglect and silting due to the dumping of waste materials have made them useless for draining off rainwater. The Government knew all along where the problem lay. But it has been dragging its feet in carrying out improvement works, citing the reason that the improvement works would encroach upon private property. It was not until recently that the Government introduced the Land Drainage Bill to this Council, of which I am the convener. I have already convened two meetings. We are now waiting for the Administration's response. I believe that the study of the Bill will be completed soon and that it will be tabled at this Council for third reading. It is hoped that the Government will begin the training of the the natural watercourses as early as possible.

The New Territories saw very fast development during the past few years. There are both public works projects and private construction projects going on. But there is no matching planning and development of drains and watercourses. Even where flood prevention projects have been planned, construction works have been delayed or put off indefinitely because of environmental considerations. Very often, environmental problems cannot be solved because the Government takes no active interest in solving them. A case in point is the training of the Shan Pui River in Yuen Long and Kam Tin River. These projects were originally scheduled to begin two years ago. Because of objections from green groups, the works have been delayed. The Government recently overcame these objections by simply agreeing to plant redwood trees at the estuary. The problem did not appear difficult to solve. I wonder why the Government waited two years before agreeing to the solution. For this reason, when I learn that the the Shenzhen River training project will have to wait pending the completion of an Environmental Impact Assessment (EIA), I am afraid that history may repeat itself. I hope that the Government will take active steps to solve the problems. There has so far been no planning for land use in the New Territories. The use of land has been modified without the approval of the relevant authorities. In many parts of the New Territories, land has been levelled or raised, resulting in many villages becoming low-lying. Though the Town Planning (Amendment) Ordinance was enacted two years ago in 1991, its provisions have not been enforced because of the understaffing of the Planning Department. I learn that the Planning Department recently set up a task force with 33 officers to deal with the problem of unauthorized

modification of land use. Meeting Point welcomes this move and hopes that the problem will be brought under control.

Due to time constraint, I cannot go on speaking. Lastly, I have one point to add. It is that Meeting Point supports the Rev FUNG Chi-wood's amendment. However, I think that the residents of western New Territories will like it better if the retrospective date is changed to 8 May last year. I hope that it will be.

The buzzer sounded a continuous beep.

PRESIDENT'S DEPUTY: You have to stop, I am afraid, Mr WONG.

MR WONG WAI-YIN (in Cantonese) Thank you, Madam deputy.

DR TANG SIU-TONG (in Cantonese): Madam deputy, extensive flooding hit northeast New Territories on 26 September. Less than one and a half months later, flood waters caused havoc in western and northern New Territories and on Lantau Island. There were inestimable property losses. In addition, two citizens lost their valuable lives, one at Tan Kwai Tsuen in Hung Shui Kiu, and the other, on Lantau Island. This is deplorable!

Severe flooding in north New Territories is nothing new. It has been occurring the past 10 years or more. Sheung Shui, Ta Ku Ling and Lo Wu in north New Territories in the basin of the Shenzhen River have been flood black spots. So are Kam Tin, Sha Po, Tai Kong Po, Wang Chau, Lau Fau Shan and Hung Shui Kiu in Yuen Long. So are the areas on either side of Castle Peak Road in Tuen Mun. These areas experience major flooding every time there is heavy rain; they experience minor flooding every time there is light rain. Flooding is commonplace. The residents of the affected areas have asked the Government several times to undertake flood prevention projects. The Government has said yes. But, as the years went by, no project has ever been started. The residents could do nothing except suffer flooding once or several times a year.

For the two severe flooding incidents that occurred in north New Territories in quick succession, the Government's explanations were: "too much rain fell in one area", "there has been unauthorized use of land", and "there is silting in the streams and watercourses." The blame was put on nature and on other people's misdeeds, as if the Government were totally not to blame. I think that the successive instances of flooding have laid bare grave mistakes in the Government's flood prevention efforts.

There is a saying: "It will rain as surely as a woman will get married." Undoubtedly, laws of nature cannot be resisted. But precautionary measures can be taken before heavy rain. A district flood warning system can be used to warn the residents of low-lying areas. This will at least enable them to take early precautionary measures to minimize the threat to life and damage to property. The absence of land use planning has caused land in the New Territories to be put to improper use and the streams and watercourses to be obstructed. It is totally within the Government's power and responsibility to deal with these two problems. The Government's failure to deal with them effectively has caused the residents to suffer the consequences of flooding. How can the Government say, "It is none of our business"? How can the Government remain uninvolved?

Since the distant days of YU of the Hsia Dynasty, China has never failed to use two ways for preventing and controlling floods: keeping rivers unobstructed and draining off flood waters. Three or four years ago, the Government put forth a comprehensive draining scheme for Yuen Long and Kam Tin and a scheme for training the Shenzhen River. These two schemes were meant to solve the flooding problem of north New Territories completely. On the former scheme, which will take 10 years to complete, work is not to begin until the end of this year. No agreement has yet been reached with China on the latter scheme, which will be completed nobody knows when in the distant future. Pending the completion of these two schemes, the Government must take active steps to make land use conform to plans and dredge the silt-filled streams and watercourses. Otherwise, floods will remain a threat.

The latest flood in western and northern New Territories laid bare another failure of the Government, namely, its failure to make sound contingency plans for dealing with flood emergencies. A clear case in point is the use of water trucks to supply water to Tuen Mun. On the second and the third day after the flood, I visited various parts of Tuen Mun to see how water was being supplied by truck. I found that the number of trucks used to supply each area was not proportional to the size of the local population. Nor did the trucks observe a stable timetable. At Siu Shan Court, I saw people waiting four hours before being supplied with water. I went in person to the operation command post to make representations. It was not until after my intervention that a water truck eventually put in a late appearance. The people who were waiting in line were agitated. The command post explained that the truck driver had lost his way. This must be a joke! On the first day of the water truck operation, the government department concerned did not designate specific parking places for the water trucks. On the same street, there were two waiting lines, one at each end. One did not know which line to join. Only on the second day were signs put up to show where the water trucks would be parked. Things then became more orderly. There was a hotline for use by people who needed water. The hotline was either busy or out of service. The other side of the line either had no information to give or would connect the caller to the Tuen Mun Police Station. This hotline was useless. Such things happened because of the absence of contingency planning. The disruption of the water supply in

Tuen Mun caused the 430 000 residents and the business people of the area to cry out in desperation. On 10 November, with several colleagues from this Council's Community and New Territories Affairs Panel, I visited the Fu Tei Pumping Station to find out what had happened. I found that the pumping station was not protected by walls against mud-slides. This was clearly a designing problem. The people in charge of the pumping station explained that flooding occurred because the drains had been blocked by rubbish, weeds and mud from the mud-slide. However, we found that a government project, Highway D9, was in progress near the storm drain openings. This was probably why the drain openings were blocked. I hope that the Government will give a reasonable explanation to this Council. The Fu Tei Pumping Station at Tuen Mun has been in existence for more than 30 years. It had never been severely flooded before. There was no landfill site or container parking lot between the pumping station and the Tuen Mun River. The only thing between them was the Government's Highway D9 project. Unless the Government can find a more logical explanation, then the flooding must be blamed on the Highway D9 project. The Governor said in his policy address last year that the Government would make an environmental impact assessment in respect of every government project. Well then, because of the recent flood, can we say that the Government had made a flawed environmental impact assessment? Was the flooding due to man-made mistakes? Was it an act of God? If a victim wants to seek compensation, what recourse will he have? I hope that the Government will give an answer.

Chi Lok was the part of Tuen Mun that was the most severely affected by flooding. On 11 November, I found that there was still mud in the area of Chi Lok Fa Yuen, mud that had been washed down from the hills but which had not yet been cleared. This affected environmental sanitation, the everyday life of the people and the business of the shops. More seriously, if the mud got into the storm drains, these drains would probably be blocked again. Therefore, what the Government did in dealing with the aftermath of the flood was unsatisfactory. However, I do greatly appreciate the work of those involved in restoring water supply in Tuen Mun in the aftermath of the flood.

I have worked in the New Territories for over 20 years. I fully understand the sufferings that floods cause. Therefore, I support the theme of today's debate. The only difference between the motion and the amendment is in the fourth point, concerning the review of the scheme of cash assistance for emergency relief. I agree that the existing scheme has to be reviewed. The present amount of cash assistance, which is paid out from a charity fund, is not enough. The Government should expeditiously review and improve the scheme to enable victims to receive reasonable compensation.

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

MR ALFRED TSO (in Cantonese): Madam deputy, for years, flooding in the New Territories has been one of the major outstanding problems waiting to be solved. Every year, residents of the New Territories suffer tremendous losses when flooding occurs due to heavy rain. Some of their poultry and crops are destroyed and sometimes even their homes are seriously damaged.

The causes of flooding are manifold and they have been discussed in detail by Members who spoke just now and also in previous related debates and replies. Nevertheless, it seems that the causes of this problem cannot be identified in these numerous discussions, nor has any specific plan been formulated for long-term prevention or solution. After the flooding in 1987, there was a proposal to set up an anti-flood working group but the proposal was not implemented. There was neither any systematic review, investigation nor examination as to contingency measures in case of emergency to contain the problem. This situation is indeed disappointing.

I agree that much of the agricultural land in the New Territories is being misused and that causes damage to the environment. As a result, the drainage systems in certain areas are also affected. Therefore, I fully support controlling the problem through legislation as well as tougher enforcement and prosecution. However, I think that existing measures are not sufficient to prevent flooding. The Government should, as soon as possible, identify the crux of the problem and apply the right remedy so as to avoid further losses of life and property.

There is one problem that the Government should mitigate as soon as possible. To do this, the Government should seriously evaluate the possibility of completed or ongoing public works projects causing flooding. Let me cite the flooding incident which occurred in Tuen Mun on 5 November as an example. One of the sites that flooding occurred was the section of Castle Peak Road adjacent to Chi Lok Fa Yuen. The flooding was attributed to blockage caused by the soil being washed down from nearby slopes by heavy rain. Actually, severe flooding had occurred once on that site about four years ago. Subsequently, the Territory Development Department and the Drainage Services Department explained the causes of the incident and then promised to properly deal with the aftermath and clear the drains regularly so as to prevent reoccurrence of the problem. However, after a lapse of four years, the tragedy occurs again. It is difficult for the Government to deny the blame.

The flooding incident that occurred in Fu Tei Water Treatment Plant on the same day was even more serious. It directly affected the water supply to the 430 000 Tuen Mun residents and caused substantial losses to the commercial and industrial sector of Tuen Mun. I made several site visits to the scene with some Tuen Mun district board members to understand the situation. We found that the cause of the flooding was directly associated with the Road D9 construction that was under way. The project was designed to fill up the original low-lying water channel and raise its level by more than 20 feet. Consequently, the water treatment plant which used to be situated on high ground, finds itself standing on low-lying ground. When the withered trees, grass and litter on the hillside

were washed down by heavy rain to the lower reaches of the channel and choked this man-made water channel under the new road, the rainwater, unable to find an outlet, flowed into the water treatment plant and caused damage. Sir David FORD, the acting Governor and Mr A G EASON, the Secretary for Planning, Environment and Lands, commented on 6 and 7 November respectively that flooding was due to misuse of land in the New Territories. Such a statement made the 430 000 Tuen Mun residents and the general public believe that they were victimized by irresponsible landowners and open shortage area owners. However, these were not the facts. I myself had carefully inspected the vicinity of the scene and found that there were no open storage areas, container yards or other related activities in the upper reaches of the channel and neighbouring areas of the flooding site.

At 3 pm on 8 November, Sir David FORD visited the Fu Tei Water Treatment Plant in Tuen Mun. I attempted to point out the causes of the problem to Sir David at the scene. Yet, regrettably, his subordinates only took him to see the maintenance aspects of the water pump and did not take him to the worksite of Road D9 to find out the causes of the flooding. Moreover, after inspecting the maintenance works, Sir David immediately made for the backdoor and then left by car, in order to avoid seeing me. Although I hurried to Butterfly Estate and eventually caught up and discussed the causes of the flooding with Sir David and requested him to make public he investigation report, I found the attitude and the manner wherewith the government officials concerned handled this matter most unsatisfactory which made people doubt their sincerity. I strongly request Sir David and Mr EASON to give an open explanation of the rationale behind their comments. Being high-ranking officials, they have to be held accountable for what they say. If they do not have any ground, and only shift their responsibility to others when a problem arises, how can they convince the public with such kind of attitude that they are displaying, and how can they convince this Council that the Government will really solve the problem?

Madam deputy, I support the original motion moved by Mr TIK Chi-yuen and the amendment motion put forward by the Rev FUNG Chi-wood. I whole-heartedly advise the Government that they should change their biased attitude. They should also deal with the aftermath of the flood and carry out preventive work conscientiously as soon as possible, in the hope that the flooding problem can be solved.

With these remarks, I support the original motion and the amendment motion.

PRESIDENT'S DEPUTY: Mr TIK, you have five minutes to speak to the amendment if you so wish.

MR TIK CHI-YUEN (in Cantonese): Madam deputy, today's debate on my motion, despite Rev FUNG Chi-wood's proposed amendment to it, has been held in a very harmonious atmosphere. I even note a good deal of consensus during the debate. The first consensus is that it is accepted flooding problem in the western and northern parts of the New Territories is extremely serious. After the numerous incidents of flooding over the years, the affected residents and our Members have come to the end of their patience. The second consensus is that the Government should be held responsible for the aforesaid flooding problem and should not pass the buck to others by making the excuse that it was a matter of natural calamity or the result of some inappropriate deeds done by the residents themselves. Many problems can be solved through government efforts. The third consensus is that what the Government should do include the training of river courses, expeditious completion of the relevant projects, stepping up of law enforcement, installation of a flood warning system and the establishment of a sound emergence relief system as well as a contingency mechanism. At present the Government has still not done enough in these areas and I hope that it could do more.

Among the views expressed by Members during the debate, it seems that the issue Members feel most seriously concerned is understandably the Shenzhen River project. We know, as the Government has also admitted, that the flooding problem in western and northern New Territories will not be fully addressed without an early completion of the Shenzhen River project. Yesterday a Meeting Point delegation visited Shenzhen to discuss this problem with some officials in the Shenzhen Municipal Government in charge of the matter in question. During the discussion, we had a deep impression that the officials of the Shenzhen Municipal Government took a far more positive attitude than that of their Hong Kong counterparts. In the past we also had had meetings on similar issues with some Hong Kong government officials like Mr Canice MAK and Mr CHEUNG Tat-kwing but they failed to give us clear and satisfactory reply. In contrast, the message the Shenzhen Municipal Government gave us is unequivocal and straightforward. Just now Mr Frederick FUNG wished to know the view of the Shenzhen Municipal Government with regard to the proposal that the project should be commenced in mid-1994. Now I have a message for our colleagues: the Shenzhen Municipal Government hopes very much that the project could be commenced in 1994. They have already made all the necessary arrangements in respect of finance, preparatory works, technical know-how and so forth. At present they have to wait as the Hong Kong Government has yet to indicate its support to this idea.

In addition, discussions on the Shenzhen River project have been going on for more than 10 years since 1981. The project might have been commenced in 1988. But unfortunately it was shelved as further discussions had to be held because the Hong Kong Government expressed worry in relation to border control. As a result, the project was put on the shelf for several years. We are pleased to see that talks were resumed in 1992 but up to now we still have to clear a hurdle in the form of an environmental impact assessment (EIA) study. I agree very much with the views put forward by many Members on the study.

The EIA is a technical study. We support the EIA because it will relieve any environmental impact of the project to the minimum. But this is neither a matter of principle nor one should be accorded greater priority. We think that the Shenzhen River project must be expedited and the EIA is merely a matter of adjustment.

I remember that the Governor took the trouble to visit Ho Sheung Heung in order to understand the situation of the affected area when north New Territories was inundated in September. From his look and facial expression, we can see that he deeply sympathized with the residents who were facing difficulties and in need of help. He also publicly said that the Shenzhen River project should be commenced promptly so that it could be completed at an early date. Several months have lapsed but the Governor seemed to have done nothing to direct or urge the officials concerned to speed up the project. During the debate, we have identified more problems. I hope that the Governor was not putting on a political show when he made the open remarks in September, but as the chief executive, he did truly demonstrate his concern about the villagers' needs and plight. It is hoped that he could make the reasonable arrangements.

Residents in north New Territories feel that immediate action should be taken to tackle problems relating to flooding and the Shenzhen River project. We have already set up a joint concern committee of the Shenzhen River project which has been in operation for over a year. We find quite a number of disappointments in previous projects and often feel that nothing less than a disaster can tug at the heartstring of our top officials. Now the calamities have occurred. We hope that these incidents could really soften the officials' heart in this Chamber so that they would work harder in making fund available and completing the projects.

THE PRESIDENT resumed the Chair.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, it will be of little or no comfort to those who are affected from time to time to be reminded that the natural topography in major parts of western and northern New Territories are a flood-prone flood plain. There are altogether five susceptible areas — the Tin Shui Wai basin, the Yuen Long, Kam Tin and Ngau Tam Mei basin, the San Tin basin, the Indus basin and the Ganges basin.

The serious flooding which occurred in North District in September and in Tuen Mun and Lantau this month showed how vulnerable such areas are and how important and urgent it is that we press on with our extensive plans and programmes for flood prevention and protection. Today's motion and Members' speeches reflect the community's concern about the problem. I can assure Members that the Government is fully aware of and shares this concern.

We will press on with our measures and we will, as we always do, seek to learn and apply the most recent lessons and put Members' advice to good use.

Causes of flooding

There are a number of natural as well as artificial causes of flooding. Natural causes are largely out of our control and include heavy and prolonged rainfall during typhoons or tropical depressions and high tides. Heavy rainfall was indeed the main cause for the recent flooding. On 26 September 1993, the 24-hour rainfall recorded at Fanling was 316 mm, 160 mm of which poured down between 6 pm to midnight on that day; while 360 mm and 736 mm were recorded on 4 November 1993 at Tuen Mun and Tung Chung respectively. These are, by any standard, exceptional figures. The average monthly total rainfall for September is 299.7 mm and that for November is 35.1 mm.

The artificial or perhaps more precisely "man-made" causes are numerous. Lack of maintenance of irrigation and drainage systems on farmland as a result of the decline of agriculture is one. The dumping of rubbish, livestock waste and construction materials on low-lying areas and into river channels and the indiscriminate filling-up of fish ponds and agricultural areas without regard to the provision of drainage facilities is another. The cumulative effect is a severe reduction in the capacity of drainage channels, streams and rivers. Hence, flooding usually occurs somewhere whenever there is heavy rainfall.

The Government has long accepted that a comprehensive programme of river training works and drainage channel projects is required. I said the same in this Council as recently as 17 October this year. It was in recognition of the importance of drainage works that the Government decided to create the Drainage Services Department in September 1989.

Flood control is a complex and technical subject. It also requires comprehensive scientific and engineering studies. The Territorial Land Drainage and Flood Control Strategy Study was commissioned in 1988 and Phase I of the Study completed in 1990 recommended a series of flood control projects and measures for western and northern New Territories. Considerable efforts and resources have been committed since then to implementing these projects.

The recently completed Phase II of the Study has further recommended a three-tier approach in tackling flooding, namely

- (a) proactive flood mitigation measures, including river training and construction of pumping stations;
- (b) reactive flood mitigation measures, including flood proofing, flood warning system and emergency drainage clearance services; and

- (c) improved land use planning and control.

River training projects in northwest New Territories (NWNT)

In the NWNT, the highest priority has been given to the training of Shan Pui River and the lower reaches of Kam Tin River. Work on the Shan Pui River began last month, while work on the Kam Tin River will start early next year. The training of the remaining section of Kam Tin River and the construction of new river channels in San Tin and Ngau Tam Mei are programmed to commence in 1995 and 1996. In addition, construction of 11 floodwater pumping schemes to protect 30 low-lying villages in the area is scheduled to start between 1994 and 1997. The total construction cost of these major flood control projects amounts to \$2.8 billion.

River training projects in north New Territories

The flooding problem in the north New Territories will be alleviated to a considerable extent when the Shenzhen River has been trained. I have explained earlier this afternoon the position as regards the Shenzhen River project, which is a joint one between the Hong Kong Government and the Shenzhen Municipal Government.

Let me recapitulate briefly the main features of the project, which is divided into three stages. Stage I involves the straightening of the bends at Lok Ma Chau and Liu Pok; Stage II covers the stretch of the river from Lo Wu to the estuary; and Stage III covers the remaining stretch of the river from Lo Wu upstream to Muk Wu. Both Governments have accepted the need for Stages I and II works to proceed first.

We have earmarked funds for the first two stages of the project. Like Members here, we want to complete the project as rapidly as possible. But this is a complicated project and like other major public works projects, it needs to be subject to the established procedures and of course to funding approval. Preparatory work, including a land survey, site investigation and hydraulic model test requirements to ascertain the possible effects of the Stages I and II works on the Lo Wu railway bridge, and an EIA study for Stage I and II of the project, has already been agreed by the two sides and is in progress. Subject to the result of these and other necessary procedures, such as land resumption and funding approval from the Finance Committee, Stage I works will most likely start in 1995.

There have been suggestions that we do not have to proceed with a full EIA study or that we could start work ahead of and regardless of the EIA. I wish to take this opportunity to clarify a few points as regards the EIA. As I have said, the project is a complicated project which could have a major environmental impact, for example, on Mai Po. It would be irresponsible of us not to assess this thoroughly before large-scale works start. The full EIA for both Stages I and II of the project will take some 15 months to complete in

order to cover the possible changes in hydraulic situations in the four seasons and their impact on the ecology of Mai Po. The terms of reference of the EIA study and the manner in which it should be conducted have indeed been agreed with the Shenzhen side. The work by the Chinese Research Academy of Environmental Science will provide useful basis information, but it is not an EIA, that is, it does not assess the environmental impacts or the mitigation measures that might be required. However, in order to make progress as quickly as possible, we have asked the EIA consultants to submit a preliminary report six months after the commencement of the study. At that stage, it may well be possible to determine the environmental acceptability of the project as a whole and confirm that the Stage I works can proceed. If so, the design of Stage I can be finalized and, once the project costs are known, funding approval will be sought from the Finance Committee to enable the Stage I works to proceed.

Despite our intention to proceed with the project as rapidly as possible, it is simply not feasible to complete all the preparatory work and have the project implemented in mid-1994. But if we can bring commencement of the project forward at all, we will.

In addition to the Shenzhen River scheme, there are plans for the training of the lower reaches of the River Indus, a main tributary of the Shenzhen River. Resources will be allocated to enable the planning and design of this project to proceed.

We have also in hand plans to implement the rehabilitation of the Beas, Indus and Ganges rivers, to restore their hydraulic capacities and improve maintenance access. The estimated cost is about \$150 million and works are expected to commence in 1996.

While the Government is doing as much as possible to speed up the completion of a very substantial programme of flood prevention and protection works, it is inevitable that such a programme will take time to implement. The projects need to be properly planned and designed with adequate public consultation, some private land will need to be resumed, environmental issues — as we are constantly urged by Members of this Council in other contexts — must be properly addressed and all the statutory and administrative procedures observed.

Reactive flood mitigation measures

River maintenance is also essential in alleviating the flooding problem, as many Members have pointed out. About \$4 million were spent on desilting work in northern and western New Territories in 1992-93. In 1993-94, \$8 million will be spent.

To facilitate river maintenance works, early enactment of the Land Drainage Bill, which was introduced into this Council on 7 July 1993, is vital. Once the legislation is in place, drainage maintenance work by the Government will be greatly facilitated and effective action to prevent dumping and development which can now block main drainage channels can be taken.

We are exploring means to improve our flood forecasting capability and the possibility of a regional flood warning system. An experimental regional flood forecasting system is being developed for trial in North District. It will, however, be extremely difficult to guarantee wholly reliable advance warnings based on flood forecasting because of the unpredictability of rainfall quantities and their local effect. But we will do whatever we can.

Land use planning and control

Prevention is better than cure. The Government is conscious of the need to get ahead of the problem through better land use planning and control. On a regional basis, the current review of the NWNT Development Strategy has placed emphasis on the problem of flooding and the adequacy of drainage infrastructure when planning land uses in the region. Development will not be allowed unless adequate drainage infrastructure is in place.

At a local planning level, flood prevention is an important consideration in the preparation of town plans and in the processing of planning applications. Flood-prone areas are generally not identified as areas suitable for development. Furthermore, development along floodways, which are the main corridor for storm-water flows during flooding, will also be controlled and discouraged as far as necessary. Any proposed developments on flood plains that have a potential impact on their flood capacity will need a drainage impact assessment to assess the impact and to devise mitigation measures.

We must also tackle one of the main "man-made" causes of flooding in these areas, namely the filling up of ponds and fields. The cumulative effects of levelling and filling up of agricultural land and fish ponds, as evidenced in recent flooding incidents, have shown one of the reasons why the Government enacted the Town Planning (Amendment) Ordinance in 1991. Although the Ordinance has not stopped unauthorized development and the conversion of agricultural land for open storage uses completely, it is clear that the problem would have been even worse without it. We are aware of the need to take action against unauthorized development. The Planning Department has now set up a central enforcement and prosecution unit to step up enforcement action and has started applying section 21 of the Ordinance to expedite action against unauthorized development. Subsequent reinstatement of land will also take account of the need for flood protection.

Contingency arrangements

The Government's contingency plans for natural disasters, including those arising from severe weather conditions, are kept under constant review. The Secretary for Security is in the process of reviewing these plans in the light of the experience gained from the recent severe flooding incidents associated with Typhoon Dot and Typhoon Ira. As Members are aware, the Security Branch briefed members of the Community and New Territories Affairs Panel on 4 November on the contingency arrangements made during the flooding incidents and has undertaken to report back to the Panel the outcome of the review on its completion. Similarly, the cause of the flooding of the Tuen Mun pumping station has also been carefully investigated and the need for flood protection measures and contingency plans to avoid similar problems affecting key facilities in future is being examined by Secretary for Works and departments.

Emergency relief

As regards cash assistance for emergency relief, grants from the Emergency Relief Fund are paid to victims of natural or other disasters or their dependents to relieve hardship. Administration of the fund is governed by the Emergency Relief Fund Ordinance (Cap. 1103). The responsibility for approving grants and making payments is in most cases vested in officers of the Social Welfare Department, the Housing Department, the Marine Department, and the Agricultural and Fisheries Department, while the City and New Territories Administration is responsible for overall co-ordination.

The Emergency Relief Fund scheme is non-means-tested and is not a compensation scheme for damage. It aims to provide short-term cash assistance to the victims or their families. Grants are made from the Fund under five main categories, namely, death and personal injury grants, domestic re-accommodation, re-equipment, site formation and repair grants, grants for the repair or replacement of vessels, primary produce grants and special grants. About \$2.4 million were paid to 1944 cases as cash relief from the Fund as a result of the September flooding. In addition, over \$1.5 million have also been paid to 962 cases out of the General Chinese Charities Fund which is administered by the Chinese Temples Committee and is not financed by the Government. As regards the November flooding, so far the Emergency Relief Fund has paid out \$400,000 for 500 cases and the General Chinese Charities Fund has paid out \$250,000 for 153 cases.

The schedule of Emergency Relief Fund payment is revised from time to time by the Emergency Relief Fund Committee. Revision takes account of increases in prices and wages. No doubt the coverage of such relief and the eligibility criteria can also be reviewed regularly. However, it is not the policy to apply revised rates retrospectively.

Concluding remarks

In brief the Government fully recognizes the severity of recent flooding incidents and will implement the necessary flood control measures as quickly as possible. Both prevention and emergency response arrangements will be constantly reviewed and improved as far as possible.

The official Members will be unable to support the motion for two reasons. First, despite our determination to commence works on the Shenzhen River project as soon as possible, it is not possible for the Government to give an undertaking to implement the project in mid-1994 when it is clear that at best works could not start before late 1994. Secondly, while the Administration will keep under review the administration of the Emergency Relief Fund, including the rates of payment and eligibility criteria, it is unable to pre-empt the deliberations of the Emergency Relief Fund Committee and therefore to support the proposal that any improved measures should have retrospective effect.

Thank you, Mr President.

Question on Rev FUNG Chi-wood's amendment put and agreed to.

PRESIDENT: Mr TIK, do you wish to reply generally? You have 1 minute 52 seconds.

MR TIK CHI-YUEN (in Cantonese): Mr President, I would like to thank Members for their active participation in this debate. Yet, I feel very disappointed with the Administration's reply, which contains nothing new but merely empty words with little concrete action to back them up. The calamity fails to soften the heart of the officials. They do not heed Members' advice. We, in fact, hope that three more things can be done on the existing basis. First, taking expeditious actions: the Shenzhen River project must be carried out at an early date. Second, early completion: we yearn for an early completion of all the existing projects in western New Territories within 10 years. Third, comprehensiveness: we hope that there could be a comprehensive enforcement of the Ordinances concerned and a comprehensive mechanism for compensation and contingencies be implemented and monitored.

Mr President, man may not always triumph over nature but a responsible and proactive government could help to relieve some of the sufferings caused by natural or man-made calamities.

In this connection, I would like to conclude by calling upon Honourable Members to keep up to monitor and supervise such a stubborn government.

Question on Mr TIK Chi-yuen's motion as amended by Rev FUNG Chi-wood's amendment put and agreed to.

ORGAN DONATION

MR LAU CHIN-SHEK moved the following motion:

"That this Council urges the Government to promptly evaluate the existing arrangement for organ donation and formulate a set of comprehensive and appropriate policies together with the relevant time-table, with a view to ensuring that needy patients can undergo life-saving organ transplants at an early date; and, also, that the Government should report to this Council on the progress of the above-mentioned work on a regular basis."

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

Over 2 000 patients are waiting quietly

At present, there are over 2 000 patients in Hong Kong waiting quietly for organ transplants. They are dying or cannot live a normal life. But only 2% of them stand a chance of receiving the needed organs each year. According to government statistics, at the end of last year, about 500 to 600 people were waiting for kidneys and about 200 for corneas. Besides, there are about 150 new cases a year in need of liver transplants and about 200 new cases a year that heart and lung transplants are needed. At the end of the first half of this year, 1 000 people were waiting for corneas, 600 for kidneys, 200 for livers, 20 for bone marrow and 180 for hearts and lungs.

These figures make it clear that the demand for organ transplants is huge and has shown no sign at all of levelling off over the greater part of this year, which has already passed. Among those who are badly in need of organ transplants, some are dying in hospital. They are waiting for the coming of the "saviour"; they hope that somebody some day will donate organs to save their lives. Some, for instance, those with kidney diseases, are receiving protracted treatment, such as dialysis, that relieves suffering but does not cure the diseases and which does serious physical and mental harm to the patients. Clearly, in many cases, the lives of patients can be saved only if cadaveric organs are made available for transplant in the living. It is quite obvious that Hong Kong does not lack the medical technology for organ transplant operations; what it lacks is a sufficient supply of organs for transplant.

The story of LI Mei-sze

At the end of last year, I already suggested that the issue of organ donation should be brought up for discussion. Woman police officer LI Mei-sze died towards the end of November last year; she had waited in vain for over half a year for heart and lung transplants. Her death prompted me to bring up this subject for discussion in this Council, in the hope that we would urge the

Government to act expeditiously to ensure that patients in need of organ transplants would receive them promptly.

The story of Miss LI was widely reported in the media. The community was touched and moved. Miss LI died from the want of organ transplants herself; what was more, before her death, she willed the donation of her corneas to other patients. Two people received her corneas and, as a result, regained their vision. Miss LI, who was to die from the want of heart and lung transplants herself, became a cornea donor to help others. Her deathbed generosity moved others and indirectly contributed to Hong Kong's first heart and lung transplant operation, which was performed towards the end of December. The surviving family of the organ donor in this case said frankly that Miss LI played a critical part in moving them to consent to the organ donation.

Voluntary organ donation scheme is marginally effective

Hong Kong has been promoting "organ donor cards" for many years, with results that are barely satisfactory. The Chinese traditional concept is to keep the body intact after death. It often happens that, even though a deceased is clearly an organ donor, his surviving family will object to the organ donation, thereby blocking the organ transplant operation. As a matter of fact, I believe that the Government itself does not have the exact figures of how many people have signed and are carrying "organ donor cards." Nor does it know whether the organs from the voluntary donors will really be suitable. Be this as it may, the harder problem is to overcome the surviving family's objections, which threaten to abort everything. Unless such objections can be overcome, the patients waiting for organ transplants can do nothing except wait and wait. To keep the body intact after death is an idea that is deeply rooted in tradition. It stands in the way of organ donation to help those in need, even though everybody knows that cadaveric organs are useless to the cadaver. If the situation continues to be like this, it would serve no meaningful purpose though many people have signed the card and indicated their wish to be donors.

Automatic transfers of organs

I believe that all of the Members here approve of organ donation. The question is: Should Hong Kong promote an opting-out system as in France and Singapore, thereby enabling the organ donation scheme to be carried out effectively? This, of course, is a very controversial question. Still, if one looks at it in another way, organ donation as a policy does good to all and does harm to none. Members of the public are perhaps misled by the use of the term "compulsory donation." They find it unacceptable because it implies compulsion. Compulsory donation means that you must donate whether you want to or not. However, under the opting-out scheme, one is absolutely free to choose. So I feel that the use of the term "automatic transfer" or "obligatory transfer" will more accurately reflect the spirit of the opting-out scheme.

"Automatic transfer" means this: When a person is alive, his organs belong to him because they are useful to him. Different organs have different functions. The eyes are for seeing, the lungs are for breathing, the kidneys are for excreting waste matters and the heart is for pumping blood. However, after a person dies, his organs are no longer useful to him, for the deceased no longer needs eyes for seeing, lungs for breathing, kidneys for excreting waste matters or a heart for pumping blood. But these organs are very useful to, and will save the lives of, patients who need organ transplants. Cadaveric organs are also useless to the surviving families of the deceased, for, unlike property, money or other kinds of legacies, they cannot be transferred by legatees as valuables. Therefore, it is natural and logical that they should be transferred automatically.

Any living person can potentially benefit from organ transplants. If organs are automatically transferable after people die, every living person will have a chance to receive a transferred organ when he needs it. Therefore, everybody has a corresponding obligation to participate in the automatic transfer of organs.

French law on organ donation

In 1976, France enacted a law on the removal of organs from cadavers. This law provides the best example of the principle of automatic organ transfers in practice.

Section 2 of this French law provides clearly that "It shall be permissible to remove organs from a cadaver for medical or scientific research use, unless the deceased, while alive, indicated otherwise." The law also provides that "An organ for use as a transplant may be removed from the cadaver of a minor or a person incapable of expressing himself, subject to the approval of the deceased's legal representative." The law also contains detailed explanations of how a citizen can express his intent of refusing to have his organs removed upon death and how a hospital, where a patient is hospitalized, must keep a proper record of his intent if he intends to refuse to have his organs removed upon death. The law also provides that no organ may be removed from a dead body for medical or scientific research use unless death is certified by two doctors.

The French system has been in practice for over 10 years. I think that the Government should study it and consider introducing it to Hong Kong.

No religious objection to organ transfers

Some may say that religious beliefs support the idea of retaining an intact body after death and oppose organ donation. However, as far as I know, neither Christianity nor Buddhism does so.

Pastor KWOK Nai-wang, Director of the Hong Kong Christian Institute, says that organ donation is an act of altruism. He says that, in the opinion of Christians, because a person's soul leaves his or her body upon death, the wholeness of the body after death is not important. The Reverend SING Wan, a highly respected Buddhist monk, says that Buddhist stories about Buddha's feeding his own flesh to an eagle and giving himself to a tiger show that Buddhists emphasize love but not the "wholeness of the body" idea. He says that, in the opinion of Buddhists, organ donation is good for both the donor and the recipient. The donated organ will save the recipient's life and this is a case of "putting useless things to good use" and that the deceased continues to do good after death.

Violation of human rights?

Some oppose the idea of automatic organ transfers out of human rights considerations. They asked me, "You are for human rights; how come you are making a suggestion to violate human rights?" These people think that, if automatic transfer is an obligation, it is contrary to human rights. They say that it is just as contrary to human rights as when the term "compulsion" was used.

Well then, I would like to discuss with these friends what human rights are. United States President Thomas JEFFERSON, the world's first advocate of human rights, said that a human right was the right of every person to pursue happiness and that it was the same for a sick person, an injured person or a weak person.

Organs have nothing to do with deceased people's pursuit of happiness. Nor are they of any help to the pursuit of happiness of the surviving families. But organ donation is very important to the pursuit of happiness of patients who need organ transplants. Let us not forget that even a country like France, which stresses human rights, has enacted law to make the automatic transfer of organs an obligation. In fact, human rights concerns are taken care of because every living person is given the right to refuse to donate his organs after death.

Sorrow of surviving family

Many people said that even if the deceased did not object to organ donation while he was alive, should we not consider the state of mind of his surviving family? I sympathize very much with the surviving families of those who died in accidents. A member of the family is dead and, after death, his organs are removed. This is a double blow to the surviving family. However, if the deceased accepted automatic organ transfer while alive, I hope that his surviving family will consider this question: Will it not be better to honour his wish than to violate it? Besides, organ transfers are for saving lives. The truth is that the surviving family of the deceased is not the only family that is suffering. The families of many patients waiting for organ transplants are also living in pain.

Some say that, because most members of the public are opposed to organ donation, now is not the right time to insist on introducing the opting-out system. I do not disagree that the public should be educated. However, I would like to ask: There are those who are suffering in their sick beds and who are waiting quietly for organ transplants; how much longer must they wait? Must they still be waiting when they depart from this world in disappointment?

A real-life example

Lastly, I would like to tell Members about a real-life example. Mr YUEN wanted to save the life of her 18-month-old daughter. Three months or so ago, he gave part of his liver to the girl for transplant. The doctors had told him that the liver should best come from a cadaver, since transplanting part of the liver from one person to another who was closely related was highly risky. Should the transplant fail, both lives would be endangered. But Mr YUEN had already waited for more than a year. No suitable cadaveric organ was ever donated by anybody else. The girl's health was deteriorating steadily. After some mental agonizing, Mr YUEN finally decided to donate part of his own liver. Mr YUEN has since said that the operation completely changed his view about organ donation. He says that, in the past, he had traditional thoughts like others and was very antipathetic to organ donation after death. However, when no liver donation was forthcoming to his daughter, his feeling of helplessness caused him a great deal of pain. After giving up part of his liver to save his daughter's life, he now knows how important organ donation is. He says that he signed a organ donor card right away and is carrying it all the time.

Mr YUEN is not the only person who wants to donate an organ while alive. In a recent case, seven people offered to donate part of their livers to save the life of a baby who was not a close relative. They offered to do so though knowing that, after donating part of their livers, they would be 10 times more likely to be sick or even to die. One of them said, "I am no hero. I am afraid of pain. But I think that what I do is worthwhile." Persons who are alive are willing to donate their organs to others who are not even related to them. What more is there for us to argue about?

Mr President, my motion is very clear. It urges the Government to act expeditiously to lay down an effective policy to enable patients in need to receive organ transplants promptly. I think that the Government must give consideration to promoting the opting-out scheme, so to ensure that patients in need of organ transplants can resume their normal life soon. I hope that all Members will speak in this direction.

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

Question on the motion proposed.

MRS SELINA CHOW (in Cantonese): Mr President, the Liberal Party supports what is being urged of the Administration in this motion. I believe that Members of this Council have often received from the public letters asking for assistance or complaints in relation to the slow progress of applications for organ transplant. But we all feel powerless because we are unable to help them. As a matter of fact, the patients who cannot wait until their turns come for organ transplant are much more numerous than those who can. This is something very worrying and saddening to the relatives of these patients. In fact, it is imperative that the Administration should do something as soon as possible to address this problem and to help the patients in need. I think this motion is not controversial, because I believe that anyone, if he has some measure of sympathy, would agree with us in urging the Administration to take some actions. But behind the motion there is a raging controversy.

Firstly, is this a matter of personal choice or of moral judgement? We have listened to Mr LAU Chin-shek's moving speech which aims to convince us that organ donation is to save life and is a good thing and that a dead person, unlike a living one, has no need of his organs. However, I personally think that this is not a matter of moral judgement. This is a matter of personal choice. When a person is alive and has made such a moral choice of organ donation, his decision should be supported and accepted. But we cannot make this a basis for moral judgement to the effect that willingness to donate one's organ is good and right while unwillingness to do so is bad and wrong. The point is that different people simply have different views on this issue, and this issue is not that simple. It is a relatively personal and complex issue, involving perhaps questions of religion, tradition and varying perspectives, all of which should be given due regard.

Secondly, is this a matter of personal choice, social choice or government decision? Mr LAU Chin-shek has told us that in some places it is basically a governmental or social decision which makes organ donation a presumed choice. However if a person is unwilling to donate his organ, he may expressly say so. I very much disagree in principle with such a practice, because I consider organ donation a personal choice. Such a choice should not be made by the government or society. No one should have the right to usurp a person's right to make such a decision, not the government, society nor any other person.

The third point, which involves another controversy, is whether this is a choice exercisable by the individual or his relatives. We know perfectly well that there were situations where a person had chosen, while he was still alive, to donate his organs and had carried on him a pink card indicating his willingness to donate his organs in case of death in an accident, but when he died, his relatives could still raise objection preventing the donation. This means that when the person concerned dies, his relatives can nevertheless alter his decision made when alive. I personally think that such a practice and policy are not right, because when a person has decided to donate his organs after his death, nobody should be able, for whatever reason, to alter his decision.

Therefore, I think that the fundamental principle is to respect the personal choice. I am opposed to a compulsory system and the usurpation by society or the government of such a personal choice. However, the focus of the debate now and the voting later on is not on these controversial issues but on urging the Administration to do something. Nevertheless, if the Administration is to follow the motion, it will have to face these issues squarely and submit its proposals to this Council. I believe that we will then have a rather controversial debate on these issues.

I support the motion. Thank you, Mr President.

MR HUI YIN-FAT (in Cantonese): Mr President, in the light of experience gained through promoting various campaigns in the past, I believe there will be great difficulties and progress will be very slow in changing people's living habits and concepts without corresponding and co-ordinating measures in the form of legislation. The most obvious examples are the metrication and Keep Hong Kong Clean campaigns. And the environmental protection campaign, which has been actively promoted by the Government and private organizations over the last several years, is running into major obstacles — for instance, in the appeal to the public to switch to a shopping bag in order to reduce the use of plastic bags — despite the considerable manpower and material resources that have been invested in the campaign itself. Not that the public is unaware of the advantages of the shopping bag, but after all it is difficult to change within a short time the concept of ready convenience and a lifestyle which has become a habit.

Therefore the very cold public response to the organ donation scheme promoted by private organizations and medical bodies during the last several years has been rather expected, for traditional thinking is far more difficult to alter than living habits, and even more so when the average man's idea of present and future lives is strongly swayed by religious thoughts. The concepts of reincarnation and keeping an intact body after death are so deeply rooted among the older generation that the wish and consent of the younger generation to donate their organs after death, so that the life of many a person in dire need of an organ transplant may be extended, is very often not fulfilled as a result of opposition from the deceased's family. But this wish could have been the most meaningful one throughout the life of the deceased.

At present, there are every year some 2 000 patients on the verge of death or suffering from chronic illnesses silently waiting for an organ transplant. On the face of it, these 2 000 people may not be a large number compared with the annual number of deaths in Hong Kong or even just the number of people killed in accidents or dying sudden deaths. But the number of successful cadaveric organ donations is indeed so small that only two out of every 100 patients will

be donated an organ for transplant. In fact, according to information provided by the Health and Welfare Branch, the highest success rate of the Organ Transplant Coordinating Group under the Hospital Authority in lobbying the families of deceased persons to consent to donating organs to needy patients during the last three years is 30%, with the lowest being 12.7%. Hence it is evident that unless the Government adopts more positive measures, the present situation will unlikely be improved significantly.

Mr President, I absolutely support the Government in implementing, by way of legislation, a scheme of cadaveric organ donation where necessary and at an opportune time. The legislative intent can be oriented in two ways. Firstly, the legislation can provide against any opposition by the family of a deceased person if the latter had signed a donation card before death. So doing, it can ensure that the deceased's noble wish made voluntarily before death be realized, for any result otherwise would be cruel to the deceased. Secondly, the legislation can provide that if the deceased had not during his life time unequivocally expressed in any way his unwillingness to donate any of his organs upon death, then his consent is considered given and his family may not raise any objection. I believe both of the ways mentioned above carry no element of compulsion, let alone violating human rights. I do not believe a Bill on this subject will be met with strong opposition at the deliberation stage.

However, it is most disappointing that the Government is not only conservative in its attitude towards introducing legislation for the implementation of a cadaveric organ donation scheme, but also shows little intention to make such a scheme more acceptable to the public through education. According to information provided by the Health and Welfare Branch, during the three-year period from 1990 to 1992, the yearly total expenditure by a number of government departments on promoting the organ donation scheme was respectively \$3,000, \$19,200 and \$332,950. And a major part of the expenditure was spent on printing publicity materials. No wonder public response to the movement has been so cold given the lack of government enthusiasm.

Mr President, before any legislation is put in place to go with this scheme, the Government must step up as soon as possible its efforts in educating the public in order to show its care and commitment. I believe we could get twice the result with half the effort if the Government could consider subsidizing interested voluntary agencies in order to make use of their flexibility and rich experience in activity planning and execution, should inadequate manpower resources be identified as an obstacle to such a scheme. I have always thought that a utilitarian society like Hong Kong can become warmer and more sympathetic only when we have nurtured among every member of society a caring heart for the community, a correct and positive philosophy of life, and a sympathetic and compassionate attitude towards others. We need of course also a government determined to improve the well-being of its people.

Mr President, to prove that I am an avid supporter of the organ donation scheme, I signed as early as 10 years ago a kidney donation card issued by the then Medical and Health Department. And I have been carrying it with me since, prepared that I am for the eventuality.

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

MR MARTIN LEE (in Cantonese): Mr President, there are many seriously ill chronic patients in Hong Kong who have to suffer prolonged pains due to unavailability of organs for transplants. Some even lost their lives before the organs were made available. How can we just stand by without doing anything for them? I very much hope that more Hong Kong people will volunteer to donate their organs after death.

The United Democrats of Hong Kong (UDHK) are of the view that the objective of the Government's long-term policy should be to strengthen public education and to encourage the public to donate their organs voluntarily after death. Our basic principle is that we do not want to make the donation of organs after death mandatory, that is, the compulsory removal of the organs from the deceased notwithstanding that he opts otherwise when alive. People should have the right not to donate their organs after death. One's body belongs to oneself and not the community. The Government has no right to take away forcibly the organs of a person who has just passed away. By the same token, if a person has opted to donate his organs during his lifetime, his family members should not act against his wish after he dies. Hong Kong is a society which pays high regard to the wishes of individuals and the freedom of choice. Coercion is contrary to our spirit of liberty.

Mr President, many people in Hong Kong are unwilling to donate their organs after death, or do not follow the wishes made by the deceased during his lifetime to donate organs because they still insist on the tradition of keeping the body intact. Yet, the traditional way of burying the deceased in the ground has been gradually superseded by cremation. Since a heap of ash is all that will be left over after cremation, why then should we be so mean as not to save the lives of others after our death? Everybody will die some day but one's organs can still find a new life in other people's body and benefit the community. This is our last but also the most valuable contribution that we can make to the community.

Mr President, UDHK call on the Government to step up its work in bringing home the message of organ transplant with a view to encourage the public to donate their organs voluntarily after death. I would suggest that the Government should give serious consideration to this policy by introducing a new organ donation card, a more beautiful and durable card similar to that held by Mr HUI Yin-fat earlier, and record down the information of those who are willing to donate their organs. I hope that this organ donation campaign will be more successful than that of the blood donation campaign so that every

Hong Kong citizen will be proud of being an organ donor. When the Government introduces this brand new organ donation card, I will take the first opportunity to register as a donor. My only strong point as a barrister, as described by some members, is my "eloquent tongue". Upon my death, I hope that apart from donating my organs, I can donate my "tongue" as well!

Mr President, organ donation is a social issue which involves morality, ethic and religious beliefs. UDHK feel that we should respect the personal views of our party members. UDHK Members, therefore, will speak and vote freely on this issue.

With these remarks, I support the motion.

DR LEONG CHE-HUNG: Mr President, eight-year-old YEUNG Chun-ming (楊浚銘) always asked his mother what he could do to help the less privileged of the community — before he was drowned. "How can I help to make them happier", his mother quoted him as saying. So when Chun-ming passed away, amidst extreme grief, his mother on behalf of the son donated his organs which subsequently saved four lives. The YEUNG family's honourable move deserved our highest admiration. This is what a total caring society is all about.

Seven-month-old baby NAM Kin-long (藍健朗) was reported a few days ago to be in critical condition in the Prince of Wales Hospital unless he is to receive a liver transplant within weeks. Yes, six people were reported as volunteering to offer part of their liver. This is laudable. Yet, why should we perform a major surgery on one of these gallant people, whilst there are quite a few organs we can obtain from fatal accidents victims should they have honourably indicated their willingness to donate their organs before death.

Mr President, there is a desperate shortage of cadaveric organ donation in Hong Kong. But there is no lack of potential donor organs. Just into the first six months of this year, over 250 persons lost their lives from fatal accidents. Many of their organs could have saved hundreds who are queuing up for transplantation.

But what is the Government doing about all this? A half-hearted promotion of the opt-in system by encouraging people to carry organ donation cards and asking us, the medical profession, to encourage more living donors to come forward.

The Principal Assistant Secretary for Health and Welfare Mr Derek GOULD (首席助理衛生福利司高德律) has time and again commented to the press that it was up to doctors to persuade patients' relatives to donate one of their kidneys as it was medically preferable. Let me advise Mr GOULD that by doing so we are performing a major surgery on an otherwise healthy person. We may in turn make the donor a patient for the rest of his life. And it would be a sheer waste should the transplantation fail.

This is why, Mr President, cadaveric organ donation has always been the major source for organ harvesting in transplantation.

Mr President, let me take this opportunity to explain some of the fallacies of the current system.

Firstly, the effectiveness of the opt-in scheme by asking the community to sign and carry an organ donation card as an indication of their intent must be reviewed. The idea and the push for organ donation card started some three decades ago. Last year alone, some 3 million opt-in cards were distributed. Yet, only 17 people or their families agreed to donate organs before they passed away.

To date some 1 800 patients in Hong Kong are waiting for organ transplantation of various kinds. Yet only around 60 cadaveric transplants are done every year. At this rate the last man in the queue will be transplanted by the year 2043 if he happens to be still alive.

It is, therefore, obvious to all that the opt-in system must be reviewed if not repealed and as the initial instigator of the "organ donation card", I have to eat my humble pie and be the first to declare that an opt-in system alone will not sustain the need of this society.

Secondly, let us look at the current available laws for organ/tissue donations. The Medical (Therapy, Education and Research) Ordinance (醫學(治療教育及研究)條例) states that if a person has consented in writing or made known his will before his death to two witnesses, then the medical staff can remove his organs for transplantation.

With this as the background, the Administration rejoices in jubilation. The Secretary for Health and Welfare claims that this system embraces yet the best of both the opt-in and opt-out schemes whereby no urgency is needed for any reform.

But, let me remind them that the hard fact of life still remains: medical staff can do nothing if family members choose to object to any organ removal irrespective of the wish and intent of the deceased as they are the persons who have lawful possession of the body.

In the case when the next of kin is not available at the time of death, the current law puts the onus on the hospital staff and doctors to remove an organ if they are sure that the victim did not indicate any objection when alive. Yet, it is extremely difficult, if not impossible, for the medical staff to establish such indication beyond any reasonable doubt.

Mr President, the medical staff are there to save life. They can only do this with their fullest dedication if they are given straight guidelines within the ambit of the law. The opt-out scheme, as mentioned by Mr LAU Chin-shek, enshrined by law will be the only way forward.

Thirdly, Mr President, the traditional culture of our people to retain an intact body after death is rapidly wearing off. A recent survey done by the Census and Statistics Department reflected that some 60% of the respondents did not object to donate organs of their family members. 30% said they are willing to donate their own. There is no excuse for the Administration to delay any reform in transplantation laws by hiding behind the shield of local Chinese culture.

What then can be done? How can we ascertain that the tragedy of LI Mei-sze be prevented?

To me we must introduce the opt-out scheme without delay. The success of our neighbouring country using this scheme ought to give us some light.

For some 13 years, the Singapore Government has been pushing for an opt-in system. It had distributed some 750 000 cards to households for opting-in; yet only 27 000 people supported the scheme. In 1983, the Government then introduced the opt-out concept. However, it was met with sweeping opposition and was shelved.

Yet after five years of vigorous education and publicity work, the public's view began to reverse. The main reason was that they understood the proposed Act did not violate human rights as every citizen was given the choice. Let me stress in response to Mrs CHOW that it is a personal choice and it would always be a personal choice and not a society's choice nor would it be a moral judgment. Nor is this a draconian move on the dead as implied by Mr Martin LEE.

The Act stipulates that the organs of all those between the age of 21 and 60, who are physically and mentally sound, non-Muslim and have not chosen to opt-out while alive, should be removed from the bodies for transplantation given that the persons died as a result of accident.

Apparently the number of people affected by the Act is limited and in the case of Hong Kong it may affect around only 2 000 people.

Having said that, I believe that the proposed new measure has to be carried out in stages. We should start off by introducing the concept of opting-out. Yet, initially, consent from the family members before the removal is necessary.

For the scheme to succeed, the Government must at the same time strengthen its education and publicity work.

The concept and culture of organ donation must be brought into the school curriculum at a very early age. For recent medical surveys showed that only 3% of respondents said they learnt of organ donation in school.

When the level of acceptance by the general public is raised, then it is time for legislation.

Mr President, it is my faith that given the high education level of the people of Hong Kong and their enthusiastic pursuit of charity, we can and will become an even more caring society for the old, weak and sick.

With these remarks, I and Meeting Point support the motion and urge the Government to push on with the opt-out scheme without delay.

MR FREDERICK FUNG (in Cantonese): Mr President, it is generally thought that most diseases can be cured successfully in Hong Kong given the very well developed medical science in the territory. Undoubtedly, we do have here in Hong Kong advanced medical technologies and very skilful medical staff to perform organ transplantation. Yet many patients die every year of liver cancer and kidney diseases because the situation of organ transplant is far from being satisfactory as a result of the serious shortage of donated organs in Hong Kong.

According to the findings of an investigation report, there are now in Hong Kong some 1 000 ophthalmic patients, 600 kidney disease patients, 200 liver disease patients, 100 patients with blood diseases, 8 000 orthopedic patients and 20 patients with cardiac troubles in urgent need of an organ transplant. Moreover, about 100 patients who could have survived with an organ transplant die of liver cancer and liver diseases every year. In view of the situation, I urge the Government to formulate as quickly as possible an effective policy on organ donation to save the lives of many patients who can then survive by way of organ transplants.

I think the wording of Mr LAU Chin-shek's motion is rather mild. There are mainly two avenues down which we should go in formulating a perfect and effective organ donation system. Firstly, we have to alter Hong Kong people's attitude and thinking about organ donation, in the hope that more people would change their concept of keeping an intact body after death and then become willing to donate their own organs or those of their deceased family members. I hope that the Government will formulate a set of policies promoting among the public the meaningfulness and significance of organ donation, thereby dispelling some people's misunderstanding about it.

Secondly, we should set up a specific and formal register for voluntary organ donors. I think that the present arrangement is not too effective. Under the current policy, a hospital has no authority to remove an organ from a deceased person, in the face of opposition from the deceased's family, and transplant it onto another patient even if the deceased person had signed a donor's card and volunteered before his death to donate a specified organ or organs upon death. Is this not a pity? Under such circumstances, a person's decision may not be respected by his surviving family. I suggest that consideration be given by the Government to making the organ donation card a legal document, that is, if the card is signed voluntarily by the donor, then his family cannot object to it. The Government must, of course, use certain administrative means to ascertain who is a "volunteer". Here I should like to suggest one method which the Government may consider. For example, official registration of volunteers can be effected by way of a statutory declaration. The basic particulars of consenting donors can then be entered into a register so that, when a person dies, the Government will know if he is a registered donor, and if yes, then his particulars. The Government will have the authority to remove and transplant the deceased's organs. This method can, on the one hand, shorten the time needed for a transplant while, on the other, avoid any delay that might jeopardize the recipient's life. The most important thing is that other people (including the deceased's surviving family) should not and cannot defeat the deceased's wish made before death, that is, his insistence on benefitting another life, his love for another life.

I have however misgivings about the suggestion, as made by one Member, that Hong Kong should introduce Singapore's practice. It is because the public will find it difficult to come to terms with this kind of compulsory measure within so short a time. As I have said before, education is the first step along the way to improving the current policy. I do not believe the present time and atmosphere is suitable for introduction of the Singapore model. The Government must first put right people's concept about organ donation before considering the adoption of any policy similar to that of Singapore.

Finally, I urge the Government again to review its existing policy on organ donation, with a view to increasing the number of transplants, reducing the lead time for transplant and saving more patients. I think that promotion and education efforts by the Government have been so inadequate that I have yet to fill in and sign a donor's card because in fact I do not feel any sense of urgency. The motion moved by the Honourable LAU Chin-shek today has given me an opportunity to seriously consider and positively face this question. If today's motion is carried (or if not), I hope that the Secretary for Health and Welfare can make arrangements for Members of this Council to fill in and sign a donor's card *en masse*, as a form of promotion and as an example.

With these remarks, I support the motion.

MR MICHAEL HO (in Cantonese): Mr President, I support today's motion. I am in favour of an organ donation movement. I think that the public must be educated on why organ donation is necessary. However, I cannot support some Members' suggestion that legislation be introduced to provide that everyone is deemed to be an organ donor unless he/she opts otherwise when alive. Nor is my opposition to such a suggestion based on human rights considerations. I will explain this in greater detail later on.

I will first describe what I support. During my 10 years of service as a nurse, I have seen many patients awaiting organs of all kinds. I have also seen many successful organ transplant operations. A patient who has successfully received an organ transplant is like a person who has been given a new life. He changes from a sick person and a frequent hospital visitor to a person who lives a normal life. I recall that, when I first began my nursing career, I made friends with some people who had kidney problems. They were hospitalized so often that I came to know them very well. Our friendship went beyond the nurse-patient relationship. Not only did I know about their diseases, but I also learnt about their other difficulties. One of them was Mr SO. When I first knew him in the 1970s, his kidneys had completely ceased to function. He had to come to the hospital every week for scheduled dialysis. Because he had to come to the hospital two or three days a week, it was very difficult for him to get a job. Since I left the hospital, I have been going back there for visits. Every time I passed the dialysis room, I would poke my head in and ask the duty nurse if Mr SO happened to be there. Last summer, when I visited the hospital, the nurse told me that Mr SO no longer needed dialysis, for he had received a kidney transplant and had resumed life as a normal person. I was very glad to hear the news. An old friend no longer had to live by the dialyzer. As a matter of fact, successful organ transplant operations are also very good news to the cured patients themselves and to their families. Therefore, I am absolutely supportive of efforts to promote organ donation among members of the public. I hope that the Government will do more in this area.

However, I have the following points to make with regard to the suggestion that organ donation should be made statutory unless a person opts otherwise when alive. Let us look first at one reality, which is the inadequacy of public education. Members of the public do not even know why they have to sign organ donor cards. They do not quite understand how organ donation can help patients. They still do not know that, if they become organ donors, some patients who need organ transplants will be given new lives. If we do not convey this message successfully to members of the public, our entire organ donation scheme will have failed. Until we have conducted education to convince members of the public why they must accept something, we must not force it on them. If we do, members of the public will only feel that the Government and legislators do not understand their wishes but are forcing on them harsh policies that are brutal, unreasonable and totally unacceptable.

Another reason why I am opposed to the suggested legislation is that, even if such law is enacted, things will not change much. At present, even when a person who has signed an organ donor card dies, the hospitals cannot and will not remove his organs for use as transplants if his family members strongly object to it. The suggested law would provide that, when a person who has never indicated he refuses to donate his organs, his organs may be lawfully removed for use as transplants. But the surviving family of the deceased in such a case will still raise strong objections. Should doctors and nurses argue with the newly bereft family? Should they be legalistic but inhuman? Will the surviving family accept the arrangement? Can the hospital do the legal but inhuman thing of disregarding the objections of the surviving family and carting the deceased's body into the operating theatre to have the organs removed? How will this differ in point of fact from what is being done now, when organs are not removed from the deceased's body because of the objections of the surviving family, even though the deceased person previously signed an organ donation card? Participating in today's debate, I would like to steer my colleagues so that they may see the issue from a different angle. Hospitals look after not only patients who are waiting for organ transplants. Hospitals also look after the surviving families of people who have died. You may not have heard about such ideas as looking after and evaluating members of surviving families. Actually, hospitals have to pay some psychological attention to surviving families. When a person dies, that is not the end of the hospital's work. The hospital will yet have to look after the surviving family. I would like to tell Members that, when somebody dies in a hospital, hospital workers may not even remove the body just like that. They have to consider the emotional responses of the surviving family. This surviving family is already under a very heavy mental stress because a member of the family has died. Hospital workers have to think of things like what problems this family are likely to have and whether a social worker can do something to help. Hospital workers have to consider at least these things. If we totally disregard the surviving family's feelings and remove the deceased's organs whether or not this is acceptable to the family, what good will that do? Many members of surviving families cry in hospitals until they go into shock and have to be treated at emergency wards. Can we under such circumstances go ahead and remove the organs? What will happen if organs are removed from the dead body when the surviving family is mentally not prepared for this at all? Will the patient who receives the organ transplant be able to have peace of mind for the rest of his life?

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

The buzzer sounded a continuous beep.

PRESIDENT'S DEPUTY: I have to ask you to stop, Mr HO.

DR HUANG CHEN-YA (in Cantonese): Madam deputy, today's motion is very interesting. As a member of the medical profession, I have sympathy for patients waiting for organs. I also understand their difficulties and pains. Their sicknesses are already causing them mental and physical suffering. They must yet wait a long time before they can receive organ transplants. For those fortunate ones, they will have a chance to resume their life as normal persons after they have received suitable organ transplants. But some do not survive the long wait. They die young, to the regret of the world.

Insofar as organ transplant operations are concerned, the biggest problem is not the surgical part itself. It is the patient's post-operative rejection of the transplanted organ that matters. Ways of overcoming this problem are now being perfected. More and more organs are found transplantable. Even multiple organ transplants are becoming more commonplace. This signifies that many patients who otherwise would die will have a chance to resume their life as normal persons. It also signifies that more and more human organs will be needed. The best solution is to take some cells from a person just after he was born and use them to develop organs which are stored for later use, one at a time, as needed. This used to sound like an incredible idea.

However, as medical technology advances, the replication of human organs with the use of fetal cells is changing from fantasy to reality. Replicated organs will gradually become commonplace and will eventually replace the donors' organs. Organ transplant will cease to be the only way to replace diseased organs. However, in the next few years, cadaveric organs will continue to be needed for organ transplants and cadavers will continue to be the main source of organs for use in organ transplants. Regrettably, the Government has not yet laid down a clear and positive policy on organ donation. The Human Organ Transplant Bill now under consideration by this Council is intended to prohibit commercial trading in human organs, not to encourage organ donation. I think that the Government should take the following actions:

Firstly, it should strengthen public education with a view to change the traditional concept that emphasizes "keeping the body intact after death," and to encourage more people to become organ donors. The best organs for use in organ transplants are from the bodies of persons who have died suddenly from brain injuries or from bleeding as a result of accidents. These are usually healthy young persons. The Government, therefore, should launch massive campaigns in schools and through the mass media to educate the young people about the meaning of organ donation. It should work towards the goal of winning their support until the vast majority of them voluntarily sign the organ donor cards.

Secondly, the Government should input voluntary organ donor data into a central computer so that organ donors can be identified. The organs from an organ donor can then be used even if he happened not to be carrying his organ donor card at the time of his death.

Thirdly, as soon as an organ donor is certified to be brain-dead, doctors should be able to remove his organs for use as transplants in patients who need them. The medical profession has over the past several decades become familiar with, and receptive to, the idea of brain-death. A person who is brain-dead is considered to be a person who has died. The decision of brain-death cannot be made until several rigorous tests are met. Even so, people generally do not accept the idea of brain-death and cannot accept that somebody whose heart continues to beat is already dead. Consequently, they do not accept that organs can be removed from a brain-dead person. If we are to wait until the brain-dead person's heart stops beating, his organs will have begun decomposing because of low blood pressure and will not be in the best condition for use in transplants. Therefore, the Government should conduct extensive campaigns to promote the acceptance of the brain-death idea and explain what it means.

To be an organ donor is a personal decision. I very much encourage and admire such an act of altruism. As Chinese, we are very familiar with the idea of self-sacrifice for the general good. We praise as heroes those who lost their own lives while saving the lives of others, those who died for the country. Actually, a person's organs will no longer be useful to him after he dies. We should be generous and agree to donate our organs after we die to patients who need them. We will then be true to a good Chinese tradition.

Organ donation is also a moral issue. If the Government introduces the opting-out scheme (that is, unless a person has expressed his objection to be a donor when alive, it will be deemed that he has consented to donate his organs), organ donation will become obligatory. This will take away the organ donors' compassion and love for the sick.

The adoption of the opting-out system will of course result in more patients receiving organ transplants. The question is: Does the Government, out of good intention, want everybody in Hong Kong to stop objecting to being an organ donor? Moreover, what method should the Government use to determine who has consented or objected to be a donor? I think that, a person can be treated as an organ donor only when he has personally and expressly said so, then this is "opting-in" and not "opting-out." We cannot presume that silence means consent.

More importantly, a person owns his body. His body is not community property. Neither the community nor the government can demand that a person donate his organs even for a good cause. It will be very dangerous for a government to be given legal power to ask a person for his organs for a good cause. History teaches us that governments often abused good causes and turned them into manipulative instruments. This happened in China during the Cultural Revolution. It is still happening in some parts of China. Prisoners awaiting execution have no opportunity at all to object to being organ donors. Nor will the government respect their wish even if they can express it. Organs are removed from the bodies of executed prisoners without their prior consent and then used in organ transplants. This undoubtedly shows that the state owns

the people and of course also their organs. Therefore, a human being becomes simply a cabinet of organs, a cabinet with legs. The opting-out scheme presupposes an obligation to be an organ donor, hence the right to refuse. I personally feel that it is a dangerous concept. The opting-out scheme depreciates human rights and human dignity. Making it obligatory for people to be organ donors will take away their compassion and love for the sick.

Let us look at the situation in China. For decades, China has been glorifying the self-sacrificing deeds of JIAO Yulu, LEI Feng and others. The outcome is a heavier sense of responsibility and the destruction of true feelings of compassion and love for society.

The buzzer sounded a continuous beep.

PRESIDENT'S DEPUTY: Dr HUANG, I have to ask you to stop.

DR HUANG CHEN-YA (in Cantonese): Madam deputy, with these remarks, I support the motion.

MR SIMON IP: Madam deputy, doctors at the Prince of Wales Hospital have in recent weeks been faced with a peculiar ethical dilemma in their efforts to find a suitable liver donor for a seven-month-old child. Six unrelated persons have reportedly offered voluntarily to donate pieces of their livers for transplant to the child, who will otherwise die from his illness. The doctors have gone on record, however, to express their reluctance to accept these heroic offers on ethical grounds. Though many such transplants have been performed in the past, the medical profession worldwide remains hesitant to use the organs of living unrelated donors, preferring wherever possible to use the organs of cadaveric donors.

Yet the number of organs available for transplant from deceased donors in Hong Kong amounts to only three for every 1 million persons. A sound policy of preferential use of cadaveric organs cannot be formulated given such chronic shortages, especially when 1 000 people are waiting for cornea transplants, 600 are waiting for kidneys, 200 for livers, 80 for bones, 20 for hearts and lungs and 180 for bone marrow. So I have to ask: What ethical grounds have we to stand on in opting not to use the organs of living donors when we have failed to establish a viable alternative?

I would be the first to admit that the heroism of living donors is not a firm foundation for a system of organ transplantation. Heroes are those willing to go above and beyond the call of duty. Their morality, while laudable, cannot be legislated. But what can be legislated is a minimum set of obligations to ensure distributive justice in our health care system. This is the basic philosophy of our system today: that those who need care shall have a right to it, and that

those who have the power to provide care should assume obligations toward the sick.

It is not unreasonable, therefore, to propose that we each have a certain responsibility to at least consider whether we will contribute to the sustaining of life and health of Hong Kong people in the most fundamental way: through the donation of the viable parts of our own bodies once these have ceased to be of any use to us. I do not say that each of us has an obligation to donate our organs. The formulation of a strict obligation to donate is not my intention. As I see it, everyone has, at the very least, a duty to make a choice as to whether or not he or she will make the gift of life.

The Government has tried to bring the need for donated organs to public attention through countless media efforts and an "opting-in" scheme whereby potential donors would complete a donation card that they would keep in their wallets. I commend the Secretary for Health and Welfare for her efforts in this campaign, but I think it is no great secret that they have fallen far short of the intended goals. Of the 3 million cards distributed, we really have no idea as to how many may have been filled in. Some say that only 2% have been completed.

The actual figures notwithstanding, we have no clue as to how many cards will be found where and when it counts: that is to say, among the effects of accident victims and other potential donors when the moment of donation is actually at hand. This is the real test of the effectiveness of the current donation scheme. Even those who have made advance decisions may be unable to communicate these to their doctors or bereaved family members. Those who would otherwise be donors may have their wishes overturned by relatives who believe the body should be buried intact. This is because the only real evidence of their decision is a flimsy piece of paper which may or may not have accompanied them to the intensive care unit.

A statutory "opting-out" system whereby everyone is deemed to have consented to donate his organs unless otherwise stated would relieve the present confusing state of affairs on the donor's side and would also go a long way to shortening the waiting periods and lessening the number of deaths on the recipient's side. It would compel the rational choice that everyone is obligated to make. Even those who opt out will have fulfilled their strict obligation. But even more importantly, those who do not "opt out" will have imposed upon themselves an obligation of a higher order.

Let me be clear that I do not intend to advocate heroism. Indeed, the system I envisage is really one based on enlightened self-interest. Each of us is a potential beneficiary of an organ donation scheme, so it is only logical that we also consider becoming its benefactors. In view of popular attitudes against and ignorance about organ donation, it will take action from the Government to educate Hong Kong people on the enlightened self-interest that would provide a

sound basis for the scheme. The opt-out proposal would, in my opinion, be an ideal vehicle for such education.

Madam deputy, I support the motion.

DR LAM KUI-CHUN (in Cantonese): Madam deputy, it is an indisputable fact that there is an acute shortage of cadaveric organs in Hong Kong at present. In recent years, as a result of several publicity campaigns, the number of organ donors has risen markedly. Unfortunately, the number of organ transplant operations has failed to keep pace. Kidney transplants are a case in point. The number of kidney transplant operations performed annually in government hospitals was 54 in 1990, 50 in 1991 and 55 in 1992. There has been no upward trend at all. One of the major reasons is that organ donation is resisted by the surviving families of the deceased.

As a doctor, I of course hope that more organs will be donated for use in transplants and the lives of more people suffering from the failure of organs will thus be saved. I support the call for an appropriate policy on organ donation, a policy that will give more people with failed organs a chance to resume a normal life.

But what do we mean by an appropriate policy? In view of that the publicity campaigns launched by the Government have not produced significant results, someone suggested that a compulsory organ donation policy or at least a semi-compulsory policy in the form of an opting-out scheme should be introduced.

My position is that the right policy is one that keeps all kinds of interests in balance given the social realities. Hong Kong is a diversified community, in which the views of patients and doctors are not the only kinds of views that we should take into account. Even if we leave out the controversial aspect, that is the rights of the surviving families of the deceased, we, as a responsible legislative body, will yet have to consider the issue from the angles of traditional values and religious beliefs.

Traditionally, Chinese treat the bodies of dead relatives as though they were still alive. They honour the memory of dead ancestors and they cannot bear to see the bodies of deceased relatives mutilated. They place the bodies in good coffins and bury them at good fung shui locations. This tradition has survived in Hong Kong despite Western influence.

Religious beliefs are perhaps even more firmly entrenched than traditional values. Islamism, for instance, respects life and extends such respect to the bodies of the deceased. It is opposed to the mutilation of corpses. Until recently, Moslems could not even accept blood transfusion. Islamism has now bowed to public interests and bent its rules by various degrees to permit organ donation, but it still insists that organ donation must be completely voluntary.

Buddhism, believing in cause and effect, regards birth, ageing, sickness and death as natural events. It probably regards each case of organ donation as an instance of mysterious forces in action between the donor and recipient. Organ donation is therefore not something that needs to be compelled by law.

In view of the thoughts and attitudes described above, the community in Hong Kong, on the whole, is somewhat resistant to the idea of organ donation. True, a policy that makes organ donation compulsory or semi-compulsory will be warmly welcomed by its potential beneficiaries. Yet it will have adverse effects on the community as a whole and may even intensify differences in the community and give rise to social conflicts. Such a policy, therefore, will not be appropriate for Hong Kong. Besides, in devising policies, the feeling of the newly bereft families should also be taken into account.

I think the ideal policy at this stage is to maintain the voluntary organ donation scheme as it is. In order that potential organ donation will not be thwarted as a result of objection from the surviving families, the Government should speed up and intensify its publicity campaigns to enable the public to have a better understanding of the meaning of organ donation. To resort to persuasion is definitely better than using coercion through legislation. We should not go to extreme lengths to get things done. The correct approach is to convince people to accept the idea of organ donation. When such idea is well-received by the community, then we can introduce a more radical policy and achieve the intended results.

The motion calls for a timetable. I think that it should not and must not be a day-to-day progress schedule. Progress should be measured by how much more the community becomes receptive to the idea of organ donation. The policy on organ donation can then be adjusted accordingly from time to time. A rigid timetable for policy reforms will cause the reforms to be badly timed.

From a doctor's standpoint and in consideration of the existing social realities, I support a gradual policy of voluntary organ donation. As the motion involves religious beliefs and personal preferences, Members from the Liberal Party will vote the way they see fit.

Madam deputy, with these remarks, I support the motion.

DR CONRAD LAM (in Cantonese): Madam deputy, why the existing voluntary organ donation scheme cannot achieve satisfactory results or even is regarded as a failure by some people? Is it because the scheme has not been run properly or the officers responsible have not done their best? Is it stemmed from the fact that Hong Kong people are traditionally extremely selfish on that front? Is it because of some religious belief or other factors?

Before we review the pros and cons of the existing policy in detail, we have to determine whether it is the best solution to the problem by making it

compulsory for citizens to indicate whether they consent to donate their organs after death. Discussion of this matter is necessary. From a macro point of view, organ transplant is one aspect of medical health services. There are more than 2 000 patients waiting for organ transplants. Their health state is worrying and we should give them expeditious help. However, to legislate for the sake of treating these patients numbering 2 000 strong will affect millions of people. Will this set a precedent prompting other patients to make the same request of, say, legislation requiring people to donate blood, kidneys, bone marrow, sperms and so forth? The spirit of donation entails voluntary offer. Donation usually involves specific target. For instance, the work of the Community Chest is widely recognized and, therefore, it attracts enthusiastic public donation. If someone unfortunately died in an accident and it is up to a third party other than the deceased's families to decide who will be the donee of his or her organs, things may turn out to be against the deceased's death wish. Let me take an extreme example, say, about Mr LAU Chin-shek. Suppose Mr LAU is so unlucky to sustain fatal injuries when he falls down from a "through train". He has only one kidney for donation when both HAN Dongfang and LI Peng are urgently in need of kidney transplant. But Dr LEONG Che-hung decides to give Mr LAU's kidney to LI Peng. I wonder how Mr LAU would feel about this arrangement.

From a medical point of view, organ transplant is merely one kind of treatment. Prevention is better than cure. There are many means to prevent organ failure. They are conducive to reducing the number of patients in need of organ transplant. Here I propose that the Government should promptly allocate more resources to the existing encouragement-oriented organ donation scheme. As a matter of fact, public expenditure on this aspect in 1992 was merely a little more than \$300,000, which is far from enough to pay for the bill of a liver transplant operation. As regards promotion activity, the Government may designate the coming year as the "organ donation year" or encourage people such as some prestigious politicians and figures in the commercial circles to set an example by taking the lead in signing donation cards. Furthermore, publicity or education should be stepped up and the concept may also be promoted widely through textbooks and programmes produced by the Educational Television Centre or the Radio Television Hong Kong. The aim is to instil a sense of urgency and eliminate some traditional misconception and human selfishness.

I think the most essential step to take at the moment is for the Government to point out explicitly that a deceased's family members should not, and indeed have no right to, override the deceased's decision made before death concerning the donation of his or her organs.

Now I would like to share with Honourable Members the findings of a survey recently conducted by the United Democrats of Hong Kong. Among the respondents, 65.5% of them agree to donate their organs after death while 14.2% do not agree and 20.2% are still undecided. As regards a deceased's decision made before death of donating his/her organs, 74.4% of the

respondents are of the view that the deceased's family members have no right to override the decision, 16.6% of them think otherwise and 9% of them say they are not sure. As for the opting-out system as proposed to be implemented by the Government, those in favour of making it compulsory for members of the public to indicate their stand account for 37.9% while 55.1% oppose that idea. The ratio between people who oppose or support the system is roughly 2 to 1.

Madam deputy, I support Mr LAU Chin-shek's motion without any reservation. I think he may be a bit hasty. The pace is faster, but this does not mean that his decision is wrong.

DR SAMUEL WONG: Madam deputy, one of the problems of debating this motion is that few people in this Chamber are qualified to comment, myself included. This is an intensely personal matter involving each individual of the general public, their religious and cultural beliefs and their regard for loved ones. It is not a political matter. This Council cannot be regarded as representative in this. We can only give our own personal opinions.

The Administration has like problems. They too cannot know the individual feelings of people and, as recorded in a document circulated to this Council, "the promotion of organ donation by the Government through education and the voluntary signing-up of donor cards has not achieved significant results". The Secretary for Health and Welfare acknowledged this problem in 1991 by reporting the Administration would be publicizing and collecting public opinions on the concept through a forthcoming general household survey.

I am, however, conscious that public opinion can change, sometimes rapidly, and if education in the schools is now having more effect, the messages could have been reaching households for many months after the survey and the position may now be different. It is perhaps a pity that the Administration has shown such prejudice against technology, for example, by their stubborn opposition to telephone voting for, once in place, that would have given ready access to referenda on request and might have gone a long way to ascertaining true public feelings on the subject at this moment in time.

My own view is that we know too little about public opinion to introduce any dramatic change in the legislation at this time. I would apply this criterion to the principle of "opting-out", or legislating that everyone is deemed a donor unless they opt otherwise. I am aware this is a procedure already in force in other countries including Denmark, France, Sweden, Austria, Israel and Singapore, but there are cultural differences in Hong Kong which, together with less autocracy here, may justify greater democratic participation before we should go ahead. We have to be sure that everyone fully understands the implications of donation, though for my own part, I would be happy for it to be imposed on me.

I would support a move, however, to deny relatives the right to overrule a donation signed up properly and voluntarily during lifetime, just as no relative has the legal right to overrule a last will and testament. To me, organ donation is a last will and testament and solely the prerogative of the donor.

The problem remains one of education — to encourage people to sign up to donate — to give them some motivation. In my view, the main thrust must be in the schools. But I have one suggestion that might encourage people to give the matter more thought. There is a long waiting list for transplants. These obviously have to be given a priority order to allow doctors to proceed. Could we pass a law to say that anyone who has signed up to donate organs for a certain minimum period has priority to receive organs should the need arise? Something like this is already done with blood donation, but without such a desperate shortfall. It would provide motivation which currently does not exist. It might have much more effect, even, than the education programme, because it would make people think about their own stance; and it answers the inevitable Hong Kong question "What is in it for me?"

Madam deputy, I do not see how we can live with the statistic that only 2% of the 2 000 patients needing transplants will get them. The Government must seek massive improvements — and quickly. I certainly support the view that the matter should be pursued actively and openly and that this Council should be regularly informed of progress. In the end, the bottom line is: "Who comes first, the living or the dead?"

Madam deputy, I support the motion.

MR HOWARD YOUNG (in Cantonese): Madam deputy, I think today's motion, in terms of its wording, is worth our support. It is because the motion which urges the Government to evaluate the existing arrangements is in itself both irrefutable and uncontroversial. Yet, the topic to be debated is indeed very controversial. Any topic will be viewed differently in different times in any society on account of different social acceptabilities, different social values or even cultural moves. However, the real solution of the problem is not necessarily compulsory legislation or adoption of any administrative means. The most essential solution, in the long run, is education. In fact, it has to do with a kind of extensive civic education.

I recall that when we were young, the older generation held views of certain matters, say, cremation, differently from people in presentday society as cremation is commonly accepted nowadays. In the past, people found cremation virtually unacceptable. Nowadays cremation is regarded as a common practice taken for granted. To cite a more recent example. It is not until the last 10 odd years that blood donation has been widely supported in the community. I recall that when I first donated blood 23 years ago, I felt both uneasy and uncertain whether it would do harm to my health. However, nowadays people do not have such uneasy feelings any more because they have accepted it. Not only do

they donate blood themselves but also encourage their own family members to do so and even advise children to support blood donation.

As regards the Government's introduction of the organ donation card scheme, I think it has neither won wide public support nor been very successful. I think this is attributable to the formalities of the scheme itself as well as insufficient publicity. My family (including my underaged children) and I, for example, have agreed to sign such organ donation cards. But we find there are some problems concerning this card. Firstly it is undated and secondly it is unwitnessed.

Today quite a number of Members point out that even though one has voluntarily signed the organ donation card, yet after his death his family may overrule his decision. Should this be the case, I think, to pre-empt any possible disputes, a witness who is not the donor's household member may sign on the card to at least prove that it is not a fabrication.

Although I am not a lawyer, my lawyer friends told me that some instruments (such as power of attorney) could become void if there is an absence of the signatory's confirmation within one year. The problem with this card is that it is undated. In this connection, I wonder whether we could make the following arrangement: if a person died shortly within a specific period after signing up for organ donation, no one can challenge the deceased's wish by arguing that he or she signed the card a long time ago or under circumstances no longer valid. This can discourage the deceased's next of kin from arbitrarily doing something against the deceased's wish to donate his/her organs.

There is another problem concerning this card. I have signed the card. But I may not put it in my pocket every day and sometimes I may put the card elsewhere when I change clothes or wallets. In Hong Kong, one has to carry countless cards such as Identity Card, vehicle licence, credit cards and many other cards. To cope with the possible substantial increase in the donors in Hong Kong in response to the publicity drive, could we save the trouble by using some data banks to store the data? Now we must carry our Identity Cards on us. If the data on the organ donation cards can be linked up with the Identity Card data network, we will know whether someone has signed an organ donation card. However, it is certainly not a good idea to add merely a mark on the Identity Card to indicate that the card holder is an organ donor. If so, voluntary donors will be unable to donate their organs if they forget to bring their organ donation cards and identity cards on them upon death. As a related issue, in the case of blood donation, the Red Cross Society would give each blood donor a card indicating his or her blood type. But it is in fact very time consuming for doctors to make reference to this card. With a well-established computer data bank installed, the donation card scheme can be more smoothly implemented.

I hope that the Government could review the existing arrangements and take measures to encourage Hong Kong people to change some of their outdated concept. Given that almost everyone now accepts cremation and more people accept blood donation, it is expected that the public may be very willing to donate their organs in future.

Madam deputy, I support the motion.

DR TANG SIU-TONG (in Cantonese): Madam deputy, I think the poor results of the organ donation scheme, despite the scheme having been implemented by the Government for quite a long time, can be attributed to two major factors.

Firstly, the scheme has been extensively, but not intensively, promoted and the way of promoting it has been rather monotonous. Take this year's promotion campaign, which uses "The Gift of Life" as its theme, as an example. Activities organized and carried out so far include a slogan design exhibition, a seminar and a prize giving ceremony in a Kwai Fong shopping arcade. This kind of "routine" activities can hardly arouse a sense of unison among the community. Although the Central Health Education Unit of the Department of Health did contact and successfully secure the assistance of a number of private organizations (such as department stores, supermarkets, MTR service centres and 24-hour stores) in displaying donor cards for the public to pick up, this method is more on the passive side. While the Government has all along boasted on having sent out tens of thousands of these cards, the fact remains that one does not become a donor simply by picking up a card. The effectiveness of this method is indeed questionable.

Secondly, the traditional thinking that "one should not damage one's hair or skin even the least bit for it has come from one's parents" and that "an intact body should be kept after death" holds sway among the public. The man-in-the-street is therefore unwilling to donate his organs. In the case of occasional exceptions to the rule, the wish of the deceased donor may still be opposed by his family. To achieve progress with the donation movement, we must address the situation mentioned above with sustained publicity and education efforts. Only when we have turned around the man-in-the-street's conservative thinking about organ donation can we hope the scheme to succeed.

Buddhist teachings have it that "Saving one life is better than building a seven-tier pagoda". Therefore it is a cause worthy of our support to encourage the public to decide before their death to donate their organs after it, so that the needy may be given a new lease of life. The motion today is also meaningful. I am however puzzled at the word "ensuring" in the motion's fourth line which reads "..... to ensuring that needy patients can undergo life-saving organ transplants at an early date". Given the present voluntary basis of organ donation and the situation where needy patients far outnumber donors, it is indeed very difficult to take any "ensuring" action. If we were determined to "ensure" this, the only way would be to change the voluntary basis into a

compulsory or semi-compulsory one, so that any people not having applied to the Government for an "opting out" would be subject to "mutilation" after death. Does the motion's "ensuring" mean this? Organs for transplant in fact come from the human body. These cannot be mass produced by modern sciences. Given the very limited resources, the Government can hardly secure sufficient supplies, let alone "ensuring" that demand be fully satisfied. We can therefore only hope against hope.

I support a positive movement to promote a voluntary organ donation scheme, but oppose changing the voluntary scheme into a compulsory or semi-compulsory one by way of legislation. Singapore has succeeded in implementing such a compulsory scheme because it is a country of "skin-deep democracy with God-knows-what underneath". Here in the community of Hong Kong where an individual's wish is respected, are we going to stoop to the same level of thinking as Singapore?

Apart from facilitating organ donation to benefit those patients suffering from chronic illnesses and waiting for a transplant, the provision of care and assistance to them is very important, too. However, existing facilities and policies in this direction are obviously insufficient. There are now some 2 000 patients waiting for an organ transplant. And some one-third of this number are suffering from renal failure and need regular renal dialysis. Although this service is provided by public hospitals, the waiting time is very long upon referral. While a patient may buy the necessary medicine and conduct dialysis himself, many patients cannot afford the monthly cost of over \$3,000. Moreover, some patients who have undergone organ transplant on the mainland will still need medical treatment after returning to Hong Kong. But the medicines required are very expensive. The Hospital Authority, however, has been declining to subsidize those patients on the very expensive medicines on the basis of the principle of not encouraging patients to have operations on the mainland. It is indeed a social tragedy for these patients when "money means an extended life". I think that apart from putting vigorous efforts into promoting the organ donation scheme, the Government must provide these patients of chronic illnesses with sufficient care and formulate immediately a clear policy on provision of subsidies for these patients. We just cannot afford any more delay. There is a saying that "a doctor treats his patients with the heart of a parent". I hope the Government will have the same frame of mind.

Throughout my long practice as a doctor, I have had contacts with many of this type of patients. They have my greatest sympathy. I would feel grief and a strong sense of helplessness on seeing their worry, anxiety and pain, or even on seeing them lose their valuable life because of the shortage of organs for transplant. It is indeed heartening to see a needy patient being donated with an organ because it is akin to a gift of life. But unfortunately lucky ones given this invaluable gift are few and far between. I hope that the Government will positively promote this meaningful scheme so that the public will be persuaded by way of publicity and education to give up their conservative thinking and donate their organs after death. Their love for other people, exemplified

through cadaveric organ donation, will give a new lease of life to the needy patients.

With these remarks, Madam deputy, I support the motion.

DR HUANG CHEN-YA (in Cantonese): Madam deputy, I would like to ask Dr TANG to clarify one point. I have waited until now because I do not want to interrupt his speech. He says that people may have worries that organ transplant will subject the body to "mutilation". Can Dr TANG tell us from his rich medical experience which kind of organ transplant will subject the body to "mutilation"? Would he not be going a bit too far in using this phrase because it would arouse unfounded fear amongst the public about organ transplant?

PRESIDENT'S DEPUTY: Would you like to clarify, Dr TANG?

DR TANG SIU-TONG (in Cantonese): When a young person dies, his organs in fact can be a help to patients in need of those organs. What I have used is just a descriptive phrase which Dr HUANG may have a different interpretation.

DR HUANG CHEN-YA (in Cantonese): Madam deputy, will Dr TANG withdraw that phrase because I think that will give the public a false impression that that is a common phenomenon with organ transplant, which in fact is not the case.

PRESIDENT'S DEPUTY: Dr TANG, you might perhaps confirm that you were just speaking figuratively.

DR TANG SIU-TONG (in Cantonese): Madam deputy, I think I have used it only in a figurative sense, and there is nothing more than that.

SECRETARY FOR HEALTH AND WELFARE: Madam deputy, I thank Members of this Council for the views they have expressed today. Organ donation is the gift of life, but in Hong Kong it is still an issue that arouses emotive reactions from all those it touches.

Organs for donation come from two sources — from living donors (usually a relative of the recipient) and from people who have donated their organs upon death. These are called cadaveric donations.

The Medical (Therapy, Education and Research) Ordinance provides that cadaveric donations may be made in three ways.

First, by the donor in writing at any time. This is the provision on which our organ donor card scheme is based. The organ donation card is an acceptable legal document. Further consent by the next of kin is not required.

Secondly, a donor may give consent orally during his last illness. As a safeguard, consent must be given in the presence of two or more witnesses.

Thirdly, if the donor has not consented during his lifetime, his registered next of kin may give consent after his death. As a safeguard, the doctor must make enquiries from the registered next of kin and be satisfied that the deceased person had not expressed any objection to donation and that the deceased's surviving spouse, parent or children do not object.

It is therefore a misconception that our organ donation system relies solely on donations from people who carry organ donation cards. It is far more flexible than that, yet also provides good safeguards to ensure that organs are not removed without proper consent.

To have any other kind of organ donation system could be draconian in the eyes of the Hong Kong community. An opting-out system, of the kind proposed by some Members, would imply a totalitarian approach. It presumes that silence means consent with whatever the Government chooses to do.

An opting-out system would require everyone's particulars to be recorded and their movements monitored. The system would have to be fool-proof to ensure that the record of someone who had opted out was not accidentally or deliberately lost and his organs removed by mistake at the time of his death. The burden of proof would be then on the next of kin to prove that the deceased had in fact objected. There is potential for grave abuse.

The cornea may be removed from patients who are stone-cold dead. However, the heart, kidneys, liver may be removed from a person who has been certified brain dead although his heart may still be beating. We all know that modern technology can sustain a person's bodily functions for a long time when he is in a coma. With an opting-out system, when no further permission needs to be obtained from next of kin, where is the safeguard? What ensures that doctors will wait until a person really is dead beyond hope of recovery before his organs are removed? Let us remember that the Government has often been asked for safeguards on organ donation to prevent organ trading. This is the purpose of the Human Organ Transplant Bill now being studied by an ad hoc group of this Council.

Do Hong Kong people really want an opting-out system which gives the Government absolute power? Power to control a person's freedom and privacy when he is alive; power to control his body and organs when he is dead? I cannot imagine that anyone in Hong Kong would like to think so.

I share the concern of Members of this Council about the problem of shortage of organs. Being a doctor myself, I am especially aware of those patients whose hopes of recovery depend on the availability of suitable organs. However, shortage of organs for donation is a worldwide phenomenon. Every year there are more people who need replacements for diseased or damaged organs than there are organs available. Hence there is need for a continuing and vigorous programme of public education in Hong Kong emphasizing the benefits of organ donation to those whose lives depend on them.

We believe that organ donation should be based on the spirit of voluntarism. The Department of Health, the Hospital Authority and various non-government organizations such as the Hong Kong Eye Bank and Research Foundation, the Hong Kong Eye Foundation, the Hong Kong Kidney Foundation, the Hong Kong Heart Foundation and the Hong Kong Liver Foundation are actively promoting voluntary organ donation under the existing scheme. Last year's major publicity and health education campaign succeeded in arousing community awareness of the need for organ donation. This year's campaign will continue to drive home the message. At the same time, we are promoting the necessity for everyone to maintain a healthy lifestyle, so as to avoid the illnesses which could lead to the need for transplant.

As a result of our efforts, the number of people willing to donate their organs after death has been steadily increasing in recent years. Where in 1989 only one in 10 people were willing to donate, the figure has now risen to an average of one in three. Compared with 1991, the number of card-carrying donors has now doubled. However, whilst many people are willing to donate, their relatives often frustrate this by objecting. To overcome this problem, I urge relatives to respect the donor's wishes. Doctors have legal authority to remove organs from those who have expressed their wishes to donate. In turn, people who wish to donate should obtain a donor card. They should sign it and show it to their relatives as proof of their wish to donate. They should carry their donor card with their ID card or driving licence wherever they go. Like the Honourable HUI Yin-fat, I also carry an organ donation card signed by myself.

We need more donors, but we want only willing ones. We want to develop a community which donates because it cares. We do not want a system which forces people against their will. Only by working together within the existing organ donation system can we all help to give the gift of life to those who need it. I am sure that through today's debate, we will be able to arouse more popular support for organ donation and show that Hong Kong really is a caring community. I am most grateful to Members for expressing their views and opinions in this Council today. I will give further consideration to how best organ donation can be promoted, and consult as necessary to find ways that are suitable and acceptable to the community.

Thank you, Madam deputy.

DR LEONG CHE-HUNG: Madam deputy, can I seek clarification from the Secretary for Health and Welfare on a point that he has made?

PRESIDENT'S DEPUTY: If it is a point of clarification, yes.

DR LEONG CHE-HUNG: I would like the Secretary to confirm the legal status of the donor card. He said that a donor card which is signed but not witnessed constitutes a valid legal document and the next of kin cannot revoke it or set it aside; in other words, doctors would have the right to take the organs out despite objection from the next of kin. Would the Secretary care to confirm this?

PRESIDENT'S DEPUTY: Can you clarify this, Secretary?

SECRETARY FOR HEALTH AND WELFARE: Madam deputy, I can confirm that we have consulted the Attorney General. We have been advised that the organ donation card is an accepted legal document. Of course, the doctors also respect the next of kin's wishes. So, in practice, before removing the organs, the doctors would always consult the deceased's family.

PRESIDENT'S DEPUTY: Mr YOUNG, do you wish to make a point?

MR HOWARD YOUNG: Madam deputy, may I also seek elucidation from the Secretary?

PRESIDENT'S DEPUTY: We cannot start a debate on this, Mr Young, but what is your point?

MR HOWARD YOUNG: Can the Secretary clarify whether the consent of the next of kin is not needed only in respect of adult donors but not minor donors? It is because I was given to understand that minor donors did need parent's consent, which I, as parent, did give before.

PRESIDENT'S DEPUTY: Can you answer that, Secretary?

SECRETARY FOR HEALTH AND WELFARE: Madam deputy, adult donors can sign the card themselves. There is no need to seek the consent of the family. And, as I mentioned earlier, in actual practice, the family's wishes are always respected by the doctors who would consult the family before they actually remove the organs.

PRESIDENT'S DEPUTY: Mr LAU Chin-shek, you have 1 minute 48 seconds left if you wish to reply.

MR LAU CHIN-SHEK (in Cantonese): Madam deputy, I think the opting-out scheme (or the voluntary donation scheme) will only do good but no harm to people. Everybody or his family members might need other people's organ some day. By donating organs, the deceased can save the life of others. In fact, this serves as an insurance against unavailability of organs for transplants for the donor himself and for his family members. If we are indifferent to other's needs, how can we expect that someone will come to our assistance when we are in difficulties?

Just now, the Secretary for Health and Welfare said that we should seek hopes for patients, especially patients who need organs for transplants. Regrettably, to my surprise and disappointment, he is making it more difficult for those who need organ transplant for a new life to have a chance of obtaining the necessary organs. I wonder whether the Secretary has studied the examples of other countries. Maybe he just confines himself to the opting-out scheme introduced by Singapore, otherwise he would not have implied that Sweden, France and Denmark were totalitarian countries. I would also like to point out that by organ donations, we mean cadaveric donations rather than donations by living donors. Such donations are therefore absolutely different from those mentioned by some of our honourable colleagues like blood donation by living donors and so on. In the meantime, the public have the right to raise objections on religious, racial or cultural grounds, or even without having to give reasons. What they have to do is to indicate on the card that they do not wish to be donors when they renew their identity cards and apply for other documents, or when they pay tax.

As far as I am concerned, being able to donate organs after death — be they kidneys, heart, lungs, liver or corneas, — is my blessing. Whether the recipient is HAN Dongfang or LI Peng, I do not care.

Thank you, Madam deputy.

DR LEONG CHE-HUNG: Madam deputy, can I seek further clarification from the Secretary before Members vote on the motion?

PRESIDENT'S DEPUTY: I do not think it is possible at this point; it would be out of order. I am sorry, Dr LEONG.

Question on the motion put and agreed to.

Adjournment and next sitting

PRESIDENT'S DEPUTY: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 24 November 1993.

Adjourned accordingly at twenty-eight minutes past Seven o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Bills of Lading and Analogous Shipping Documents 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 Education and Manpower to Dr YEUNG Sum's supplementary question to Question 3

In 1992-93, a total of 17 237 students applied for financial assistance under the Local Student Finance Scheme of whom 2 819 students (that is, 16.4%) were not entitled to any financial assistance due to the following reasons:

<i>Reasons</i>	<i>Unsuccessful Applicants</i>		<i>See Notes Attached</i>
	<i>No.</i>	<i>%</i>	
(a) High Annual Disposal Income (ADI)	2 084	74.0%	(1)
(b) Possession of significant amount of assets/properties	582	20.6%	(2)
(c) Possession of odd assets, such as land, and so on in respect of which the Review Sub-Committee of the Joint Committee on Student Finance had decided that no award should be given	101	3.6%	(2)
(d) Attending full-year industrial training with pay in that particular academic year	52	1.8%	(3)
	----- 2 819 =====	----- 100% =====	

WRITTEN ANSWERS — *Continued*

Appendix

Note(1): Annual Disposable Income

The actual amount of financial assistance payable in each case is determined by the financial circumstances of individual applicants, as measured by his Annual Disposable Income (ADI). ADI is the sum of:

- (a) 100% of parents' income, and
- (b) 30% of the income of unmarried siblings living with the household.

LESS

- (c) housing expenses,
- (d) school fees,
- (e) medical expenses, and
- (f) grandparents allowances, if applicable,

DIVIDED BY the number of household members.

If a student's ADI exceeds the amount required to meet his basic academic and living expenses, he will not be eligible for any financial assistance under the Local Student Finance Scheme.

Note (2): Possession of assets/properties

When an applicant's family assets (including both liquid assets and properties) reach a level which is considered to be significant, he will not be eligible for financial assistance. In general, an applicant whose family possesses liquid assets over \$280,000 or lives in rented/self-owned flat and owns two other flats or more for investment purposes will not be eligible for any financial assistance.

Note (3): Attending industrial training with pay

Students who are attending full-year industrial training with pay as part of their study programme will not be eligible for financial assistance during the year in which they are employed.

WRITTEN ANSWERS—Continued**Annex II****Written answer by the Secretary for Security to Mrs Elsie TU's supplementary question to Question 6**

I did not get it wrong when I answered Mrs Elsie TU's supplementary question on the right of abode of non-Chinese residents but I hope that the following will clarify the situation.

Before 1972, the legal position was that only persons who had documentary proof that they had been born in Hong Kong had the right to land in Hong Kong; those who did not have documentary proof could be refused landing and were removable and deportable.

With the coming into force of the Immigration Ordinance in 1972, resident United Kingdom belongers (most of whom have now become resident British citizens) as well as Chinese residents were given the right to land in Hong Kong unconditionally and the right not to be removed. Hong Kong belongers were also given the right to land unconditionally and the right not to be removed or deported.

In 1987, the Immigration Ordinance was amended to introduce the term "Hong Kong permanent residents" and the concept of "right of abode". Resident British citizens and resident United Kingdom belongers were not included in the definition of "Hong Kong permanent residents", but retained the rights which they previously had enjoyed.

Therefore, resident British citizens, resident United Kingdom belongers or other non-Chinese residents did not lose any right either by the coming into force of the Immigration Ordinance in 1972 or by the 1987 amendment to the Ordinance.

