

## OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 30 March 1994

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 MRS ANSON CHAN, C.B.E., J.P.

THE FINANCIAL SECRETARY

THE HONOURABLE SIR NATHANIEL WILLIAM HAMISH MACLEOD, K.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 MARTIN LEE CHU-MING, Q.C., J.P.

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

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

THE HONOURABLE SZETO WAH

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

THE HONOURABLE EDWARD HO SING-TIN, 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.

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

THE HONOURABLE MARVIN CHEUNG KIN-TUNG, O.B.E., J.P.

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

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

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

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

DR THE HONOURABLE LAM KUI-CHUN

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

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

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

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ANNA WU HUNG-YUK

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

THE HONOURABLE ALFRED TSO SHIU-WAI

**ABSENT**

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

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

THE HONOURABLE TAM YIU-CHUNG

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.

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

THE HONOURABLE MOSES CHENG MO-CHI

**IN ATTENDANCE**

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

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

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

MR RONALD JAMES BLAKE, J.P.  
SECRETARY FOR WORKS

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

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

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

MR CANICE MAK CHUN-FONG, J.P.  
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

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

## Papers

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

### *Subject*

Subsidiary Legislation	<i>L.N. No.</i>
Companies (Amendment of Eighth Schedule) Order 1994 .....	187/94
Electoral Provisions (Registration of Electors) (Geographical Constituencies) (Appeals) Regulation .....	188/94
Lands Tribunal (Fees) (Amendment) Rules 1994.....	189/94
Employees Retraining Ordinance (Amendment of Schedule 2) (No. 3) Notice 1994.....	190/94
Boundary and Election Commission (Registration of Electors) Geographical Constituencies) Regulation (L.N. 95 of 1994) (Commencement) Notice 1994.....	191/94

Companies (Amendment) (No. 2) Ordinance 1993 (75 of 1993) (Commencement) Notice 1994 .....	192/94
Companies (Forms) (Amendment) Regulation 1994 (L.N. 59 of 1994) (Commencement) Notice 1994.....	193/94
Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) (Amendment) Regulation 1993 (L.N. 285 of 1993) (Commencement) Notice 1994.....	194/94
Tax Reserve Certificates (Rate of Interest) Notice 1994.....	195/94

#### Sessional Paper 1993-94

- No. 72 — Estimates for the year ending 31 March 1995 General Revenue Account  
Summaries Revenue by Heads and Subheads

#### Written Answers to Questions

##### Illegal vending at sea

1. MR ALBERT CHAN asked (in Chinese): *Fishing boats from mainland China have recently adopted guerrilla tactics in their illegal vending of daily necessities, groceries, vegetables and fruits in Hong Kong waters, thereby making it difficult for law-enforcement officers to make timely and effective interception and affecting the business of shops on outlying islands. Will the Government inform this Council:*

- (a) *whether it will revise the strategy to check illegal vending at sea; and*
- (b) *whether additional support, such as additional new vessels and upgraded detecting devices, will be provided for the Customs and Excise Department to reinforce the ability of its staff in carrying out interception duties?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the vending of goods by a person on board a Chinese fishing vessel in Hong Kong waters may be an offence if:

- (a) the goods constitute unmanifested cargo under Part IV of the Import and Export Ordinance (Cap. 60);
- (b) the person or persons involved have entered Hong Kong other than in accordance with the provisions of the Immigration Ordinance (Cap. 115); or
- (c) such vending takes place without a valid marine hawker licence having been issued by the Director of Marine under the Marine Hawker Ordinance (Cap. 160).

I have been advised by the Commissioner of Police, the Commissioner of Customs and Excise and the Director of Marine that they have received very few reports of illegal vending taking place from mainland Chinese fishing vessels. They will continue to monitor the situation closely, paying particular attention to those areas where reports have been received.

Provision for two replacement harbour launches has been included in the 1994-95 draft Estimates for the Customs and Excise Department. The new launches will enhance the department's ability to carry out effectively its responsibilities including the interception of vessels undertaking illegal activities.

### **Environmental Protection Department's delay in issuing summons**

2. MISS EMILY LAU asked: *The Environmental Protection Department (EPD) was taken to task by a magistrate on 2 March 1994 for taking almost four months to issue a summons on noise pollution against a construction company (Eastern Magistrate Court Case No. ESS974/93). The company was fined \$20,000. Will the Administration inform this Council of the facts of this case and explain why, in spite of increase in manpower, EPD had failed to act more expeditiously?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, in October 1993 the Environmental Protection Department (EPD) received complaints concerning operations by a construction company that breached the Noise Control Ordinance. EPD officers carried out a surveillance check on 7 November 1993 and detected an offence at the construction site. EPD then took the necessary prosecution steps by requesting company registration documents on 19 November 1993 which were received on 15 December 1993 and issued the summons against the contractor on 27 January 1994. The case was heard on 2 March 1994.

Parallel enforcement action was taken by EPD on 11 November 1993 as follows:

- (a) the Divisional Commander of the Shau Kei Wan Division of the Royal Hong Kong Police Force was informed that prosecution had been initiated against the construction company. The police are the front line enforcement agency in dealing with construction noise offences. The police reported back to EPD on 8 December 1993 that no further offences had been detected at the site under complaint;
- (b) a warning letter was issued to the construction company explaining that prosecution action was being instigated against them for allegedly breaching the Noise Control Ordinance on 7 November 1993. Additionally they were warned not to operate outside of the provisions of the Ordinance as the police had been notified of the offence and the EPD would now carry out compliance checks on their site; and
- (c) the complainant was informed of our actions and if further problems were experienced they should contact the named officer at Shau Kei Wan Police Station who would arrange for enforcement action to be taken by his patrolling officers.

No further complaints were received and no further enforcement action was required in this case.

EPD therefore took appropriate and very successful enforcement action to prevent a recurrence of the noise problem in a very expeditious manner. The separate process, however, of obtaining punishment for the breach of the Noise Control Ordinance took some four months to complete.

The increased manpower provided to EPD over the past three years is to enable the department to take on new programmes. The manpower provision was not sufficient, however, to allow an increase in service levels in existing programme areas such as construction noise control.

### **Rent payment by public housing tenants through the autopay system**

3. MR WONG WAI-YIN asked (in Chinese): *Will the Government inform this Council whether it is aware:*

- (a) *of the number and percentage of public housing tenants who pay their rents through the autopay system as at the end of November last year and the amount of staffing resources thus saved; and*
- (b) *of the reasons for some tenants' reluctance to use the autopay system; and what measures will be taken to encourage more tenants to use it?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) In addition to door-to-door rent collection and payment at estate offices, the Housing Authority (HA) introduced the autopay rent collection system in 1990. As at the end of November 1993, 192 000 or about one third of the total public housing tenants paid rents by autopay.

The autopay system has saved staffing resources in terms of security guards required to escort estate staff during door-to-door rent collection and a saving of 1 000 guard-days or \$210,000 per month has been achieved.

- (b) Some tenants prefer to pay rent in estate offices as they do not necessarily have to make payment in the first few days of the month. Others prefer the door-to-door rent collection service which gives them a regular opportunity to meet with estate management staff. Some elderly and public assistance recipients have difficulties in making autopay arrangements.

The Housing Department has been taking measures to promote the autopay scheme among tenants. The service is widely publicized through posters, estate newsletters, leaflets and press releases. Estate staff also make efforts to encourage tenants to join the scheme during door-to-door rent collection, when collecting rents in estate offices, and at their regular meetings with area committees, residents' associations and mutual aid committees.

### **Jurors' knowledge of the English language**

4. MR CHIM PUI-CHUNG asked (in Chinese): *Regarding the statutory provision that only those citizens who have a good command of the English language are qualified to serve as jurors even though both English and Chinese are the official languages of Hong Kong, will the Government inform this Council:*

- (a) *whether such a provision is against the principle of equity and fairness and is discriminatory;*
- (b) *whether it will be subject to review and amendment; and*
- (c) *whether it will be repealed before 1997; if not, whether it will be in contravention of the Basic Law?*

ATTORNEY GENERAL: Mr President, the answers to Mr CHIM's questions are as follows:

- (a) All criminal trials by jury are conducted in the High Court. Civil trials by jury are possible only in the High Court. Under the Official Languages Ordinance (Cap. 5), proceedings in the High Court must be conducted in the English language. In these circumstances it is rational for the law to require jurors to have a knowledge of the English language sufficient to enable them to understand the proceedings in court. The requirement is not inequitable, unfair or discriminatory.
- (b) The language requirement for jurors will be reviewed as and when it is proposed to allow the Chinese language to be used in the High Court. In this respect, it should be noted that two working parties have been established by the Judiciary to consider ways of promoting the greater use of Chinese in the law.
- (c) Whether the language requirement will be repealed or amended before 1997 depends largely on whether, before that date, the law is to be amended to allow the Chinese language to be used in the High Court.

Whether the retention beyond 1997 of the existing language requirement for jurors would contravene the Basic Law is a matter that is being considered as part of the adaptation of laws exercise.

### **Rat problem**

5. DR LAM KUI-CHUN asked: *In view of recent public reports of people being bitten by rats, and of the growing rat population in refuse dumps, will the Government inform this Council:*

- (a) *whether it keeps any estimates of the rat population in Hong Kong, and if so what the recent estimates are;*
- (b) *whether the incidents of people being bitten by rats are increasing;*
- (c) *what the worst known case of rat bite is in the last three years; and*
- (d) *what the Government is doing to control the rat problem?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, further to my reply to Honourable Michael HO's question on rats last week, I am again replying as the Secretary with policy responsibility for health matters.

The Government does not keep estimates of the rat population in Hong Kong and does not consider it necessary to do so. A rat census is technically a very tedious and costly undertaking and prone to wide margins of statistical error. The general level of rodent infestation is determined by environmental hygiene standards which, in turn, dictate the rat holding capacity in any given area.

People are not required to report rat bites. Victims normally seek medical treatment by themselves. According to records at the Accident and Emergency Unit of Queen Mary Hospital and Queen Elizabeth Hospital, the number of people seeking medical treatment for rat bites in 1991, 1992 and 1993 were 381, 227 and 102 respectively. This is a declining number, and there have been no known cases of fatal rat bites in the last three years.

There is no known method to eradicate rats completely. Rodent control staff of the two municipal services departments conduct regular rat infestation surveys covering the entire territory to monitor hygiene conditions and see if there are any abnormal increases in the rat population. Rat poisoning programmes are then drawn up depending on the degree of infestation.

During their regular surveys and inspections, the staff also disseminate advice on rat proofing and environmental hygiene to residents. In addition, the two departments conduct an Anti-Rat Campaign in November/December each year to publicize the importance of environmental cleanliness, hence reducing the likelihood of rodent infestation.

#### **Use of mobile telephone inside hospitals and clinics**

6. DR LEONG CHE-HUNG asked: *Will the Government inform this Council whether:*

(a) *reports have been received on the use of mobile telephones inside hospitals and clinics causing disturbance to the functioning of electronic medical equipment nearby, and if so, how many in the past two years;*

(b) *treatment to patients has been so affected;*

- (c) *it has knowledge of the types of medical equipment that could be so disturbed, and what their percentage in terms of all electronic equipment used in public hospitals and clinics is; and*
- (d) *there are rules governing the use of mobile telephone inside hospitals and clinics?*

SECRETARY FOR HEALTH AND WELFARE: The Hospital Authority is aware of the possible electrical interference with medical equipment caused by mobile telephone, particularly if operated within a close range of the equipment. It is currently examining the significance of this problem with a view to giving appropriate guidance and advice to public hospitals.

However, most medical equipment are designed to protect against electrical interference and so far there has been no recorded incident of this kind in Hong Kong.

#### **Refuse transfer station (RTS) in Northwest New Territories**

7. MR WONG WAI-YIN asked (in Chinese): *Regarding the proposal to set up a refuse transfer station in Northwest New Territories, will the Government inform this Council:*

- (a) *of the final decision on the siting of the station; the reason for selection of the site and timing of its gazetting; and*
- (b) *whether objections have been received from the residents and local organizations; if so, the reason for the objections and what measures will be taken to alleviate the worries of the residents?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) As outlined in the "*Waste Disposal Plan*" and the White Paper "*Pollution in Hong Kong — A time to Act*", the long-term waste disposal strategy of Hong Kong requires the provision of a refuse transfer station along the Yuen Long-Tuen Mun corridor to transport the waste arisings from the Northwest New Territories (NWNT) to the West New Territories (WNT) Landfill in a cost-effective and environmentally acceptable manner.

The search for a suitable site in the NWNT for refuse transfer station development started in 1987. Initially nine possible sites were identified. At the Tuen Mun and Yuen Long District Planning Conference held in September 1991, three of the nine sites were selected for further investigation on their suitability. In 1993, the Shun Tat Street site which is located at the centre of the waste arising sources in the NWNT region was selected after careful and comprehensive investigations covering environmental, operational and land use aspects. (see location plan at Annex). The proposed site is secluded from the nearby villages including Chung Uk Tsuen, Shun Fung Wai and the main settlement of the Wo Ping San Tsuen by the natural topography and the elevated structure of the Yuen Long Highway.

The Shun Tat Street site was found to have the least environmental impacts amongst the potential sites in the initial environmental assessment (IEA) carried out to assess the impacts of noise, air quality and odour, water quality, traffic and transport, historical and cultural impacts, land use, ecology, visual and landscape and so on. Potential impacts were either acceptable or could be mitigated through careful design and good on-site practice. Mitigatory measures identified by the IEA will be implemented as an integral part of the NWNT RTS development and the operation of the refuse transfer station will be closely monitored to ensure compliance with the stringent environmental requirements set by the Environmental Protection Department.

We plan to apply to PWSC to upgrade the NWNT RTS project to Category "A" at its June 1994 meeting. The gazetting of the NWNT RTS site and the Shun Tat Street road improvement works are planned for early 1995.

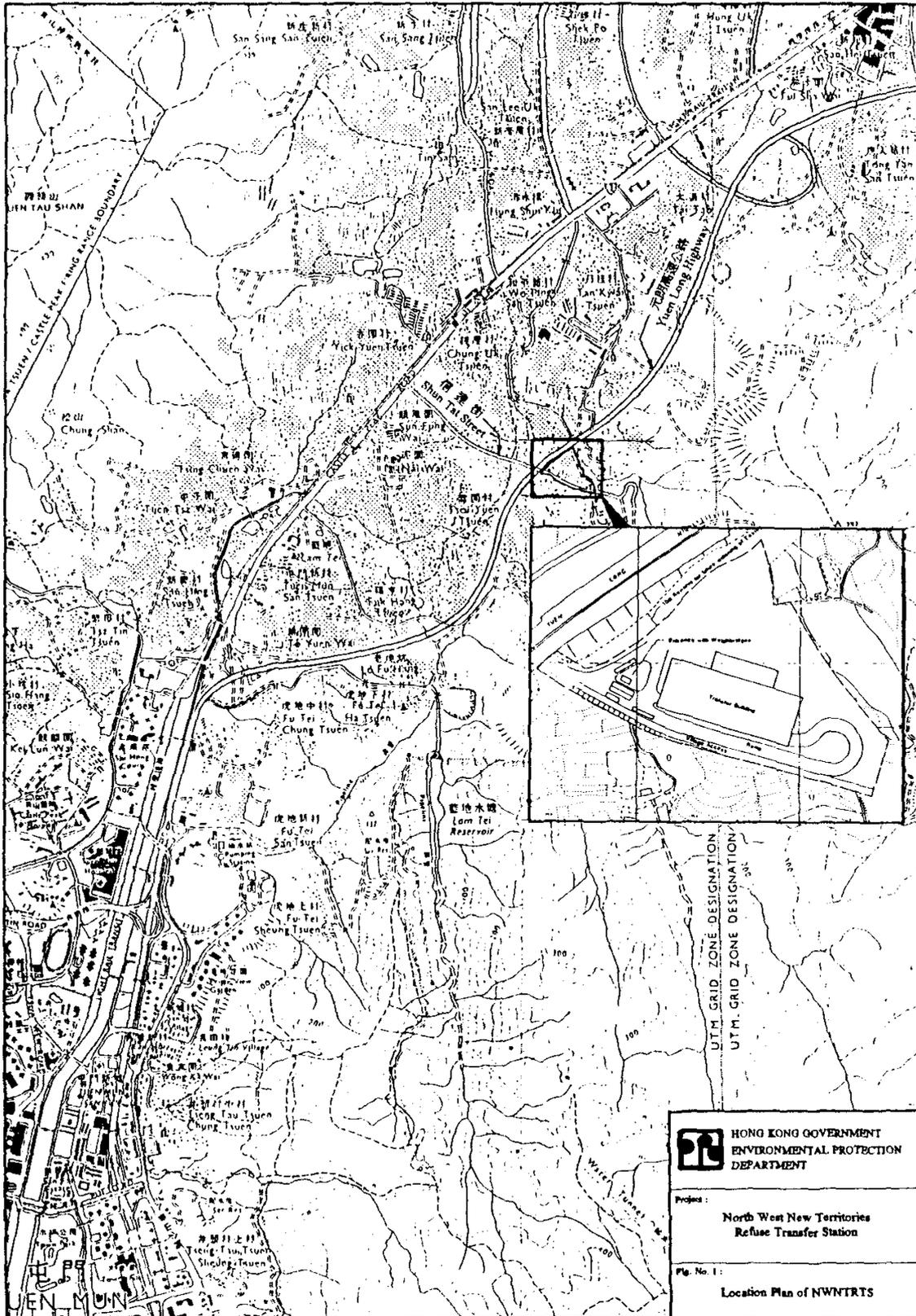
- (b) The Tuen Mun District Board, Tuen Mun Rural Committee and concerned resident groups in the nearby villages have objected to the siting of the RTS. They are concerned about:
- (i) the hygienic conditions of in-coming refuse collection vehicles (RCVs);
  - (ii) the possible aggravation of the existing traffic problem;
  - (iii) possible adverse impact on "fung shui"; and

(iv) possible adverse effect on the development potential of the nearby areas.

The following measures will be taken to alleviate the concerns of the local villagers:

- (i) Stringent environmental control standards will be imposed on the RTS operation.
- (ii) The Shun Tat Street access to the refuse transfer station will be widened to allow the RCVs turning in from Castle Peak Road unimpeded access to the RTS.
- (iii) The RTS will be designed with adequate queuing space within the site to avoid RCVs queuing outside the station.
- (iv) The Regional Services Department (RSD) will frequently clean Shun Tat Street by street washing vehicles. The RTS contract will also include provision to require the contractor to clean the road should it be found necessary.
- (v) RSD undertakes to keep the operation of their RCV fleet in a hygienic manner and to avoid nuisance by regular cleaning of RCVs.
- (vi) The RTS will be landscaped to blend in harmoniously with the surrounding environment.

To explain the NWNT RTS project and to consult the public on the NWNTRTS development, the Environmental Protection Department has initiated consultations with concerned parties in the NWNT districts. Visits to completed refuse transfer stations at Island East and Kowloon Bay and presentation of the NWNT RTS project at district boards and the rural committee have been organized. The Environmental Protection Department will further consult the Tuen Mun District Board on the NWNT RTS development at Shun Tat Street before proceeding with the project.



**Redevelopment of five streets in Kennedy Town**

8. DR YEUNG SUM asked (in Chinese): *Ever since the five streets in Kennedy Town including the Kennedy Town New Praya, Davis Street, Kin Man Street, Cadogan Street and Catchick Street were zoned by the Government as a comprehensive development area in 1988, all flat-owners within this area have in effect been prohibited from exercising their right of redevelopment under the Town Planning Ordinance. Will the Government inform this Council:*

- (a) of the name of the developer who has been given approval to carry out the redevelopment project in the above area;*
- (b) what time schedule has been set for this development project;*
- (c) in the event of prolonged delay by the developer in starting this project, whether the Government would consider replacing the developer for this project;*
- (d) whether there is any intention to make amendments to the zoning plan of the area to enable the flat-owners concerned to carry out their own development project; and*
- (e) whether the Government would offer any compensation to the affected flat-owners who have been deprived of their right of redevelopment for as long as six years since 1988?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the sites were first zoned Comprehensive Development Area (CDA) in 1988 to facilitate a comprehensive rather than piecemeal redevelopment. Comprehensive planning and redevelopment in the form of CDA under one agency will facilitate the provision of effective measures to mitigate environmental impacts, the much needed community facilities and local open space. This should also bring about improvement of traffic circulation and vehicular access of the area. The reply to the question is as follows:

- (a) the Town Planning Board approved on 25 September 1992 a redevelopment scheme submitted by the Hong Kong Housing Society;
- (b) according to Housing Society's current programme the project is expected to commence work in early 1998 but the Society is considering ways to bring this forward;

- (c) the intention is to redevelop the sites as early as possible. Unless another developer could put forward a better scheme with an earlier development programme, drastic changes at this point might cause unnecessary delay;
- (d) the Town Planning Board reviewed the CDA zoning of the sites in 1992 and decided to retain it to facilitate comprehensive redevelopment to be undertaken by the Housing Society; and
- (e) there is no provision under current legislation for compensation for the loss of the right to redevelop.

### **Parking spaces for goods vehicles**

9. DR YEUNG SUM asked (in Chinese): *Regarding the parking problem of goods vehicles arising from the resumption of two temporary car parks with a total of about 600 parking spaces in the Western District to make way for the construction of the Western Harbour Crossing, will the Government inform this Council:*

- (a) *whether plans have been made to provide alternative parking spaces for the affected vehicles before the resumption of these temporary car parks; and*
- (b) *what policy is adopted by the Government in general in dealing with the affected vehicles when a temporary car park is resumed?*

SECRETARY FOR TRANSPORT: Mr President, the general policy is to dispose of sites in accordance with the town plan. When there is no immediate requirement for permanent development, such sites are either allocated to government departments (for example, as works areas) or let on short-term tenancies (STTs) by way of public tenders.

The two temporary vehicle parks in the Western District were operated under STTs until the sites were required in connection with the construction of the Western Harbour Crossing. Several alternative temporary sites have been found within the same district to provide over 400 parking spaces and additional sites are being identified.

The Administration cannot guarantee the re-provisioning of temporary parking sites on expiry of STTs. Owing to land constraints, it is not always possible to provide replacement vehicle parks of the same size and in the same locality. The policy on parking provision for all types of vehicle will be re-examined in the context of our current Parking Demand Study.

**Hotel shortage**

10. MR MARTIN BARROW asked: *In view of the predicted shortage of hotels in the coming years, will the Government inform this Council:*

- (a) whether any areas of the various reclamations will be zoned for hotel development only; and*
- (b) what measures will be taken to encourage the private sector to invest in new hotels?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) When making land available for commercial/residential development, it has been the Government's policy to leave the market to decide what to build within broad land use zonings. Outline Zoning Plans covering Hung Hom Bay Reclamation and West Kowloon Reclamation have sites zoned for "commercial" and "comprehensive development area" which include hotel uses. The general "commercial" zoning has been adopted in order to give flexibility to future development in response to market demands. Statutory plans for Central and Wan Chai Reclamation are still under preparation. There will also be sites intended for hotel developments.

Members may wish to note that a consultancy study has been commissioned by the Hong Kong Tourist Association and managed by the Planning Department. One of its main objectives is to review the existing framework of development controls and market forces and their implications for hotel development. When the findings of the study are available, the Government will consider whether it is necessary or appropriate to designate sites specifically for hotel development in new reclamation areas or elsewhere.

- (b) Investment by the private sector is normally based on the developer's business plan and anticipated financial returns. It is not the Government's normal policy to devise specific measures to encourage investment in a particular sector. Notwithstanding this, some concessions have already been provided to encourage development of hotels. The concessions given by the Building Authority include the following:

- (i) basements in hotel developments which are compatible with hotel use may be excluded from the calculation of the maximum plot ratio permissible for hotel sites under the Building (Planning) Regulations of the Buildings Ordinance;
- (ii) covered space at ground floor reserved for setting down and picking up hotel users, for loading and unloading, or for waiting vehicles may also be excluded from the calculation of the permitted plot ratio. In addition, the provision of such space may attract the granting of additional domestic plot ratio on top of that permitted under the Building (Planning) Regulations for hotel sites; and
- (iii) a hotel is allowed a greater site coverage than that would be permitted for a domestic building under the Building (Planning) Regulations.

### Emigrant categorization

11. MR MARTIN BARROW asked: *Will the Government provide this Council with statistics on the breakdown of categories of emigrants during 1991-93 separating those leaving the workforce (further broken down if available into managerial/non-managerial and those who are dependants)?*

SECRETARY FOR SECURITY: Mr President, during the three years from 1991 to 1993, a total of about 179 000 persons emigrated from the territory. About half of the emigrants were economically active and about 16% of them were managers or administrators. The following is a breakdown:

	<i>1991</i>	<i>1992</i>	<i>1993*</i>
Managers and administrators	9 500 (16%)	10 200 (15%)	8 700 (16%)
Other employed persons	19 500 (32%)	23 500 (36%)	17 800 (34%)
Economically inactive persons	31 000 (52%)	32 300 (49%)	26 500 (50%)
	<u>60 000</u> (100%)	<u>66 000</u> (100%)	<u>53 000</u> (100%)

\* provisional figures only for 1993

**Commissioner in Washington**

12. MISS EMILY LAU asked: *Last summer, Finance Committee approved a D8 post of Commissioner in Washington, the United States, after a heated debate. Will the Administration inform this Council of the work undertaken by the Commissioner since he took office last June so that Members can be assured that taxpayers are getting value for money?*

SECRETARY FOR TRADE AND INDUSTRY: Mr President, since taking office in October last year, the Commissioner, the United States, has undertaken a hectic programme of activities aimed at broadening and deepening the United States' understanding of Hong Kong.

The Commissioner has cultivated contacts with Members of the United States Congress and their chief aides, senior United States officials and leading personalities in think-tanks and in academic and media circles, many of whom are in a position to influence the formulation of the United States' trade and economic policies of direct relevance and importance to Hong Kong.

In addition to working on an economic and trade agenda, the Commissioner has spent a considerable amount of time answering a wide range of questions about developments in Hong Kong and explaining the special arrangements that are being put in place to ensure that Hong Kong will be as prosperous, stable and successful after 1997 as it is today.

In a vast country such as the United States, lobbying and opinion-shaping work cannot be confined to Washington, D.C. The Hong Kong message needs to be spread to the state and city levels as well. As envisaged in the Finance Committee Agenda Item establishing the post, the Commissioner has travelled widely across the United States, cultivating support for Hong Kong through speeches, presentations, media interviews and meetings with people of influence.

The Commissioner's credibility is enhanced by his seniority and previous experience in Hong Kong. The Government believes that taxpayers are getting "value for money" in respect of the post of Commissioner, the United States.

**Terminal berthing facilities for passenger ships running between China and Hong Kong**

13. MR CHIM PUI-CHUNG asked (in Chinese): *In view of the busy passenger sea transport between China and Hong Kong, will the Government inform this Council:*

- (a) *whether the terminals for berthing of passenger ships running between China and Hong Kong can adequately meet the demand;*

- (b) *whether vessels arriving at Hong Kong can be immediately berthed; on how many occasions in the past year was disembarkation delayed due to the line-up for berthing; how long was the delay; and*
- (c) *what expansion plans will be implemented in future to improve the service and to cope with the increasing demand?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) Berthing facilities for passenger ships operating between China and Hong Kong are sufficient to meet current demand.
- (b) China ferry services are allocated time slots for using the terminal berthing facilities. Vessels arriving on schedule can use the berths assigned to them without delay. If a vessel is late, it will have to wait until a berth becomes available. In such circumstances, the waiting time is no more than 15 minutes.
- (c) The existing terminal has adequate capacity to meet demand until 1996-97. Plans are in hand to provide three more berths and an enlarged waiting area at the China Ferry Terminal to meet projected requirements up to 2001.

### **Importation of Chinese professionals and managers**

14. MR TIMOTHY HA asked (in Chinese): *The Government has recently announced a pilot scheme to allow 1 000 professionals and managers in China to come to work in Hong Kong to meet the shortage of people with degree-level qualifications and knowledge of China. In order to be considered for entry, the applicants must be graduates of 36 key tertiary institutions in China with relevant working experience. Will the Government inform this Council:*

- (a) *on what basis the quota of 1 000 has been set;*
- (b) *why applicants must be graduates of the 36 key tertiary institutions; whether applications submitted by graduates of other tertiary institutions would be considered on their own merits;*
- (c) *what the 36 key tertiary institutions are; what criteria and mechanism have been used in identifying them; and*
- (d) *what criteria would be used in considering these applications; why such criteria are to be used; whether preference would be given to graduates of any particular disciplines; if so, what these disciplines are; why preference is to be given to them?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the answers to the four-part question are as follows:

- (a) This is a pilot scheme designed to meet a particular need identified by businesses operating in Hong Kong. The quota of 1 000 was a tentative figure to enable us to test both the demand for and the operation of the scheme before any changes are considered.
- (b) To keep the scope of the experiment within manageable proportion and to minimize possible abuses, we have decided to limit the scheme to graduates of the 36 key tertiary institutions in China. Applications submitted by graduates of other tertiary institutions will not therefore be considered.
- (c) The names of the 36 key tertiary institutions are shown in the attached Guidance Notes for applicants. They have been chosen because they are clearly identifiable and reputable institutions under the State Education Commission in China.
- (d) Under existing immigration policy, permission to work will normally be given if the applicant possesses a special skill, knowledge or experience of value to and not readily available in Hong Kong. For the pilot scheme, the Immigration Department will also consider:
  - (i) whether the employing company has a genuine need for the employment of a PRC national and whether it has taken any active steps to recruit locally, but in vain;
  - (ii) whether the applicant's experiences and qualifications are relevant to the post which he or she will fill; and
  - (iii) whether the terms and conditions of employment are comparable to those prevailing in the market.

As applications will be determined by ballot, all employers will stand the same chance under the scheme. No preference will be given to a particular industry or discipline.



**GUIDANCE NOTES**  
**APPLICATIONS FOR ENTRY OF PRC NATIONALS**  
**FOR EMPLOYMENT IN HONG KONG**

**Submission of Preliminary Application**

The employer should complete the Preliminary Application for Entry of PRC nationals for Employment in Hong Kong (ID 806) and submit it, together with a crossed cheque or cashier order of \$500 made payable to the "Hong Kong Government" and a self-addressed envelope with stamp, to the Immigration Department. ONE APPLICATION FORM IS REQUIRED FOR EACH VACANCY. The fee is non-refundable.

2. The employer should not submit double applications for the same vacancy. Overbidding will result in refusal of the applications.
3. The employer may send the application by post, or by dropping it into the drop-in box located at counter no. 3 of Entry Visa (Other Services) Section, 7/F., Immigration Tower, 7 Gloucester Road, Wan Chai, Hong Kong.

**Balloting**

4. If the number of preliminary applications received is more than 1,000, the applications will be determined by a ballot exercise in four quarterly phases, as follows:—

<i>Applications received on or before</i>	<i>Date of Ballot</i>
End of May 1994	2nd week of June 1994
End of August 1994	2nd week of September 1994
End of November 1994	2nd week of December 1994
End of February 1995	2nd week of March 1995

5. The ballot results will be published in the press and displayed at the public waiting area of the Entry Visa (Other Services) Section.
6. Unsuccessful applications in earlier ballot exercises will continue to remain eligible for subsequent exercises as mentioned in paragraph 4 above. The employer therefore needs not re-submit application for the same vacancy.

**Approval of Preliminary Applications**

7. An employer who is successful in the ballot exercise will be required to provide detailed information on his company and the vacancy to the Immigration Department for vetting under the existing policy. Decision on the preliminary application will be conveyed to the employer direct. It should be noted that a place in the ballot exercise does not automatically lead to approval of the preliminary application by the employer or the issue of an employment visa to the employee. The place left by an application that fails the vetting will be rebalotted.

**Visa Applications**

8. The visa application from the prospective employee, which must be submitted through the British Embassy, Beijing or a British visa post overseas, will also be thoroughly vetted to ensure that the applicant's qualifications and experience are compatible with the post offered. Those prospective employees whom the Director of Immigration does not consider to possess the qualifications and experience required will not be issued with a visa. Applicants must also satisfy normal immigration requirements eg. no adverse record in Hong Kong. Application should be submitted within 4 months from the date of the approval of the preliminary application. Late application will not be entertained. Only graduates of the following 36 key institutions in China are eligible to be recruited under this scheme:—

<i>Beijing</i>	<i>Zhejiang Province</i>
Beijing University	Zhejiang University
People's University of China	
<i>Qinghua University</i>	<i>Fujian Province</i>
Beijing Normal University	Xiamen University
Beijing Foreign Studies University	<i>Shandong Province</i>
Beijing Language Institute	Shandong University
<i>Tianjin</i>	Qingdao University of Oceanography
Nankai University	<i>Hubei Province</i>
Tianjin University	Wuhan University
<i>Liaoning Province</i>	Huazhong University of Technology
Dalian University of Technology	Huazhong Normal University
<i>Jilin Province</i>	<i>Guangdong Province</i>
Jilin University	Zhongshan University
Northeast Normal University	South China University of Technology
<i>Shanghai</i>	Guangzhou Institute of Foreign Languages
Fudan University	<i>Sichuan Province</i>
Shanghai Jiaotong University	Sichuan University
Tongji University	Chongqing University
East China Institute of Chemical Technology	Chengdu University of Science and Technology
East China Teachers University	Southwest Normal University
Shanghai International Studies University	<i>Shaanxi Province</i>
<i>Jiangsu Province</i>	Xian Jiaotong University
Nanjing University	Shaanxi Normal University
Southeast University	<i>Gansu Province</i>
	Lanzhou University

**Subjects offered by the Hong Kong Examination Authority**

15. MR CHEUNG MAN-KWONG asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the subjects that are currently offered by the Hong Kong Examinations Authority (HKEA) in the Hong Kong Certificate of Education Examination (HKCEE) but not in the Hong Kong Advanced Level Examination (HKALE);*
- (b) *whether the HKEA's decision to introduce any new HKALE subjects is based on the needs of the candidates, taking into account their interests when applying for admission to tertiary institutions or purely on commercial considerations with reference to the number of prospective candidates and the economic viability of introducing any subjects; and*
- (c) *regarding the new courses, such as physical education, introduced by tertiary institutions with no corresponding subjects offered in the HKALE, what the HKEA will do to tackle this problem so as to safeguard the interests of students; and, apart from physical education, what other subjects are not yet offered in the HKALE to tie in with courses already introduced by tertiary institutions?*

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

- (a) Subjects for which examinations are currently offered by the Hong Kong Examinations Authority (HKEA) in the Hong Kong Certificate of Education Examination (HKCEE) but not in the Hong Kong Advanced Level Examination (HKALE) are as follows:
  - (i) Accommodation and Catering Services
  - (ii) Buddhist Studies
  - (iii) Ceramics
  - (iv) Electronics and Electricity
  - (v) Fashion and Clothing
  - (vi) Home Economics (Food, Home and Family)
  - (vii) Home Economics (Dress and Design)
  - (viii) Metalwork
  - (ix) Physical Education
  - (x) Shorthand
  - (xi) Social Studies
  - (xii) Technical Drawing
  - (xiii) Textiles
  - (xiv) Typewriting

- (b) In reaching a decision on a new subject, the HKEA takes into account the needs of the candidates, the resources available, and the practicability of offering public examinations in that subject. The HKEA derives its income mainly from examination fees. It seeks to strike a balance between offering examinations and keeping their fees affordable, having regard to the actual cost of conducting the examinations.
- (c) A number of courses offered in tertiary institutions do not have A-level counterparts. Examples are law, architecture, philosophy, education, social work, communication and physical education. To the extent that tertiary institutions do not require specific subjects as a pre-requisite for admission to their courses, the interests of students are not adversely affected.

### **Medium of instruction in secondary schools**

16. MR CHEUNG MAN-KWONG asked (in Chinese): *Regarding the media of instruction that secondary schools will adopt in the year 1994, will the Government inform this Council:*

- (a) *of the number of questionnaires sent by the Education Department to schools for their indication of the medium of instruction that will be adopted, the number of questionnaires returned, and the outcome of the survey;*
- (b) *of the measures taken by the Education Department to check whether the schools actually use the medium of instruction as indicated; especially for schools which claimed that all subjects (including cultural and practical subjects) or general subjects (i.e. excluding cultural and practical subjects) will be taught in English, whether the teachers and students of such schools are able to use English for teaching and learning respectively, so that all subjects using English as the medium can actually be taught in English; should any school fail to implement its language policy, how the Education Department will deal with it;*
- (c) *for students who would learn better through the Chinese medium, whether the Education Department can provide sufficient Chinese middle school places for them; in case the number of Chinese middle schools is limited, what is the estimated number of such students who will be allocated places in schools where the medium of instruction is not suitable for them; and*
- (d) *whether parents are given sufficient information in selecting secondary schools for their children?*

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

- (a) In December 1993, the Education Department asked all secondary schools participating in the Secondary School Places Allocation to choose a medium of instruction best suited to their individual circumstances for use in the 1994-95 school year. All 392 schools responded and the results are as follows:

(i)	No. of schools choosing English	111 (28.3%)
(ii)	No. of schools choosing English except cultural and practical subjects	112 (28.6%)
(iii)	No. of schools choosing Chinese	52 (13.3%)
(iv)	No. of schools choosing Chinese and English by class	14 (3.6%)
(v)	No. of schools choosing Chinese and English by subject	100 (25.5%)
(vi)	No. of schools choosing Chinese and English by class and by subject	3 (0.7%)

Total            392

- (b) The Education Department will check whether schools actually use the chosen medium of instruction by conducting school inspections. Special emphasis will be given to schools which have opted to use English against objective evidence and the department's advice. In addition, the department will investigate in response to complaints by parents and students. Schools which ultimately fail to implement a rational and consistent teaching medium will be provided with firm guidance.
- (c) It was envisaged in *Education Commission Report No. 4* that there would be a transitional stage involving some mismatch between the number of places in schools choosing to use Chinese and the number of students wishing to study through that medium, during the initial introduction of the new policy. This mismatch, though undesirable, already represents an improvement over what goes on in schools now. The extent of this mismatch will be reduced and eliminated ultimately as parents and schools adjust to the new realities, and in the light of guidance issued by the department to the schools.
- (d) The department will provide individual parents with full information on the language proficiency of their children together with information on the teaching medium offered by each secondary school to assist them in their choice of schools in April 1994. Parents who are still unclear about how they should exercise their

choice can contact the relevant District Education Officer for further advice.

### **Street naming and the provision of street name plates**

17. MR TIMOTHY HA asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the procedures followed by the Government in naming a street and providing it with street plates;*
- (b) *in the case of a relatively long street, whether the Government would provide it with more street plates; if so, what the intervals of these street plates are; whether there is any fixed ratio between the length of a street and the number of street plates to be provided;*
- (c) *whether all street junctions in the urban areas are provided with street plates; if not, what the reasons are; and*
- (d) *whether there are any arrangements for street plates to be checked regularly by staff specially assigned for this job to ensure that these plates are still effective in serving their intended purposes; if so, how frequently these checks are carried out?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) In accordance with section 111C of the Public Health and Municipal Services Ordinance (Cap. 132), the Urban Council and the Director of Lands are responsible for naming streets in the urban area and the New Territories respectively. The relevant district boards are consulted before decisions are taken. The Highways Department affixes and maintains the street name plates.
- (b) In the case of long streets, name plates are usually provided at approximately 200 metre intervals. Based on past experience, this is considered adequate.
- (c) Street name plates are generally installed at all road junctions, except where this may lead to an undesirable proliferation of street signs at a particular location or obstruct the line of sight of drivers.
- (d) Checking street name plates is part of the regular road inspection duties of the Highways Department. These inspections are carried out at approximately six monthly intervals. In addition, name plates are replaced if damage is reported by the public.

**Dismissal of students by schools**

18. MR HENRY TANG asked: *Referring to the incident at a subsidized school a few months ago in which five students were advised to leave school, will the Government inform this Council:*

- (a) *whether the Education Department can ask schools to re-admit students who have been unreasonably advised to leave; and*
- (b) *whether a review will be conducted to see if the staff in subsidized schools have been given excessive powers in the dismissal of students; if so, when it will be done and what its scope is likely to be?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the answers to Mr TANG's question are:

- (a) The Education Department can ask schools to re-admit students who have been unreasonably advised to leave.
- (b) The Codes of Aid stipulate that no pupil should be expelled by schools without proper warning and notice to parents. Furthermore, the Director of Education should be informed of all expulsion cases at the warning stage and no pupil under the age of 15 could be expelled without the director's approval. Thus, staff of subsidized schools do not have excessive powers in the dismissal of students, and no review of the present provisions in the Codes of Aid is considered necessary.

**Treatment provided to patients suffering from systemic lupus erythematosus**

19. DR HUANG CHEN-YA asked (in Chinese): *Given that several thousand patients are suffering from systemic lupus erythematosus in Hong Kong, will the Government inform this Council:*

- (a) *of the existing numbers of rheumatology specialists and specialist clinics providing treatment to such patients;*
- (b) *of the average interval for follow-up consultation; and*
- (c) *of the plans to improve such services?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, there are a total of 160 qualified specialists in internal medicine working in the Hospital Authority who are capable of managing rheumatology patients, including those suffering from systemic lupus erythematosus. There are also three designated rheumatology clinics and 20 specialist clinics providing treatment to such patients.

As systemic lupus erythematosus is a chronic disease, the time interval for follow-up consultation will depend on the health condition and type of medication given to individual patients. It ranges from once every week for acute cases to once every three months for stable cases.

In order to achieve the general aim of integrating chronic patients back into the community, patient resource centres are being established in many public hospitals to provide a focal point of health education, information and enquiry. Patients and their families are also encouraged to form self-help groups for the sharing of experience in overcoming the trauma of their illness.

### **Professional consultants employed by the Government through professional services companies**

20. MR ERIC LI asked (in Chinese): *In view of confirmation by the Government's Public Affairs Advisor in the press in early March this year that he is in the employment of the Hong Kong Government through a service company, will the Government inform this Council:*

- (a) of the respective number of cases where professional consultants were engaged by the Government in the 1991-92, 1992-93 and 1993-94 financial years;*
- (b) of the respective number of cases where professional consultants were engaged in their personal capacity or through professional service companies; and*
- (c) given that the Financial Secretary has said in the 1994-95 Budget that allowing the establishment of service companies for the purpose of tax avoidance gives rise to a legal loophole, how many service companies mentioned in the reply to point (b) above should be brought under the charge of salaries tax?*

SECRETARY FOR THE TREASURY: Mr President, the Government appoints consultants to perform a diversified range of functions which require expertise not normally available among civil servants or which may be of a nature or duration where Civil Service appointments are not cost-effective or appropriate. Depending on the contract value, the nature of the consultancy service sought and whether the consultancy service is rendered by an individual or a firm, the

selection and appointment of government consultants are handled by different authorities. We do not, however, keep a central register of government consultancies approved by the different authorities.

Based on the information obtained from the Central Consultants Selection Board, the Engineering and Associated Consultants Selection Board and the Architectural and Associated Consultants Selection Board, which are the three major approving authorities for government consultancies, the Government approved a total of 274 consultancies during the period 1991-92 to 1993-94, that is, 80 in 1991-92, 82 in 1992-93 and 112 in 1993-94. Among them, three consultancies involved the appointment of a total of five individuals. All remaining ones involved consultancy firms or professional firms. Of the latter category, we have identified one case where an individual was employed as a government consultant through an interposing service company. The above figures do not include smaller consultancy studies valued at less than \$1 million for services relating to construction and engineering works and \$500,000 for other services, which may be approved at a lower level under delegated authority.

The appointment of individuals for non-civil servant appointments as consultants or advisers is dealt with by heads of departments under delegated authority, subject to the advice of the Public Service Commission under specified circumstances. According to available statistics, the Public Service Commissioner has considered and approved 23 applications during 1991-93 for the appointment of individuals to provide professional services to the Government, broken down into six appointments in 1991, four in 1992 and 13 in 1993 (amongst which four were renewal contracts). These consultants were all appointed in their individual capacities. We expect there to be a small number of cases where heads of departments have appointed individual consultants under delegated authority without involving the Public Service Commission.

The answer to (c) will depend on the final form of the legislation we eventually adopt.

## **Motions**

### **OFFICIAL LANGUAGES ORDINANCE**

THE ATTORNEY GENERAL moved the following motion:

"That the draft Official Languages (Authentic Chinese Text) (Intestates' Estates Ordinance) Order, proposed to be made by the Governor in Council, be approved."

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

The authentic Chinese text of the Intestates' Estates Ordinance has been carefully examined by the Bilingual Laws Advisory Committee and the Legislative Council Subcommittee on the Authentic Chinese Texts and has their support. In accordance with subsection (4) of section 4B of the Official Languages Ordinance, a draft authentication order in respect of this text has been prepared and is being put before this Council for approval this afternoon prior to being submitted to the Governor in Council for authentication. I now move that the draft Official Languages (Authentic Chinese Text) (Intestates' Estates Ordinance) Order, proposed to be made by the Governor in Council, be approved.

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

### **HONG KONG ACADEMY OF MEDICINE ORDINANCE**

THE SECRETARY FOR HEALTH AND WELFARE moved the following motion:

"That the Hong Kong Academy of Medicine Regulation, made by the Hong Kong Academy of Medicine on 21 January 1994, be approved."

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

Honourable Members passed the Hong Kong Academy of Medicine Bill on 24 June 1992 to establish the Academy as a statutory body responsible for the conduct of postgraduate and continuing medical education. Since then, the groundwork for the Academy has been carried out by an interim Council, including the drafting of the necessary subsidiary legislation.

The resolution seeks this Council's approval of the Hong Kong Academy of Medicine Regulation. This will enable the Academy to hold its first Annual General Meeting and to commence full operations.

Mr President, I beg to move.

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

### **MASS TRANSIT RAILWAY CORPORATION ORDINANCE**

THE SECRETARY FOR TRANSPORT moved the following motion:

"That the Mass Transit Railway (Amendment) Bylaw 1994, made by the Mass Transit Railway Corporation on 10 March 1994, be approved."

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

The Mass Transit Railway Bylaws set out the terms and conditions relating to the use of the railway as well as provisions governing the protection of the property of the corporation on railway premises.

The by-laws were last revised in 1986 and require to be up-dated, to bring them in line with present-day circumstances. The main amendments proposed are as follows:

- (a) first, to delete all references to specific types of tickets in the Bylaws and to incorporate these details in the Conditions of Issue which will be publicly displayed at stations;
- (b) second, part IV of the Bylaws has been substantially re-written to provide for an enhanced code of passenger behaviour and safety, for example, by making it an offence to tamper with or misuse safety devices;
- (c) third, part VII of the Bylaws is amended to clarify how the Corporation can deal with different kinds of lost property, for example, from identity cards and confidential documents to perishable and offensive goods; and
- (d) fourth, the maximum penalties for various offences in the Bylaws are also revised to maintain an adequate deterrent effect and reflect more accurately the degree of seriousness of the relevant offences. For example, the maximum penalty for smoking on railway premises has been increased from \$2,000 to \$5,000, in line with what is laid down in the Smoking (Public Health) Ordinance.

Under section 25 of the Mass Transit Railway Corporation Ordinance, all Bylaws made by the corporation are subject to the approval of this Council. The Administration has examined the MTR (Amendment) Bylaws 1994 which were made by the corporation on 10 March this year, and I commend them to this Council for approval.

Mr President, I beg to move.

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

**KOWLOON-CANTON RAILWAY CORPORATION ORDINANCE**

THE SECRETARY FOR TRANSPORT moved the following motion:

"That the Kowloon-Canton Railway Corporation (Amendment) Bylaws 1994, made by the Kowloon-Canton Railway Corporation on 20 December 1993, be approved."

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

The Kowloon-Canton Railway Corporation Bylaws were introduced in March 1985. This exercise seeks to update them to facilitate enforcement and improve the operation of the railway services. For example, they deal with tickets, passenger conduct, penalties as well as other procedural and technical aspects.

Under section 31 of the Kowloon-Canton Railway Corporation Ordinance, all Bylaws made by the corporation are subject to the approval of this Council. The Amendment Bylaws 1994 were made by the corporation on 20 December 1993. They are in order and I commend them to this Council for approval.

Mr President, I beg to move.

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

**KOWLOON-CANTON RAILWAY CORPORATION ORDINANCE**

THE SECRETARY FOR TRANSPORT moved the following motion:

"That the North-west Railway (Amendment) Bylaws 1994, made by the Kowloon-Canton Railway Corporation on 20 December 1993, be approved."

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

The North-west Railway Bylaws were made in July 1987 to enable the corporation to exercise effective control over the operation of the Light Rail Transit System and its associated bus services in the North-west Transit Service Area.

My remarks on the previous motion equally apply and I commend the North-west Railway (Amendment) Bylaws 1994 to this Council for approval.

Mr President, I beg to move.

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

### **First Reading of Bills**

#### **SUPREME COURT (AMENDMENT) BILL 1994**

#### **LAND SURVEY BILL**

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

### **Second Reading of Bills**

#### **SUPREME COURT (AMENDMENT) BILL 1994**

THE ATTORNEY GENERAL moved the Second Reading of: "A Bill to amend the Supreme Court Ordinance."

He said: Mr President, I move that the Supreme Court (Amendment) Bill 1994 be read the Second time. The Bill provides for the introduction of a formal system of appointing experienced barristers as recorders of the High Court who will sit as temporary judges for specific periods.

For some years, the Chief Justice has invited, and appointed, experienced barristers, normally Queen's Counsel, on an ad hoc basis to sit in the High Court as deputy judges. These deputy judges are temporary judges who generally sit in the High Court for a period of about four weeks. This arrangement has provided an opportunity for members of the Bar to have first-hand experience of judicial work, and also for the Chief Justice to test their suitability for possible future appointment to the Bench. But it has not proved very effective in attracting members of the Bar to apply to join the Bench, nor has it contributed materially to a reduction in the time taken for cases to be heard.

In an effort to make more extensive use of the expertise available in the private sector, the Hong Kong Bar Association put forward in 1991 a proposal to establish a formal system of recordership. This proposal was referred by the Chief Justice to a working group comprising a High Court Judge and a representative of the Bar Association. After carefully examining the proposal, the working group recommended the introduction of the recordership scheme in Hong Kong and the Bill gives effect to these recommendations.

We in the Administration agree that there should be a more formal recordership system whereby barristers may be appointed to sit in the High Court over a longer period. We propose that, as recommended by the working group and following the practice in the United Kingdom, a recorder should normally be appointed for a minimum of three years, with a minimum sitting requirement of four consecutive weeks each year. The Chief Justice will continue to make ad hoc appointments of deputy judges as he sees fit.

The recordership scheme will be introduced on a modest scale and expanded in the light of experience. We hope that it will encourage more members of the Bar to obtain experience of judicial work, and that some of them will apply in due course for permanent appointment to the Bench. The eventual expansion of the scheme may also in the long term contribute to lowering the waiting time for hearing cases in the High Court by enabling the Chief Justice to plan in a systematic way for the establishment of an additional court.

Clauses 3, 4 and 5 of the Bill deal with the appointment of recorders of the High Court. As recorders will be required to hear all types of cases, their qualifications will be the same as for permanent appointments to the Supreme Court. Their appointments will also be made by the Governor on the advice of the Judicial Service Commission.

The Bill also provides for the appointment of temporary deputy registrars of the Supreme Court. The Chief Justice will be empowered by clause 11 of the Bill to appoint such temporary deputy registrars on an ad hoc basis to fill any vacant posts of deputy registrars or to deal with temporary increases in the interlocutory work in the Supreme Court.

The Bill also seeks, in clauses 5 and 11, to formalize the existing practice of allowing the retrospective appointment of judges and other judicial officers. Such retrospective appointments may have to be made in those rare circumstances where the formal appointment instruments, due to some administrative reasons, have not been made ready on or before the dates of the commencement of the appointments.

Finally, Mr President, the opportunity is taken to set out in clause 11 of the Bill the professional qualifications at present required of the Registrar, the Deputy Registrars and the Assistant Registrars of the Supreme Court. It is desirable to spell out in law the qualifications of these judicial posts to remove any possible doubt.

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

**LAND SURVEY BILL**

THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS moved the Second Reading of: "A Bill to provide for the registration and discipline of land surveyors engaged in land boundary surveys, for the control of the standards of land boundary surveys, for the establishment of land boundary records and for related matters."

He said: Mr President, I move the Second Reading of the Land Survey Bill. The Bill seeks to provide a regulatory framework for the control of standards of land boundary surveys.

At present, Hong Kong has no statutory regulation of standards of land boundary surveys or how such surveys should be carried out. There is also no requirement for land boundary plans to accompany instruments registered in the Land Registry under the Land Registration Ordinance. Although plans are usually attached to the instruments for registration purposes, they are of varying degrees of accuracy and reliability. This has resulted in boundary disputes and could, in some cases, give rise to delays in land development and loss of investment in land. It has also made it impossible for the Government to set up an accurate land record system, thus affecting the effectiveness of land administration.

There are several main proposals contained in the Bill. First, the Bill seeks to establish a system dealing with the registration of authorized land surveyors and related matters. The Bill provides for the appointment, composition and functions of the Land Surveyors Registration Committee and sets out all the procedures for registration, renewal, removal and re-instatement of the status of authorized land surveyors.

A prospective authorized land surveyor has to satisfy the Committee that he possesses the necessary professional qualification and certain post-qualification land boundary survey experience in Hong Kong for registration. Authorized land surveys will be required to carry out the work of land boundary surveys in accordance with the codes of practice approved by the Land Survey Authority, who will be the Director of Lands.

Second, the Bill provides for the setting up of a Disciplinary Board Panel. If an inquiry into the conduct of an authorized land surveyor is required, a disciplinary board with its members selected from the Panel will be appointed. The disciplinary board is empowered to conduct disciplinary proceedings to determine alleged commission of disciplinary offence against an authorized land surveyor.

Third, the Bill requires all instruments effecting the division of land parcels executed after the bringing into operation of the Bill and registered under the Land Registration Ordinance to be accompanied by land boundary plans certified by authorized land surveyors. The requirement will gradually

improve the standard of land boundary plans attached to instruments registered in the Land Registry. By requiring that a duplicate of the land boundary plan and the related survey record plan which records all survey data and information to be deposited with the Land Survey Authority, the Bill also helps build up an accurate and effective land boundary record system.

Fourth, an authorized land surveyor will be personally responsible for the accuracy and completeness of land boundary plans certified by him and be liable for damages suffered by any person as a result of any inaccuracy and incompleteness of the land boundary plans.

Mr President, the Bill aims to provide for a regulatory framework for the control of standards of land boundary surveys, to improve the quality of land boundary records kept by the Land Survey Authority and to facilitate effective land administration. The surveying profession has indicated its support to the introduction of the Bill. I commend it to Members for favourable consideration.

Thank you, Mr President.

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

## **THE LEGISLATIVE COUNCIL COMMISSION BILL**

### **Resumption of debate on Second Reading which was moved on 9 March 1994**

*Question on Second Reading proposed.*

MRS ELSIE TU: Mr President, when the Legislative Council Commission Bill was introduced into this Council on 9 March 1994, it concluded one and a half years of concerted effort on the part of the Administration, the working group under your chairmanship, Mr President, and last but not the least staff of the Council Secretariat, to put in place a legal framework to enable this Council to direct the operation of its support services with managerial and financial autonomy.

Following the passage of the Bill, this Council will be given powers and responsibilities to employ its own staff, determine the organization of its administration and support facilities, formulate and execute policies for their effective operation and expend funds in ways it sees fit to support these activities.

The establishment of a secretariat completely separate from the executive, to underpin an independent legislature is a milestone in the history of Hong Kong's constitutional development.

With these remarks, Mr President, I welcome and strongly support the Bill.

MISS EMILY LAU (in Cantonese): Mr President, I speak in support of the Legislative Council Commission Bill. Since the Right Honourable Christopher PATTEN, the Governor, announced in October 1992 the separation of the legislature from the executive, this Council has been engaging in discussion with the Government in the ensuing 17 months, and eventually the conclusion arrived at is laid before us today after much bargaining has taken place.

I believe both the Government and the public understand that it is of paramount importance to have a legislature independent of the Government. We, the Legislative Council, must recruit our own staff who will be loyal to the Council so as to manage affairs for the Council.

Mr President, I have had very active participation in the discussion process these 17 months. During this period, I have been worrying that the Government may seek to control us through the allocation of resources because the Government does not want to see the emergence of a strong and independent Legislative Council and its Secretariat. The Government would rather want the most capable personnel to work for it, and would not wish top-notch personnel to serve the Legislative Council. I hope that my way of thinking is wrong and, all the more, I cherish the hope that the Government will, in the future, act to show us its strong support for the Legislative Council.

Mr President, after introduction of a directly elected element into the Legislative Council in 1991, our workload has increased considerably, our meetings have been held more frequently and the volume of the papers to be examined has also grown. I believe both the Government and the public understand this point. And from this I hope each and every one of us can conclude that this Council has taken up a very active role in monitoring the operation of the Government after directly-elected Members joined this Council. At most times, we do it by way of a frontal or head-on approach which is a very positive approach, though. The Government must be made to understand that with the expansion of workload, this Council may require more resources. Since we must maintain our independence, we have to have loyal staff who will be dedicated workers of this Council. Mr President, I believe that, before the separation of the legislature from the executive, some of my colleagues, including I myself, did not really trust our staff. Some of us even saw them as the tools of the Government and the senior Members. Nevertheless, times have changed. I hope that we Members will have complete trust in the loyal staff of the Legislative Council. Therefore, I agree with the Honourable Mrs Elsie TU's comments and I quote "to underpin an independent legislature is a milestone in the history of Hong Kong's constitutional development."

Mr President, this Council may have to go through a lot of trials and hardships in the coming three years, some of us may be kicked out from this Council. But I cherish the hope that, come what may, we will throughout be served by this Council's excellent staff. I hope they can work for this Council with steadfast devotion and peace of mind. I believe that if we can work hand in hand with an excellent and quality team, this will be of vital importance to the long-term development of Hong Kong. Although we Members are faced with an uncertain future, I hope that our staff will dedicate themselves to working for the Legislative Council with ease of mind and that we can together weather through the trying times of the transition.

With these remarks, I support the Bill.

DR YEUNG SUM (in Cantonese): Mr President, the establishment of the Legislative Council Commission on 1 April 1994 will be a major event after the separation of the executive from the legislature. It will also be a major step in the process of the Legislative Council's development towards independent operation. The independence of the Legislative Council is a necessary move in the context of the constitutional development of Hong Kong. It will have a positive and promotive effect on the development of democracy in Hong Kong to enable the Legislative Council to monitor the Government and to render the executive branch of government accountable to the Legislative Council.

However, the staffing and financial resources of the Legislative Council of Hong Kong are scant relative to the legislatures of other countries. The Administration must conduct a review on support matters such as support services to the Secretariat and the Bills Committees as soon as the establishment of the Commission is endorsed. Without such resources, the working capabilities of Councillors will be greatly restricted. Therefore, the United Democrats of Hong Kong fully support the establishment of this Commission and hope that the Government can learn from the experience of other countries in order to give full play to the independence of the Legislative Council and its ability to monitor the Government in the service of the public.

With these remarks, the United Democrats of Hong Kong fully support the motion.

CHIEF SECRETARY: Mr President, I would like to thank Members for their support of the Legislative Council Commission Bill. In response to the comments made by the Honourable Miss Emily LAU and Dr YEUNG Sum, I can assure this Council that it has never been our intention to restrain the activities of the Council by denying it adequate resources. But it is the Administration's responsibility to give proposals from the Council's secretariat that involve the expenditure of public funds the same rigorous examinations as we give to proposals from any government department or subvented agency. I am sure Honourable Members would not wish it any other way. I would like to

make it clear that the Administration has considered the funding requests from the Executive Committee of this Council carefully and sympathetically and is of the view that sufficient resources have been allocated to enable the Legislative Council Commission to be set up on a proper and financially sound footing. We have given and will continue to give this Council every support.

The proposed provision for the Legislative Council Commission in 1994-95 is \$193.5 million. Discounting the transfer of existing provision for Members' salaries and allowances and for staff and expenses in respect of the Office of the Clerk to Legislative Council, and other factors such as known price increases, the proposed provision still represents a substantial growth in real terms over the approved provision of \$50.1 million in 1993-94. 31 new posts and four upgradings have been agreed for the Commission, representing a 12% increase in manpower. We consider that this should be sufficient to enable the new Legislative Council Secretariat to meet its anticipated workload.

I can assure Honourable Members that any further funding requests in future resource allocation exercise will be fully and properly considered. However, as Honourable Members are well aware, there are always competing demands for public funds and the Administration has to allocate priorities carefully. Any requests for resources from the commission inevitably, and rightly, have to be assessed against requests from other government departments, many of which will also have the support of Honourable Members.

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

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

Bill read the Second time.

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

## **APPROPRIATION BILL 1994**

### **Resumption of debate on Second Reading which was moved on 2 March 1994**

CHIEF SECRETARY: Mr President, I would like to start by thanking all Members who have spoken in this Budget debate. In their speeches last week, Members expressed views on a wide range of subjects and made many useful suggestions. I and my colleagues are grateful for all these.

During this debate, one point has come across loud and clear — Members are particularly concerned about the high level of property prices and rents and their impact on our economy and people's livelihood. Let me say at the outset that we fully share Members' concern and are determined to tackle this issue

vigorously and with imagination. This will be our top priority over the next few months. My colleagues, the Financial Secretary and the Secretary for Planning, Environment and Lands will have more to say about this later in this debate. The issues involved are complex and we will have to be careful in mapping out our strategy. But we will do our very best to find a solution as soon as possible.

I would now like to respond to Members' comments on three major areas — the Civil Service, the judiciary and legal aid services.

### *The Civil Service*

A number of Honourable Members expressed their support for the Civil Service. I am grateful for this. And I am glad that Members recognize the vital role that the Civil Service plays in our community, especially in the run-up to 1997. This recognition is shared by the community itself, and indeed, by both the present and future sovereign powers.

The Administration attaches the greatest possible importance to having and maintaining a highly motivated and efficient Civil Service. The impending change in sovereignty has undoubtedly aroused some concern and uncertainty among civil servants. This is understandable. But, greatly to the credit of the Civil Service, this has not affected their work. Morale remains generally high. The community continues to enjoy the same professional and dedicated service from its civil servants that it has enjoyed in the past. Indeed we are constantly trying to improve on our performances.

The Administration, as the managers of the Civil Service, will continue to be sensitive to staff needs and concerns. And we will take positive action where we can to maintain and improve morale.

We are determined to press ahead with localization. This is inevitably a gradual process, but we have already been fairly successful. The percentage of overseas officers in the Civil Service has shrunk from about 4.4% in 1952 to 1.1% in January this year. Local officers now form 67.4% of the directorate and occupy half of the posts at the level of head of department and policy secretary.

Understandably, progress in different departments has not been completely even. In the Legal Department and the Legal Aid Department, where for reasons familiar to Members, progress has not been so easy to make, we have introduced special measures. I am confident that we can achieve the goals set by the Governor in his policy address in this Council last October.

The existence of two sets of conditions of service, one for "locals", the other for "overseas" officers, has helped fuel the localization debate. The proposal that we introduced last year for common terms and conditions of service for all future staff addresses this problem. The first phase of the

consultation exercise has now been completed. The comments we have received are overwhelmingly in support of the principle of common conditions of service. Predictably, more diverse views have been expressed on the specific terms proposed.

We are now studying the views received to see whether any part of our proposal should be changed. When we have reached a conclusion, we will hold further discussions with staff and seek further advice from advisory bodies. We will also maintain our dialogue with the Legislative Council and will take Members' views into account. We will then consult the Executive Council and discuss with the Chinese Government through the Joint Liaison Group.

I would like to thank the Honourable Martin BARROW for his support for our efforts to improve the quality of the service that the Civil Service provides to the public. The privatization and corporatization of government activities can be useful when they allow us to introduce viable private sector practices. These can help to make the Civil Service more efficient and more responsive to public needs. However, we have to proceed with care because these initiatives invariably have implications for individual members of staff. Our approach is therefore to try to minimize the disruption to staff when these changes are introduced. It is a difficult balance to strike, but we must try to get it right. I look to Honourable Members for support when future proposals of this kind are brought before this Council.

### *The Judiciary*

Several Members spoke on the need to improve the administration of the Judiciary. I hope that they read the Chief Justice's recent speech in which he pledged his commitment to a "quiet management revolution" and to a modern management culture in the Judiciary. Like the Chief Justice, the Administration is well aware of the community's concern that the administration of the Judiciary should be modernized to enable it to cope with present-day demands and rising expectations. The new Judiciary Administrator, who has just taken up her post, has a key role to play in this area, as she now takes over from the Registrar, Supreme Court, as the administrative head and Controlling Officer of the Judiciary.

Members will recall that, in his policy address last year, the Governor drew attention to a number of initiatives being taken to enhance the administration of the Judiciary. As the Chief Justice pointed out last week, much has been done in the past six months. The high-level Working Party on Judiciary Administration, of which the Honourable Moses CHENG is a member, has met five times and is mapping out a broad strategy for the Judiciary to follow up. The Working Party has identified computerization of the Judiciary as a priority task. Proposals on this will be put to Finance Committee soon, and a pilot computerized recording system will be introduced in the District Court. The Working Party is now looking at the thorny problem of court waiting times. In this context, Members will have noted that the Attorney General

introduced in this Council today the Supreme Court (Amendment) Bill 1994, which provides for the introduction of a recordership scheme whereby members of the Bar will be appointed as temporary judges in the High Court. The Chief Justice is separately appointing members of the Bar to sit in the District Court to assist with the workload there.

The Chief Justice accepts that the success of the Judiciary's modernization programme does not depend only on "hardware", in other words the introduction of more flexible administrative systems and modern management know-how. The Judiciary also needs "software" — that is, a service-oriented management approach. The setting up of three Court Users Committees and the drafting of the Judiciary's first Performance Pledge are significant steps in this direction. While fully respecting the principle of judicial independence, the Administration will do everything it can to help the Judiciary in its efforts to create a more open and user-friendly culture and a more efficient administrative system.

#### *Legal Aid policy review*

A few Members spoke on legal aid. The Honourable Simon IP expressed his concern that there is a reduction in the provision for litigation in 1994-95 which, in his view, showed a lack of government commitment to the promotion of human rights. As the Director of Legal Aid has explained in her replies to the written questions put down by Mr IP, the reduction in the provision for litigation is due solely to the fact that a considerable amount of money was needed for some exceptionally lengthy and complex cases in 1993-94 which are not expected to recur this year. I must emphasize that our present provision for litigation is calculated on the estimated expenditure in 1994-95. But it is not cash limited. Supplementary provision will be sought from this Council if and when additional litigation expenses are needed. The Government remains committed to its policy of providing legal aid services on a demand basis.

I turn now to the independence of legal aid services, to which the Honourable Simon IP and the Honourable Christine LOH referred in their speeches. Let me reassure this Council that the Administration does not interfere in any way with the decisions made by the Legal Aid Department on the grant of legal aid. Although the Legal Aid Department is a government department, the Director of Legal Aid is empowered under the Legal Aid Ordinance to consider applications before her independently, in accordance with statutory criteria. There is no evidence to suggest that the decisions taken by the department have ever been influenced by its status. On the contrary, there are numerous occasions on which the department, acting on behalf of its clients, has successfully taken the Government to court. And the department defends its clients daily against legal action instituted by the Government. I must also point out that the clients themselves do not appear to have any lack of confidence arising from the status of the department. About 90% of legal aid clients actually preferred to use the department's counsel rather than outside lawyers.

Nevertheless, the Administration has given serious consideration to possible ways of enhancing the perception of the independence of legal aid administration. Last year we put forward a number of opinions in the *Consultative Paper on Legal Aid*. One of these was the establishment of an independent statutory authority with responsibility for the overall management of publicly funded legal aid services. This issue was also debated in this Council on 21 July 1993. The views expressed in that debate, and the other responses to the *Consultative Paper on Legal Aid*, are being studied by an interdepartmental working group. The Administration aims to reach a decision on this within a few months.

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

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

*Land supply and property prices*

Property prices and supply of land were the main themes in this year's debate. Many Members have rightly expressed their grave concern on the effect of the prevailing high level of land and property prices — on people's livelihood, on Hong Kong's competitive position and on the stability of society. They have urged the Government to take the situation seriously and immediate steps to tackle the problem with determination. Let me assure Members that the Government shares their concern as the Chief Secretary has just stated.

However, it is not true that the situation is the result of the Government's deliberate action, as some Members have alleged or implied. For example, there was a suggestion that the Government deliberately withheld land from the Housing Authority to maintain the high price of private sector flats. Nothing is further from the truth. Since 1984, 317 hectares of land have been allocated to the Housing Authority for the construction of rental blocks and Home Ownership Scheme and Private Sector Participation Scheme flats. In addition, we have identified 51 hectares for the Housing Authority this financial year to meet fully the additional land requirements it has identified. Together, the Housing Authority and the Housing Society have sufficient land to build over 290 000 units between now and 2001. On top of them will be another 10 000 units under the Sandwich Class Housing Scheme. Our public housing programme is an ambitious one by any standard. The Housing Authority is the biggest developer in town and this is government intervention in a large scale!

In addition to the public housing programme, we have also contributed enormously to the production of private housing by making the necessary land available and by ensuring that the developments meet our up-to-date environmental, safety and hygienic standards. About 9 000 hectares of land have been made available over the last 20 years in the new towns and this process continues. Reclamation is also an important source of land and that

process is also continuing, as the West Kowloon Reclamation grows before us. Over the last five years, a total of 153 000 flats were completed by the private sector, representing an average of over 30 000 per year. Together with those produced by the public sector, the annual supply was over 75 000.

The property market is more complex than many casual commentators would like to acknowledge. The high prices now represent a combination of many factors — confidence in the future of Hong Kong, demand for home ownership, investment opportunities for many people with spare cash, the low interest rate and a desire of many to catch up with inflation, an inflow of capital for a safe haven and so on. Given the free market economy that we have, singling out any particular group, such as the first time buyer, for preferential treatment is not easy. Conversely, singling out any particular group and subject it to punitive measures is equally difficult.

However, we do have a serious problem on our hands. Whatever the causes, the present level of property prices is too high and we intend to take the following steps to increase and speed up the supply of land to the market:

(a) The Tin Shui Wai Land Bank

We will examine urgently how to make use of the Tin Shui Wai Land Bank which is an area of over 200 hectares. At the moment, the area is unserviced, that is, already formed but without the necessary infrastructure such as water supply, drains and roads. Our aim is to produce new housing in parallel with the development of Route 3.

(b) Tapping the Private Sector Land Bank

The Financial Secretary has mentioned in his Budget speech the possibility of involving the private sector in providing the infrastructure for projects which previously could not be considered because of constraints on the supply of infrastructure by the Government. This could be another source of additional land supply and we have had proposals from the private sector. We are prepared to consider special arrangements to facilitate these developments. To ensure that we are aware of all the potential projects, an open and competitive process will need to be devised. This could involve inviting any interested land owners or property developers to come forward with proposals for developments which they have not been able to implement up to now due to lack of infrastructure provided by the Government. The Administration would assess these proposals by factors such as the quantity and type of accommodation that would be released, the speed of production, and also the cost of the infrastructure and/or recurrent consequences in running any public facilities by Government. To the extent that government expenditure might be required, we are prepared to

consider setting aside funds to fast-track the necessary additional infrastructure.

(c) Housing Authority

The Government and the Housing Authority have been making strenuous efforts to expedite the production of public housing, especially in the next few years. As I mentioned earlier, we have identified additional land to the Housing Authority to meet its land requirement fully. An inter-departmental committee is co-ordinating efforts to match infrastructural provisions with public housing production and to cut down lead time. The Housing Authority is pursuing proposals to increase production on existing sites. The Government will urgently discuss with the Housing Authority the possibility of using funds available to the Housing Authority to expedite public housing production.

(d) Land Development Corporation (LDC) and Housing Society

We shall also be discussing with the LDC and Housing Society whether there are ways to speed up their respective programmes. This may include providing loans to these organizations to improve their cashflows, so improving the speed with which developments and redevelopments can come on to the market.

To pursue the above proposals, I propose to establish a multi-disciplinary task force within the next two months. In parallel, we shall in the next few months develop the above proposals into more detail. We will come to this Council with our ideas. In addition, we shall continue to maintain a dialogue with interested Legislative Council Members to tap your own ideas, probably through the Housing and Lands and Works Panels. We shall also talk to the Real Estate Developers' Association as well as individual developers to see how the Government can work hand in hand with them to bring worthwhile projects to fruition as quickly as possible. Where new grants of land are involved, we will need to consult the Land Commission.

In the meantime we need to push on with our efforts to speed up the redevelopment process by the private sector. This is an important source of our flat supply contributing over half of the annual production by the private sector. Looking forward to the next few years, we expect flats from redevelopment to represent an average of 60% to 70%. In the last two years, 169 hectares of land have been provided for residential/commercial uses by means of modifications and exchanges. Beginning in April, Lands Department will be getting over 100 additional staff in an effort to quicken the redevelopment process. We will examine whether further staff will help. We have also streamlined the processing of development and redevelopment proposals and we will keep looking for more improvements.

I now come to hoarding of flats and land by developers. As we have said before, we do not have much evidence. We operate a consent scheme by which developers apply to us if they want to sell flats before their completion. We are constantly receiving applications from developers under this scheme. One Member quoted the 64% vacancy rate of those flats completed in 1993 and remain vacant at the end of that year. Given that a significant number of flats were completed in late 1993, it takes time to fit out new flats and in some cases there are delays due to other valid reasons, a high vacancy rate in end 1993 can be understood. The same figure for 1992 is 61% and that for 1989 is 57%. Nevertheless, we will look more carefully into allegation of speculation and see what we can do to minimize this. In this connection, some Members have suggested that building covenants, which impose a time limit within which construction must be completed, should be extended to cover redevelopment projects. We shall consider this useful suggestion.

Several Members commented on the proposal to assist private developers to assemble land so as to speed up urban renewal and supply of flats. Let me repeat that we consider interfering with private rights to land a serious step. There must be sufficient safeguards. In recommending any scheme for the exercise of this power, the Government has to be fully satisfied that the relocation and compensation arrangements are fair and reasonable.

#### *The Environment*

I shall now turn to the environment. Those Members who did comment made several points about a variety of environmental issues — waste disposal, environmental education, sustainable development, the "polluter pays principle", the Green Manager Scheme, Victoria Harbour Water Control Zone and electric vehicles. Most of these topics have been raised previously in this Council and in my replies to questions from Members. I will therefore respond here to two issues — the noise problem at the Hong Kong Stadium, and environmental education especially the establishment of the Environment and Conservation Fund — although I shall reply in writing with more detail to the Members concerned on the other matters.

I would like to preface my comments by saying that our commitment to an improved environment cannot be doubted and the figures speak for themselves — the percentage of government expenditure on the environment has doubled from 1.5% of the overall expenditure in 1989-90 to 3% in the 1994-95 draft Estimates. In real terms \$5,235 million are provided in these Estimates, an increase of over 48% from last year.

Turning now to the Hong Kong Stadium issue, I will respond fully given the understandable public interest in this issue. The Environmental Protection Department has monitored noise levels at all the events so far held at the stadium and the noise levels are found to violate the Noise Control Ordinance. Over 170 complaints from nearby residents have also been received. A Noise Abatement Notice was subsequently issued on 15 March 1994 giving the stadium

management 28 days in which to comply with the stipulated noise levels that are allowed at the surrounding residential properties during various periods of the day. The department is continually discussing with the management on ways and means to alleviate the situation, but would not hesitate to take action under the Noise Control Ordinance if necessary.

The environmental problems generated by this issue reflect the inadequacy of the existing requirement for environmental impact assessment (EIA) to be completed for major development. Plans are now in hand to introduce legislation to this Council to make EIAs for major development projects a statutory requirement to ensure the environmental impacts of such projects are properly addressed in the planning stage.

Finally, I wish to address those who feel that inadequate resources are devoted to environmental education. This too, is an important matter and I have some sympathy for those who call on the Government to do more for I doubt that any government can be entirely satisfied that their particular community has been adequately educated about their environment. But that does not mean that, in Hong Kong, we do not treat environmental education seriously. Indeed we do. We have, for example, established — under the chairmanship of a Member of this Council — an Environmental Campaign Committee charged with keeping environmental issues in the public eye, a task which the committee (with the assistance of the major green groups) performs vigorously. In December last year, the Government opened an Environment Resource Centre in Wan Chai; more such centres — which make environmental information conveniently available to the public — will be opened in other districts. The Environmental Protection Department, by extending its offices throughout the territory, is now able to attend more district board meetings and to brief members on environmental issues that affect their districts. The department also produces on a regular basis a broad range of public information pamphlets on current environmental issues and legislation. The Government has also agreed to assist a major green group in gathering the data necessary to develop a more comprehensive conservation strategy. In parallel with these activities, various non-government organizations are carrying out useful programmes to educate particular sectors about environmental protection. All of these measures will be boosted substantially when we establish, as proposed in the Governor's proposal in his policy address last year, an Environment and Conservation Fund. The initial injection we propose — a substantial sum of \$50 million — will enable more support to be given to projects which aim to raise the community's environmental awareness. We hope that legislation to establish the fund can be enacted in June 1994 and that applications for funds can be invited shortly.

Thank you, Mr President.

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I am grateful to Members for their wide range of comments made in this debate on the education and manpower programmes.

We have indeed come a long way in achieving our policy objectives in both programmes. Our tertiary expansion programme is on target and on time. Major efforts are being made to enhance the quality of schooling. The Employees Retraining Fund has got off the ground successfully. An extensive legislative programme is in train to bring up the level of industrial safety, particularly in construction sites.

Not surprisingly, Members have urged us to do more. I appreciate the positive spirit in these suggestions. We will continue to be open-minded and remain alert to all views and ideas.

### *Education*

Education remains the biggest item of recurrent spending in the government budget, taking up nearly 21% of the total recurrent expenditure. At a real growth rate of 6.5%, it is above the average growth in overall spending. A few Members have criticized the expenditure pattern as being biased and alleged that the school sector has suffered as a result of our spending on the tertiary front. This is simply not true.

The Government decided in 1989 to expand tertiary education substantially. The decision then won rounds of applause. The community's consensus is that it is long overdue and that our talented youths deserve to be given more access to tertiary education at home. It is true that, as a result of this decision, the share of total spending on tertiary education has gradually risen, from 28% in 1989-90 to around 36% in 1994-95. Huge amounts have been spent to boost the number of first-year-first-degree places. But all this has not been done at the expense of the school sector. Total expenditure on school education has grown from \$8,699 million to \$17,152 million over the same period, representing a growth of 97% in money terms, or a real growth of 20%. We have also committed to the bulk of the recommendations in *Education Commission Reports No. 4 and 5*. We are injecting large sums to address areas of concern, including \$613 million to improve our schools, \$152 million for additional teachers and \$103 million to reduce class sizes.

A number of Members have quite rightly pointed to the need to enhance the quality of pre-primary education. The Government has over the years been increasing assistance to kindergartens, through the provision of free teacher training and rebates for rent and rates for non-profit-making kindergartens. We have also enhanced the fee remission scheme substantially for needy parents. But having provided the framework for and embarked on significant qualitative improvements in schools, we recognize that we should now examine seriously where and how more need to be done for kindergartens. A Working Group under the Board of Education is now finalizing its recommendations and we

look forward to receiving the advice of the board and the Education Commission by this summer.

Members have quite rightly stressed the important role of school teachers. I cannot agree more. They are the pillars of our school system and the primary driving force in quality improvements. That is why we are spending \$1.9 billion to build a new campus for the Hong Kong Institute of Education and are committed to spend at least an additional \$180 million per year to enhance the quality of teacher education through this new institution. Thanks to the hard work of the Provisional Governing Council, good progress is being made. We are also proposing to spend \$390 million to upgrade teaching posts in primary and secondary schools to graduate status over the next four years. This should enhance the quality of teaching while at the same time provide additional career incentives for teachers to seek self-improvements.

I should also like to comment on several other points raised by Members. First, our fee recovery policy in tertiary education. Government funding for tertiary education has nearly tripled in the five-year period, when we seek to achieve the target of enabling at least 18% of our youths in the relevant age group to have access to tertiary education locally. Having taken into account the need for substantial public funding for the purpose, and the generally higher cost recovery rates prevailing in other countries, we decided in 1991 that the cost recovery rate for tertiary courses should be increased gradually to 18% by 1997-98. This rate is considered a reasonable balance in sharing the cost of tertiary education between the students' families and the community at large.

We have at the same time stuck firmly to our policy that no qualified students will be denied access to tertiary education due to lack of means. Our Local Student Finance Scheme has therefore been substantially enhanced over the same period to keep up with the increase in tuition fees. Indeed statistics have shown that, for those students in need, they have actually enjoyed real increases in grants and loans over the period.

Second, on floating classes. To reduce floatation in secondary schools, we have been building extensions to schools of the old design to give each school two additional classrooms, wherever practicable. Such extensions have already been completed in 58 schools. 15 more schools will undergo same extensions in 1994-95. In addition, as part of the School Improvement Programme announced in the Governor's address last year, 80 additional classrooms will be provided in another 50 secondary schools by 1995-96. Our present estimate is that floating classes at Secondary I to V will be eliminated by the year 2000.

Third, on benefits for school teachers in the aided sector. The Mortgage Interest Subsidy Scheme, introduced last year, provides housing benefits to staff in aided schools. More than 900 staff are already receiving such benefits. We will soon undertake a review of the operation of the scheme to see if the procedures could be further improved. The substantial concessions on salaries tax and reduction in stamp duty on low to medium value property proposed in

the Budget should also increase the disposable income of middle-income earners to which school teachers belong.

Fourth, on the proposal to set up an Education Quality Research Fund. We share the view that quality enhancement to our education services should be a focal concern. For this purpose, the commission has already set up three working groups to look into education standards, language proficiency and school funding. These are now working at full gear and have conducted expert discussions and commissioned studies into particular areas. Since the commission is already doing this work, we do not consider it necessary at this stage to set up a special fund. And we look forward to the commission's report by the late summer.

### *Manpower*

Turning now to the manpower programme, I note that some Members remain concerned at the implications and viability of the proposed old-age pension scheme. Some have also asked that the Government should, as an interim measure, enhance the rate of financial assistance to the aged under the Comprehensive Social Security Assistance.

I do not intend to go over all the detailed arguments today, as these points were already responded to in full during two recent debates in this Council on 19 January and 2 February. I would, however, like to stress one point. We have come to the conclusion that the proposed old-age pension scheme is the only effective solution to the problem of financial security for old age after a year-long analysis of all the suggested options. We have weighed their pros and cons carefully, against the views expressed by the community and the experience of retirement schemes operated elsewhere. We have come to the firm conclusion that neither of the two compulsory saving schemes, that is, a central provident fund and the private mandatory retirement scheme, would provide meaningful retirement cover for the bulk of the aged. If the community's wish is that Hong Kong does need to provide a floor of income protection for our senior citizens, then the only effective way to achieve this in a reasonably short time is to implement an old-age pension scheme.

Schemes of a similar nature are in operation in more than a hundred countries. There are lessons, both good and bad, that we could learn from others. We have also got to do the sums very carefully to ensure the "iron-link" between contributions and pension payouts could be maintained so as to avoid the common mistake elsewhere of trying to fund pensions out of tax revenue. That is why we have to undertake an expert consultancy study before we make a final decision. We aim to complete the study in May and publish a document for consultation by the summer. We shall then make a decision on the basis of, among other things, the community's views on whether they are willing to pay for such a scheme.

Another subject which has aroused considerable interest and concern is the pilot scheme to admit 1 000 graduate professionals and managers from China. The details of the scheme have already been explained to this Council's Manpower Panel and in public. I would just like to reiterate some of the key points in order to clear misunderstandings and to allay fears.

First, this is not an earth-breaking policy. It is merely another limited extension of our long-established and well accepted policy to admit experts from outside Hong Kong to meet our employment needs. Over the years, hundreds of thousands of overseas experts have come and gone. Our last count in the 1991 population census indicated that more than 46 000 overseas employees were serving our economy under the categories of "professionals, managers and administrators". But for historical reasons well known to us all, this policy did not apply to experts from China until a few years ago.

From 1990 onwards, in recognition of the growing economic links between Hong Kong and China, we have taken a limited step to relax the application of the policy to enable PRC experts who have lived overseas for two years or more to apply for admission to work in Hong Kong. The growth in Hong Kong-China trade since then has been legendary. China accounted for 35% of our external trade in 1993, and Hong Kong accounted for about two-thirds of total investment in China. We have been receiving clear messages from the business and commercial sectors that they have a growing demand for expertise who have intimate knowledge of and first-hand working experience in the China market. It is in response to this demand that we have decided to enable the new policy by extending this to enable professionals and managers from China to be admitted. It is meant to cater for our economic growth, which is vital to the well-being of the entire community.

That this demand is obvious has been borne out by the debate in this Council. Many Members have spoken up in support of it. Indeed, some have even pointed out that the quota of 1 000 is far from sufficient to meet local demand. But we want to be cautious as a start. We have therefore chosen to bias on the conservative side.

First, the number to be admitted under the pilot scheme is extremely small. At 1 000, it is less than 0.5% of our existing stock of managerial and professional workers. There is hence no question of wage depression for locals as a result. Nor is there any question of adverse impact on local managerial and professional staff. The unemployment rate for this group stays persistently below 1%, itself an indication of how tight this part of the labour market is.

Second, we are not talking about the admission of fresh Chinese graduates. The people to come in would be possessing working experience in the relevant fields. There is therefore no question of competition with fresh local graduates. Besides, we are free to constrain admission should market conditions become adverse.

Third, we want to target the scheme at the people with the right quality. We have therefore confined applicants to graduates of the 36 key tertiary institutions in China as a quality control measure and for our ease of administration.

We are not turning a blind eye to the worries expressed by some Members. The Immigration Department will vet each application vigorously to make sure that those who are to be admitted would suit the purpose of the scheme. The scheme will also be monitored very closely to minimize abuses. We shall undertake a full review in a year's time, and take community views into account, including views from this Council, before we decide the next steps.

Finally, I would like to respond to some Members' concern that labour shortage is now so serious that there is the risk that it will become a severe bottleneck for our economic growth. As the Financial Secretary said in his Budget speech, this is a worrying constraint. We are monitoring the situation closely. Separately, we are doing a lot on the retraining front. More than 10 000 candidates have gone through the retraining courses. A great majority have re-entered the market successfully. The Employees' Retraining Board is expanding their efforts to cover the aged and the disabled. They are also looking for greater diversities and more flexible training courses to cater for both the employers' and employees' needs.

Labour shortage is a by-product of our economic success and prosperity. Given our rate of growth and the low rate of labour supply, the problem is likely to be with us for the foreseeable future. It is not a problem that the Government alone can resolve. Employers will need to play their part in providing more training and retraining for their own staff, in making appointment criteria more flexible to meet market conditions, and most important of all, in enhancing staff productivity.

Thank you, Mr President.

SECRETARY FOR HEALTH AND WELFARE: Mr President, as I said at the Special Finance Committee meeting on 16 March, I have much to be thankful for. Since I assumed this post about five years ago, I have seen funding for social welfare rise from \$4.4 billion in 1989-90 to \$11.3 billion in 1994-95, a 53% increase in real terms. During the same period, health care funding has increased by 70% in real terms, from \$6 billion to \$17.1 billion. This has enabled real progress to be made.

#### *Services for the Elderly*

On social welfare, several Members have called for more resources to be spent on elderly people. The elderly have, in fact, been a special focus of our services for the past two years. And their welfare will continue to be our

priority. In 1993-94, we spent \$6 billion on services and benefits for the elderly including health care, social welfare and housing. This will go up by 11% in real terms to \$7 billion this year.

Looking at the range of services we provide, we see a service gap in our continuum of residential care between infirmaries and care-and-attention homes. To fill it, we are finalizing our plans for a network of seven nursing homes providing 1 400 beds by 1997. These new homes — to be built at an estimated cost of \$800 million — will improve the quality of our residential care for elderly people and significantly relieve the current shortfall of long-term residential care places.

Respect for the elderly is a time-honoured tradition in our community. This has been demonstrated by the massive response to our Senior Citizen Card Scheme. Two days from now, card holders will be able to get concessions, discounts and priority service in over 1 200 outlets. Not surprisingly, the card is proving extremely popular with our elderly people — over 120 000 have already applied and applications are still pouring in. Here, I would like to say a big thank you to everyone involved.

As Members know, the Governor appointed a Working Group on Care for the Elderly in November last year to conduct an in-depth review of the services we provide for them. It will come up with a new strategy to develop even better services in future. The Working Group has made good progress so far and will report back to the Governor with proposals in August this year.

### *Social Security*

During last week's sitting on the Budget, Honourable Members expressed concern that social security benefits are insufficient. This is despite the real and substantial improvements of up to 37% which we made to social security payment rates last July and the increase to the children's standard rates which will be paid from next month.

Given that we live in such a prosperous city, such questions are bound to come up. And we would accept that the level of assistance must bear relation to the social and economic condition of our community. That is why over the years, the social security system has evolved from one which met only basic needs to one which now meets these at a higher level, plus a host of special needs as well.

To put this in dollar signs, we have more than doubled our social security payments from \$2.6 billion in 1989-90 to \$6.7 billion today. That is to say, we have increased it from 0.53% to 0.69% of the GDP. This is impressive growth by any standards. Equally important, our publicity efforts mean that more people know now what they are entitled to and how to claim it.

But like anywhere else in the world where there is income support, a balance has got to be struck between needs and wants. As Members are already aware, an independent study is being conducted on the financial needs of disadvantaged individuals and families. Its findings — due to be available this August — will be examined carefully by the Administration.

On the assumption that an old age pension scheme will be set up, several Members have called for the Old Age Allowance to be increased to \$2,100 per month in the meantime. We already pay an average of \$2,000 per month to elderly people who need assistance. But this should not be confused with the proposed pension scheme currently under discussion as referred to just now by the Secretary for Education and Manpower in his speech.

### *Rehabilitation*

Last but not least on the welfare side, I am grateful to Dr the Honourable YEUNG Sum for his rare praise of the Government's good work in the rehabilitation field. But dare I, like Oliver, ask for more? Because, contrary to earlier expectations, we have managed to achieve this year's key target on the provision of sheltered workshops in full. Now that said, we will not rest on our laurels. We will continue to improve both the quantity and quality of our rehabilitation services, in particular those for children not yet in school.

### *Primary Health Care*

Turning now to health issues, I am delighted that many Members' comments have touched upon primary health care. This reflects our own sustained focus as we move towards the World Health Organization's target of "Health for All by the Year 2000".

The next few weeks will see significant advances in our promotive and preventive health care strategy with the opening of the first elderly health centre and the first well-woman clinic. In the short space of three years, nearly all of the recommendations in the *Report of the Working Party on Primary Health Care* have been implemented: in other words, 98 out of 102 recommendations have been progressively implemented. This represents a very substantial achievement.

We shall not be complacent. We shall continue to emphasize promotive and preventive care and to increase the scope and quality of our services. We shall continue to encourage the community to take an active role in safeguarding its own health. Primary health care is participatory care which requires the involvement of us all. A healthier population means a more productive population with a better quality of life.

*Manpower*

However, when people become ill and need curative treatment in hospitals, we will, through the Hospital Authority, deliver quality care. Quality care requires quality people to deliver it. As at 1 March this year, there were 16 748 nurses and 2 477 doctors in the Hospital Authority which has 23 400 beds. In the Department of Health, there were 1 245 nurses and 474 doctors.

Since the setting up of the Hospital Authority, the annual intake of nurses has increased from 1 950 in 1992 to 2 235 in 1993. Similarly, for doctors, the annual intake has increased from 330 to 342. On the other hand, wastage has been now kept at 10% for nurses and 7.5% for doctors. Concern has been expressed about manpower. As recently as last Thursday in this Council, the Honourable Michael HO alleged that I denied any knowledge of manpower shortage at the Special Finance Committee meeting on 16 March 1994. Let the facts speak for themselves and I quote from the verbatim report of the official record of that meeting, I said, "We have sufficient funds to meet the duties which need to be carried out to deliver nursing care to the patients in hospitals". In other words, the money is there to engage the necessary people to provide quality care.

In a health care environment, nurses, doctors and other health care professionals play a vital role in ensuring the quality of health care in our community. In treating the sick, they are responsible for providing continuous care, that is why we need to ensure that we can recruit and retain staff to develop the skills required to provide quality patient care; that is why we need to ensure that we have the money to do so. Let me illustrate: over the recent years, we have improved salary scales and career prospects, increased specialist posts and educational opportunities. Last year, I also set up an inter-departmental study group to study the evolving role of nurses, the future education and training needs and resource implications involved. We have identified the need to provide additional degree places. We have also reserved \$10 million to expand post-basic training for serving staff.

In addition, the Hospital Authority is finalizing new manpower indicators which will provide useful information for hospital managers to evaluate their manpower provision against the range of services. In parallel, patient management protocols and nursing care plans are being developed to ensure that quality patient care is delivered. The Hospital Authority is also addressing problems specific to individual hospitals, and I am confident that these will be resolved. I know from my recent discussions with frontline staff that these are matters close to their heart. I have therefore asked the Hospital Authority to expedite the completion of this important exercise. Together, we will find new solutions to old problems.

At both the personal level and as Secretary for Health and Welfare, I know how hard everybody in our health care system works. Our health care professionals have an important job and they do it well. The community's need

for quality care will, I am sure, as in the past, be met by dedication and commitment on all our part today and in the days to come. Thank you.

SECRETARY FOR TRANSPORT: Mr President, I am grateful to Honourable Members for their wide ranging and helpful comments on transport matters. It is reassuring to note Members' recognition of the need to address Hong Kong's growing traffic congestion problem and, in particular, I thank the Honourable Miriam LAU, LEE Wing-tat and WONG Wai-yin for reflecting their party views.

The numbers of vehicles, particularly private cars, on our roads have increased very rapidly in recent years. Given our continued economic success and increasing personal wealth, the potential for growth in car ownership seems unlimited. Indeed traffic congestion is a problem with which governments throughout the developed world are wrestling. No one has found a painless remedy. There can be no easy solution.

Honourable Members have focussed on the need for greater and faster investment in our road system. The fact is that we are spending more on our roads than ever before. Some Members have noted that a significant proportion of the \$9 billion to be spent on roads in the coming financial year will be part of the airport core programme. This is true. However, these roads are not being built exclusively for airport related traffic. In fact, most were already identified as high priorities in our Comprehensive Transport Studies. For example, the Western Harbour Crossing and its associated approach roads are vital in relieving cross harbour traffic, which is now one of our most serious traffic blackspots. We will continue to invest substantially in our road infrastructure. But the reality is that there are limits to what can be achieved — we cannot hope to build our way out of congestion. This is amply demonstrated by our experience in building the Tate's Cairn Tunnel/Kwun Tong Bypass/Eastern Harbour Crossing road systems, which although only completed in 1991 have already begun to reach capacity last year. In the older urban areas opportunities for new road construction are strictly limited without large-scale demolition of property and major rehousing commitments.

It has been said in this debate that fiscal penalties alone will not solve the traffic congestion problem. I agree. What we need is a package of measures. One crucial element in this package must be a means of slowing down the rate of growth in vehicle ownership and usage. Unrestricted growth in traffic will result in gridlock, further affect air quality and damage the environment. These are already matters of real concern to the community. I do not wish to pre-empt decisions, but it is a fact that fiscal measures when used previously have had considerable impact, for example, by giving us vital breathing space. For example, after car taxes were raised in 1982, the number of private vehicles reduced by 40 000, or 23%, and did not recover to the pre tax increase level until four years later.

As Members are aware, I have formed a working group to study this problem and to devise a package of measures to relieve the situation. I hope to be able to brief the Legislative Council Transport Panel on these measures by the middle of the year. And I will welcome Members' views on the extent to which wider consultation is necessary. At this point may I acknowledge the many ideas and proposals that have been aired by individuals in correspondence columns and phone-in programmes as well as commentaries and critiques in the newspapers and editorials. All these views have been collated and will be taken into account. And we will have to face difficult and unpopular choices, in balancing the interests of the car owners and potential vehicle owners with those of the community as a whole. The Administration looks to Members of this Council for their support and understanding in reaching solutions which will best serve the needs of Hong Kong. Meanwhile I have asked the police, Transport and Highways Departments to pursue the practical enforcement measures which Members have suggested.

I now turn to railways. Some Members have urged the Government to make early progress in expanding our rail system. This is our firm intention. Railways have always played an important part and will continue to do so in moving people quickly and efficiently. A Railway Development Strategy will be formulated within the next few months, following which there will need to be consultation with the Chinese authorities, since most of the expenditure will occur post-1997. Thereafter, we will move quickly in seeking the implementation of the high priority projects, which I expect will include the proposed North-West New Territories (NWNT) railway. Although in the motion debate held last month, the motion seeking an extension to Tuen Mun Town Centre was carried, I must remind Members of the practical difficulties in terms of both finding a suitable alignment and the substantial additional costs. Separately a MTR link to Tseung Kwan O would also merit high priority.

One Member commented on the capacity of the Tuen Mun/Yuen Long Light Rail Transit system. It is worth recalling that this system had its carrying capacity increased by 50% in July 1993, when 30 new light rail vehicles were brought into service.

It has been said in this debate that the provision of more carparking spaces will help to relieve traffic congestion. In fact, the current shortage of parking spaces is a direct consequence of unrestricted growth in the number of private cars. Just as we cannot hope to build sufficient roads to accommodate all who aspire to car ownership, so it would also be extremely difficult to provide sufficient parking for them particularly in locations of peak demand. Nevertheless we recognize the need to take a comprehensive look at the parking problem. With this in mind, a parking demand study has been commissioned. In the meantime, we will do what we can to relieve current shortfalls by building more car parks and providing temporary car parking spaces in areas where land can be made available.

During the debate several Members remarked on the construction of the Route 3 (Country Park Section), linking Au Tau in the north and Ting Kau in the south. I can assure Members that the need for speedy completion of this road is foremost in our minds. But realistically, this major trunk road cannot be completed before late 1998. Tenders close next month, time is required to negotiate a franchise, and legislate for this, we need to resume more than 500 plots of private land, and then physically we have to build this major highway. The injection of government equity is unnecessary and would not speed up construction. Indeed, our experience with previous BOT franchises is that the private sector does its utmost to accelerate completion, because they have the incentive to open facilities earlier so that they can begin to recoup their investment.

Several Members have commented on the need to upgrade public transport. In fact, this is the fundamental thrust of our transport policy. Buses play a vital role in this strategy. They carry 3.5 million passengers a day, or 36% of all passenger trips. If bus services are to be improved, then the operators must be given the necessary incentive to continue to invest, let alone the need to allow them to recoup their operating expenses. And here I must stress that it is totally unrealistic to pin annual adjustments of fares to inflation alone since the factors that need to be taken into account are much much wider. I clearly explained what these factors are during the motion debate held on this subject in January. They are listed in the Hansard record and there is thus no need for me to rehearse them this afternoon. Also when the decision on KMB's increasing fares was announced, the Administration explained why and provided supporting data. Let me, however, reiterate that the Administration will not guarantee any minimum profit level to franchised bus operators. We intend to remove the remaining scheme of control and will examine the question of whether and how the proceeds of land sales can be taken into account in determining fares. As regards renewal of franchises, the need for competition will certainly be borne in mind.

In conclusion, Mr President, may I state categorically our commitment to keep Hong Kong moving into the 21st century. Our past record has been quite remarkable. Although we have more vehicles per kilometre of road than any other place, we have managed to maintain average traffic speeds that compare very favourably with any other major cities. And our public transport system is, in fact, the envy of other places, in that we manage to provide a wide choice of modes of transport at reasonable fares, and without public subsidy. However, there is of course no room for complacency and in the year ahead we will face many challenges, not least the question of how to ease the growing traffic congestion problem. We will need to guard against politically expedient solutions and I look forward to Members' support in implementing practical, albeit what may be unpopular, measures.

Thank you, Mr President.

SECRETARY FOR SECURITY: Mr President, I should like to respond to the points raised by Members concerning law and order and immigration.

In 1994-95, overall recurrent expenditure on internal security will decrease by 1%. This is the result of a 20% reduction in our contribution towards the Defence Costs Agreement and a 25% decrease in the cost of upkeep for Vietnamese migrants. Both are very welcome developments; they have enabled us to devote more resources to other important areas of the internal security programme area.

\$8.2 billion, about 8% of total government expenditure on General Revenue Account, will be allocated to the Police Force; this demonstrates our firm commitment to the maintenance of law and order.

In addition to the increased recurrent spending, a further \$110 million in non-recurrent funds has been allocated to the Police Force for upgrading of technology. This will include improvements to the existing computer system, which will help release more policemen from administrative duties to fight crime on the streets, and new radio systems which will strengthen police communications and improve operational capability.

I share Members' concern about the menace of triads; tackling this menace is a priority for the Police Force and the Government as a whole. The police devote considerable resources to this task at all operational levels and through publicity and liaison with the public. However, the police alone cannot solve the problem of triads. They need co-operation, information and support from members of the public. They also need more effective powers of investigation.

The Organized and Serious Crimes Bill will provide the police with enhanced powers of investigation to counter organized crime, including triads, enabling them to get behind the wall of silence which often now protects those who plan and carry out criminal activities. I should like to see this Bill enacted as soon as possible; when it is, we shall be much better equipped to tackle organized and serious crime in Hong Kong.

Some Members have made the point that an effective witness protection programme is essential if active public support is to be secured in the fight against the triads. I agree with this, but would like to make it clear that the police have long had in place effective and secure witness protection arrangements. We welcome the recommendations of the Fight Crime Committee and Mr Justice KEMPSTER to improve these arrangements. Funds have been provided in this year's estimates to establish a central witness protection unit in the Police Force to co-ordinate and implement witness protection arrangements. This is a matter of priority.

We are also preparing a publicity strategy to inform the public about the provisions of the organized and serious crimes legislation; their rights and

duties as witnesses; the protection and security offered by our witness assurance arrangements; and the importance of public support in our battle against triads.

Some Members have mentioned the policing needs of the new towns. In fact, police deployment responds to population movements in the territory. As the population in new towns has increased, so too have police resources in these areas. Population movements are carefully monitored to ensure that an adequate ratio of policemen to population is maintained. This involves not just beat patrols; it includes also mobile patrols, emergency units, task forces, special duties squads and crime teams, and operations mounted by Police Tactical Units. The Commissioner of Police has made it a priority for his staff to maintain close contact with the local community through district boards, district management committees, district fight crime committees and other associations, such as mutual aid committees. In this way, they keep in close touch with the local community and are sensitive to their needs.

Mr James TO mentioned the problem of juvenile crime and I agree that this is a cause for concern. Despite an overall reduction in the level of crime last year, the number of juvenile offenders increased by 2%. We need to devote more effort to prevent our young people from becoming involved in crime. The Fight Crime Committee has commissioned a study into the social causes of juvenile crime. This research is expected to be completed in the middle of this year, and it should indicate new initiatives which we should take to tackle the problem of juvenile crime.

As regards overall police manpower, the Police Management Review will provide us with an up-to-date assessment of the overall requirements of the Force, taking into account the benefits of new technology and equipment, the scope for civilianization, as well as the new demands being placed on the Police Force. The study has reviewed policies, procedures and practices in the Force so as to ensure that resources are used effectively. It is expected that the study will be completed later this year. Recommendations will then be prioritized for funding and implementation.

Turning to immigration matters, Mrs Selina CHOW has mentioned the demands of increased passenger traffic at our control points, particularly Lo Wu. Meeting this demand is a priority, and we have treated it as such in this year's Budget. Using resources saved from the rundown in the programme for Vietnamese migrants, we have been able to increase the staff deployed at Lo Wu by nearly 20%. Next year a major extension at Lo Wu will be completed, bringing a further increase in staff of over 10%.

The Immigration Department has set and published performance targets for control points. These are monitored by the department's Users Committee and by the many organizations involved in the travel and tourist industry. I believe that the department will be able to continue to meet its performance pledges.

In part, this will be achieved by more advanced technology and hence increase staff productivity. For example, optical readers are to be installed at major control points later this year. This will speed up the processing of those with Hong Kong Identity Cards and machine readable passports.

Thank you, Mr President.

SECRETARY FOR ECONOMIC SERVICES: Mr President, I would like to respond to the points raised by the Honourable Members on the cost and cost-effectiveness of our new airport, the air passenger departure tax, tourism and the development of economic ties between Hong Kong and China.

On the new airport, I was taken aback to hear Dr Philip WONG referring to it as "the most expensive airport in world history".

One test of cost-effectiveness is to compare the estimated cost of our new airport with those completed recently or still under construction. The Provisional Airport Authority (PAA) briefed a subcommittee of this Council in October last year on the results of a comparison it had carried out.

The Authority analysed adjusted comparable dollar value of the costs of developing the passenger terminals at other major airports, by reference to the size of the facility, and the number of passengers it was designed to handle. So how do the figures compare? In terms of costs per square metre, the comparison showed Chek Lap Kok as being less costly than Heathrow's Terminal 4; less costly than the new airport proposed in South Korea; slightly more costly than Terminal 2 at Narita Airport in Japan and again slightly more costly than the new airport at Denver, the United States.

In terms of costs per passenger, Chek Lap Kok's costs were significantly lower than Narita Terminal 2, significantly lower than South Korea's new airport, higher than Heathrow Terminal 4; and higher than the new Denver airport.

In short, the cost of our new airport is in the middle of the range. We are, by no means, building the world's most expensive airport.

Of course, costs can always be reduced, but only if we are willing to see standards reduced. The standards to be adopted at Chek Lap Kok have been discussed extensively with existing and future airport users and, in particular, the airlines who are experts at measuring airport service standards. Again we are aiming for the middle range in terms of a smooth flow of passengers, and a level of comfort which might be described only as good, not excellent. One measure of standard in a terminal building is space per passenger. The comparison conducted by the Provisional Airport Authority shows Chek Lap Kok again positioned in the middle of the range: it provides slightly more space than Heathrow Terminal 4, about the same space as Bangkok and the new

airport in South Korea; less space than the new airport in Munich and considerably less space than Terminal 2 at Narita in Japan and at Changi in Singapore.

I believe this, in terms of standard, to be about right. We should not provide sub-standard services in our new airport; nor should we over build. Hong Kong is a modern vibrant world economy. We should have a cost-effective airport appropriate to our standing. No more, no less.

The second point raised by Dr WONG concerns whether our financing proposals for the new airport had complicated discussions with the Chinese side by proposing unnecessarily high levels of debt. This raises the question as to how to assess what might be an appropriate level of debt. In the fourth financing proposal we recently made, the total debt proposed for the airport and the airport railway is substantially reduced. Our latest financing proposal will meet in full the concerns raised by the Chinese side in respect of the level of debt, and so there is no prospect that they could complicate our discussions with the Chinese side.

It must be in the best interests of the people of Hong Kong not to invest more of the taxpayers' money in these projects than is strictly necessary to provide a prudent and conservative financing plan. If the Mass Transit Railway Corporation and the Provisional Airport Authority can undertake sensible borrowings and reduce their requirement of equity from the public purse, more public resources will be available for investment in other needed infrastructural projects. In view of the commercial strength of these two projects and the substantial revenues they will generate, the level of debt proposed in the fourth plan would be easily serviced. By any standard, this is a conservative approach to financing these projects. Not only is the Government itself not having to borrow to fund these projects; neither is it having to guarantee the debts raised by the corporations. So far from creating risks for the Government of the Special Administrative Region, the Airport Core Programme as a whole will provide an essential springboard for continued economic growth.

One final point of clarification, we should bear in mind that the oftquoted cost of \$158 billion is the cost in money of the day dollars of the entire Airport Core Programme — not the cost of the airport alone. For the \$158 billion we shall get a new airport, a new town on Lantau, a new railway which will serve the airport, and reduce congestion on an existing railway, a gateway to new airport areas on Lantau together with all the associated roads, bridges and reclamation which will help maximize the benefits of the investment in the new infrastructural projects.

Turning to our existing airport at Kai Tak, I am surprised that the proposed \$100 reduction in air passenger departure tax should have drawn critical comment from several Members. Since the introduction of the current level of \$150 per adult passenger in 1991, Hong Kong's airport tax has been the target of sustained criticism both in this Council, and from the tourism industry.

In particular, industry representatives have complained that the relatively high level of departure tax in Hong Kong has provoked adverse comment from overseas tour operators.

We have listened carefully to these views and, as the policy Secretary responsible for tourism, I am delighted that a significant reduction is possible this year. While some money will be lost to general revenue, it will not necessarily be lost to the economy as a whole. Many visitors will make use of the money that they would have had to spend on departure tax, to do a little more of last minute shopping. We welcome that.

At the same time, I expect that the reduction will encourage larger numbers of transfer passengers, who have some time to wait for their connecting flights, to leave the airport temporarily for shopping or sight-seeing, thereby helping to relieve congestion in the airside departure area at Kai Tak. We welcome that too. At peak hours we now have some 5 000 passengers waiting in the departure area. Even if only a proportion of them leave the airport and go to town to do a bit of shopping, we would have a bit more breathing space in the area.

The reduction in this tax is good news for the tourism industry which now plays a crucial role in Hong Kong's economy. Conservative estimates suggest that tourism provided 100 000 jobs last year: it also replaced electronics as the second largest earner of foreign exchange for Hong Kong after the textiles and garments industries. I know that there are increasing worries in the hotel industry that congestion at Kai Tak and a shortage of hotel rooms may begin to constrain the buoyant growth in the number of overseas visitors who have visited Hong Kong in recent years. We need our new airport as soon as possible but, in the meantime, we shall do everything we can to keep Kai Tak operating at maximum efficiency.

The continuing strong growth in tourist arrivals, particularly from China, now argues for a careful assessment of our ability to continue to absorb ever increasing numbers of visitors. I have accordingly lent strong support to the proposal by the Hong Kong Tourist Association to carry out a consultancy study to examine the opportunities for, and the threats to continuing development of our tourism industry. This study will last for about 12 months. It will make recommendations both on how to develop new tourism attractions and to ensure that we have sufficient hotel rooms, amenities and transport infrastructure to cope with the growing numbers.

An important element of the study will be to review developments in China's tourism industry and to identify opportunities for greater co-operation in promoting Hong Kong and southern China as joint tourism destinations. In this, as in other areas of our economic development, we do not plan in a vacuum. Rather we look to ways of strengthening the already extensive channels of communication which exist between us and our colleagues across the border so that we can maximize the mutual benefits of increasing economic ties.

We already have excellent communication on port development matters. In 1993 members of the Port Development Board and its secretariat made visits to new port developments at Shekou, Yantian and Shanghai and participated in study visits and conferences in Guangzhou and in the Pearl River Delta. In turn we welcomed delegations from China on three occasions last year.

Similarly, in the field of civil aviation the Director of Civil Aviation maintains close contacts with his counterpart in China. Last year Civil Aviation Department officials visited new airports in the region and held meetings to exchange views on airspace management and other safety related issues. In February, Hong Kong and Chinese aviation authorities signed an agreement to pave the way for cross-secondment of air traffic controllers between Hong Kong and China airports. This will do much to promote understanding, share experience and improve air safety.

Mr president, in closing let me say that I do not see the development of additional port and airport facilities in China as a threat to Hong Kong's position. Far from supplanting Hong Kong I believe they will stimulate and reinforce growing business and commercial ties, as well as tourism. Competition can only be good for Hong Kong: it will keep us on our toes and I have no doubt that we will hold our own.

Thank you, Mr President.

SECRETARY FOR WORKS: Mr President, Members will be aware that we have made considerable efforts and successfully during the past 12 months to improve the delivery of the public works programme. We are very close to meeting our programme expenditure target for this financial year, and a likely gross underspend is now only \$0.8 billion or 4% of the original expenditure estimates. If we discount the impact of lower than expected tender prices, the net underspend will be significantly less than 4%. This is obviously very good news and an achievement which bears witness to the efforts of the whole of the Works Group.

I am grateful to Members who have recognized these improvements but I am also anxious to convince those Members who have expressed concern at the rate of our infrastructural development that we are, in fact, on the right track. In this regard, may I note that expenditure on non-airport related public works in the next year is expected to rise by some 30%. Undoubtedly a challenge for our works departments which are already working under pressure but one which they have accepted.

The airport core programme is being implemented, both on the ground and in the preparation of contracts for award, swiftly and efficiently and fully in compliance with the Government's obligations set down in the Memorandum of Understanding. If we are allowed to continue awarding contractor programme, maintaining the momentum that has been built up by hard work

and expertise thus far, I am confident that we will sustain programme achievements necessary to secure completion to the maximum extent possible by 30 June 1997. At the same time, we will keep our non-airport related public works programme of infrastructure development also on track.

Members have commented on the need to increase land supply. My colleague, Secretary for Planning, Environment and Lands, in this regard has referred to reclamation. Using the most modern equipment and engineering techniques, we are now reclaiming land more quickly than ever before, and we will continue with our efforts to improve upon the rate at which serviced land becomes available. In part, this depends upon the process of developing management tools, which will help us to improve the delivery of basic infrastructure.

Members may recall that I have previously described at some length measures which we intend to take to help uplift the public works programme. I would simply reiterate here that better project management, more effective co-ordination, and the involvement, where appropriate of the private sector, matched with increased flexibility in the way that our works agencies operate, will all be used to help us meet our targets for growth in public works infrastructure.

In moving forward to improve the efficiency and cost-effectiveness of the works group, I consider it essential that we should make full use of the Trading Funds Ordinance, which was enacted by this Council with just such aims in mind. Members, however, have raised fears that trading funds might be a way of keeping information from the public. May I repeat my assurance to Members that, on the contrary, a trading fund is required to operate in a far more transparent and publicly accountable manner than a "traditional" government department. I am confident that, in time, any lingering concerns that Members may have in this regard will be fully assuaged.

Responding to some Members who have expressed concern over the flooding problem in the New Territories, may I recall that in November last year in this Council, Members were briefed on various strenuous projects at the Lands and Works Panel and the Community and New Territories Affairs Panel. I hope that you will allow me not to repeat the details today. I wish to reiterate, however, that we have a comprehensive programme of river training works and drainage channel project to tackle the problem. These projects, which will cost over \$3 billion and will be implemented in phases, will alleviate the flooding problem in the New Territories to a large extent when completed. In parallel, we are also aiming at tackling one of the man-made sources of the problem, namely, the filling-up of ponds and fields for uses such as container storage. The Black Spot task force has been set up with a view to clearing up haphazard developments in the New Territories and to stepping up enforcement action against unauthorized development.

In a similar vein, one area of public works which has been little touched on in this year's debate, but was raised by Rev the Honourable FUNG Chi-wood and the Honourable LAU Wong-fat, is rural development. We are no less committed to implementing the rural infrastructure programme than we are to the more high profile projects such as the ACP and the Sewage Strategy. Following careful review last year, intra-governmental responsibilities for rural improvements are being re-organized with the aim of achieving better progress.

Coming, as I did, rather fresh to the matter, it was surprising to find that in many cases we have been frustrated by objections to planned rural works from the very people whom these projects are intended to benefit. It is hoped that in the next few years, the re-organization will help us to secure greater co-operation from the rural community, and therefore enable better progress to be achieved with much-needed local infrastructural improvements in the New Territories.

Turning to the issue of openings in roads and footpaths raised by the Honourable Emily LAU, the Government fully accepts that there is a need to significantly improve working practices and reduce inconvenience to the public at large. Last year I agreed to chair a special working committee, tasked with reviewing all aspects of the problem and identifying new initiatives. Close collaboration with Transport Branch, the police, and Highways Department has resulted in initiatives being identified, and we will be explaining these to Members very soon. It is of fundamental importance, however, that the utility companies are also firmly committed to these initiatives, and both the Secretary for Transport and I plan to meet as soon as possible with the most senior management of the major utility undertakers, in order that a broad implementation strategy can be agreed and carried out in the shortest possible time.

There are no magical solutions. Better equipment, better supervision, and a better trained work force are the fundamentals — obviously increasing the cost of such works, but nevertheless the only realistic way forward.

Finally and partly in answer to a point made by Dr the Honourable TANG Siu-tong regarding long-term planning, I can confirm that investment in public sector infrastructure is planned and programmed for implementation on a long-term basis. Future levels of expenditure will remain within prudent financial guidelines, underpinned by conceptual estimates using improved cost forecasting techniques to provide greater certainty in developing Hong Kong's infrastructure into and well beyond the year 2000.

Mr President, thank you.

SECRETARY FOR TRADE AND INDUSTRY: Mr President, several Honourable Members have focussed on the need to promote industrial research and development. As I said this time last year, the Government shares the view

that it is important to maintain a strong industrial base in Hong Kong. That is why in the past year the Government has taken important steps to expand substantially the funding available for industrial support.

As the Honourable NGAI Shiu-kit has pointed out, we have received 207 applications for substantial funds earmarked for additional support for industry — amounting to \$180 million in 1994-95 alone. The Industry and Technology Development Council will have a challenging job when it meets to consider each of these applications. But given the substantial funding available this year and the 200% over-commitment that is permitted, I expect the chief constraint on the number of successful projects to be the capacity of the applicants to implement them, rather than the amount of funds available. In any case, additional funding will be available in future years to accommodate further projects.

Dr the Honourable Philip WONG referred in his speech to the Government's "picking the pocket" of the Trade Development Council (TDC). I take this to be a reference to the reduction in subvention to the TDC corresponding to a reduction in the *ad valorem* levy on imports from 0.05% to 0.035% implemented in October 1993 — a reduction, I may point out, which was agreed by the TDC having regard to its healthy financial position and supported by the TDC as a move that would benefit both trade and industry. This reduction in the TDC's subvention, because it was achieved through a reduction in the *ad valorem* levy on imports, has, of course, not increased the Government's general revenue. It has, however, brought savings of over \$90 million to importers within a six-month period in 1993-94 alone. At the same time, the reduction has created room within the Government's public expenditure guideline to enable us to allocate, from general revenue, a roughly equivalent amount to support industrial development.

Mr President, we shall also be seeking later this year the support of the Industry and Technology Development Council for the creation of an applied research centre, foreshadowed in the Governor's address to this Council last October. In line with our philosophy of helping industrialists to help themselves rather than telling them what to do, the centre will support industrialists who wish to make use of research expertise both here and in China.

The proposed centre is only the latest example of our efforts to boost research and development in Hong Kong. The Hong Kong Applied Research and Development Fund Company Limited has already approved funding of more than \$18 million for specific projects, and more projects are in the pipeline. Comparisons have been drawn in this debate with R & D spending in other places, not all of them, I might add, as demonstrably successful as Hong Kong. But these comparisons are in any case meaningless given that R & D spending in those other places normally includes large amounts spent on military R & D which for obvious reasons is not required in Hong Kong, as well as figures for private sector R & D which are not available in Hong Kong. To put the figure of 2% of GDP in a Hong Kong context, it would mean our

spending \$19.3 billion on R & D in 1994. I wonder whether the Financial Secretary, or for that matter the Finance Committee of this Council, will be amused if I were to ask for this sum of money for industrial R & D.

Another major concern of some Honourable Members in this debate has been the need to promote consumer protection and fair competition. Honourable Members are aware that major initiatives in consumer protection, involving both legislation and funding, are in progress. A timely example is the Consumer Council's proposal for a Consumer Legal Action Fund, which was submitted to Honourable Members just two days ago. I am pleased to note from media reports and editorial comments that this proposal is enjoying wide support from the community.

Additional funds have also been made available to the Consumer Council to enable it to continue with its studies on the state of competition in major business sectors affecting the daily life of the general public. These sectors include banking services, supermarkets, broadcasting, telecommunications and gas supply. On the basis of the findings of these studies, we shall, where appropriate, revise our existing policies and formulate new ones and, where necessary, consider introducing legislative changes to implement those policies in order to promote competition.

Last month, the first of these studies was completed and a report, entitled *Evaluation of the Banking Policies and Practices in Hong Kong*, was published by the Consumer Council. The key recommendations of the report concern the removal of the Interest Rate Rules and better disclosure of information by local banks. The report is now being examined carefully and with an open mind by the Government, including in particular the Hong Kong Monetary Authority as the bank regulator, for the purpose of coming to a balanced view on whether the recommendations should be adopted. We intend to provide a full response within six months from the date of publication of the report.

In short, Mr President, the promotion of competition and the enhancement of consumer protection will continue to play a key role in the formulation of government policies. With the help of Honourable Members, we will continue our efforts to ensure a level playing field for consumers and producers alike.

Thank you, Mr President.

FINANCIAL SECRETARY: Mr President,

### *Introduction*

I would like to begin by thanking those Members — an encouraging number — who had generally positive things to say about the Budget. And to thank the wider public for their encouraging reaction. I can assure you that I

and my colleagues will continue to do all we can to ensure that Hong Kong prospers, and that as a result the people's livelihood continues to improve.

As has become the custom, Members' comments and suggestions during this debate will become the starting point for our preparations for the next Budget, as well as in some cases spurring us to more immediate action. My colleagues have already responded today in some detail. But I would like now to reply myself on major issues.

### *Property Prices*

Property prices have been highlighted in this debate. I believe Members are right to focus on the high level of property prices and rents as the most important unsolved issue. Indeed, it was the issue I highlighted myself, in my Budget speech, as requiring urgent steps to deal with it. I quote: "..... we have to do everything possible to increase the supply of new land and to encourage redevelopment of existing sites wherever suitable". My colleague, the Secretary for Planning, Environment and Lands, has spoken at some length on this issue. Let me just make six points.

- First, we are serious about tackling this issue. Both the Chief Secretary and I are personally committed to finding a solution.
- Secondly, we recognize there is a problem, and we have decided to intervene. That in itself is a major step, given our general belief in letting the market decide. We should all be aware that intervention is not without risks; it is not possible to fine-tune property prices, but only to nudge them fairly crudely in a particular direction. But Members clearly agree that the problem is sufficiently serious to take the risk.
- Thirdly, I believe we are right to focus on the positive step of increasing land supply as the key. Clearly other basically negative measures, such as stamp duty and reduced mortgage lending, have simply not had sufficient impact.
- Fourthly, Members made a number of useful suggestions, and we will look at them seriously and urgently. To take one example, if a way could be found to increase the number of Home Ownership Scheme flats without reducing the Housing Authority rental flats programme, that would be a significant step forward.
- Fifthly, I believe the quickest and greatest impact is likely to be made by harnessing the energies of the private sector and of quasi-government bodies to this new challenge. In support of this special exercise to increase our land supply, I am prepared to consider providing funds if a good case can be made. One example might be to set aside a sum of money to reimburse private developers for

providing the infrastructure needed to enable new housing to proceed on an accelerated basis. Another example may be to assist the Land Development Corporation or the Housing Society to accelerate their programmes, including loans to improve their cashflows, and so to allow them to put more commercial and residential units on to the market.

- Lastly, our aim is to produce a credible package of measures which will not only increase the supply, but be sufficient to reduce prices. I repeat, our aim is to start a downward trend in prices, not to keep land prices high. This will not be easy, but we are publicly committed to try, and to try hard over the next few months to identify and implement the best means of achieving results.

### *Capital Gains Tax*

Arising from the upsurge in property prices, there continue to be calls for the introduction of additional fiscal measures to tackle property speculation, and in particular for a capital gains tax, and profits tax on speculative transactions. I can reassure Members that in fact profits arising from trading in property are already liable to profits tax. Indeed, over the last two years, the Inland Revenue Department has stepped up its efforts to track down such transactions. I am pleased to say that this has achieved good results.

As regards the proposal to introduce a capital gains tax, earlier this month, the Secretary for the Treasury explained to this Council why the Administration has reservations about such a tax. I shall not repeat his arguments here. But I would like to highlight some particular points underlying our reservations.

A capital gains tax would run against our fundamental policy of maintaining a simple, predictable and low tax system. To achieve a significant deterrent effect, the tax would have to be set at a high level. It would also be explicitly introduced as a temporary fiscal measure to address a short-term problem, so introducing uncertainty. This would risk sending a strong negative signal to local and overseas investors. The community at large would stand to lose should this happen.

Moreover, it is not entirely clear that the effect of introducing a capital gains tax would be that the market would automatically correct itself, bringing property prices back to a more realistic level, and thereby benefiting end-users. Elsewhere, versions of such a tax have had mixed results, ranging from pushing prices up to bringing about a collapse of the property market.

Hence, I much prefer to seek a solution in an increased supply. If that does not succeed, then I shall be forced, reluctantly, to review other options, including the capital gains tax idea.

MR JAMES TO: Mr President, may I interrupt? (in Cantonese): Can I ask the Financial Secretary to clarify .....

PRESIDENT: Sorry. Is it a point of order or a point of elucidation?

MR JAMES TO: A point of elucidation.

PRESIDENT: Do you wish to give way, Financial Secretary?

FINANCIAL SECRETARY: No, Mr President.

MR JAMES TO (in Cantonese): Can I ask the Financial Secretary to clarify .....

PRESIDENT: You have to sit down, Mr TO.

FINANCIAL SECRETARY:

*Admission of Professionals and Managers from China*

The other leg of our efforts to tackle the causes of inflation was the modest pilot scheme to admit 1 000 graduates from China. My colleague, the Secretary for Education and Manpower, has dealt with this at length. I will only add that I believe we should proceed with this scheme quickly. But I also take the point that Members should be consulted before it is enlarged. And that we need to continue to reassure our own graduates that their prospects are not significantly reduced.

*Inflation*

A few Members do not appear to accept the analysis of the causes of our inflation, which I set out in the Budget speech. I can only repeat that the facts support the conclusion that our inflation continues to be locally generated, with shortages of labour and land being the two main underlying factors. Imported inflation remains insignificant, as reflected by stable import prices in overall terms. Those consumption items showing a faster increase in prices than the overall consumer price index have a relatively higher local input content. The main examples are housing, transport, meals at restaurants and various other consumer services. I take cautious comfort from the fact that in the first two months of 1994, there was a further moderation in consumer price inflation. The CPI(A) in these two months rose by an average of 7% over the same period last year. This compares favourably with the corresponding increase of 8.5%

for 1993 as a whole. It is also below the forecast rate of increase, also of 8.5%, for 1994.

### *The Tax System*

I turn now to the more general topic of the tax system. From a number of comments made in Members' speeches last week, it is clear that the important debate about the narrowness or otherwise of the revenue base, the ratio of direct to indirect taxes, and the robustness of particular taxes, has become very confused. I will admit officials as well as non-officials may have contributed to this confusion.

A Member made a useful distinction between the revenue base and the tax net. They are not the same. The revenue base is the overall mix of all sources of revenue. We wish to keep it stable, simple and productive. The tax net, on the other hand, refers to the number of taxpayers. The number of people in the tax net can be reduced without necessarily affecting the revenue base, because at a time of economic growth and of rising real wages we can still expect to maintain revenue despite our concessions on salaries tax. For example, revenue from salaries tax is expected to increase in 1994-95, and will constitute about the same proportion of total revenue as it did in 1993-94.

Thus, I do not think it is quite accurate to argue that by reducing the number of taxpayers in the net, I am narrowing the revenue base. I would only narrow the revenue base if I severely reduced the number of sources of revenue, or let the revenue from the existing ones atrophy in real terms by failing to keep them up-to-date. This is why I attach importance to maintaining fees and charges in line with inflation, and to maintaining rateable values in line with the movement in rental values.

But it would still be a valid criticism if it could be shown that my tax changes have made our revenue significantly less reliable, and more volatile. This point is sometimes treated as if it is the same thing as the ratio between direct and indirect taxes. Indeed, this ratio was introduced as a crude way to measure whether our revenue base was becoming more or less robust. The theory went that if the proportion of indirect taxes was increasing, the revenue was more robust.

The problem is that this has proved too crude a measure to be very valuable. Indirect taxes do not necessarily correlate with stable revenue, nor direct taxes with unstable revenue. Salaries tax, which is direct, has been steady, whereas vehicle first registration tax, which is a classic indirect tax, has been fluctuating very considerably. That is the reason I ceased to refer to this ratio some Budgets ago.

The key to financial stability is to maintain the revenue in real terms from a mix of sources — be they fees and charges, duties or taxes. That said, I do accept that wherever possible we should tip the balance in favour of reliable,

steady sources — that is another reason why I favour keeping rates up with inflation, and why I have gone for an increase in the business registration fee. They are both relatively steady, reliable sources of revenue.

There is one final point, however. Whatever I propose to raise in tax, I must be able to justify in terms of need. We have reserves which will sustain growth in expenditure in line with the projected growth in the economy. In fact, our reserves are more than enough for that : they also extend to providing an assurance that we can survive quite considerable shocks to the economy without having to cut back on existing expenditure. But I cannot justify going beyond that. At some point, I have to say "we have enough tax for now, thank you".

This Government is in the rare and enviable position of being able to return some of our considerable wealth to its taxpayers. I think one would need some extraordinarily good arguments to try to argue against that. But, it must be said, a few Members were inclined to do just that. A number of Members have made critical comments, carefully stopping short of saying "you should not have offered so many tax concessions". But that was in fact the logical conclusion of their remarks, though I understand why they were not willing to actually say so.

A few Members went beyond cautious criticism, and seemed to think I have thrown prudence to the wind. I find it difficult to understand the justification for hyperbolic adjectives like "nightmare", "self-serving and irresponsible", "ill-conceived" and even "dangerous" — to quote from one speech that perhaps needs a "reality check" of its own — when applied to a Budget that again cuts taxes, increases spending and yet results in increased reserves. But I will not give up trying to win such critics over. Let me point out three simple facts to reassure anyone who thinks that I have become imprudent.

- Despite the tax concessions, total revenue is estimated to increase from \$164 billion in the 1993-94 revised estimates to \$177 billion in the 1994-95 estimates — and I am seldom accused of being too optimistic in my revenue forecasts.
- Growth in government expenditure continues to be kept in line with the growth of the economy.
- Large reserves exist precisely to enable us to weather any temporary downsides.

Let me also comment that some Members (sometimes the same Members who ask me to be more prudent) are constantly asking me to spend more — on social services, on the airport, on Route 3, on railways. I will continue to hold the balance between competing claims, and between revenue and expenditure, in, yes, a prudent manner.

*Rates*

Turning from philosophy to specifics — or some might say, to raw politics — I confess to a certain disappointment with Members' reaction to the rates revaluation, given the overall very favourable Budget. I will continue to try to persuade Members of the proposal's merits, and to have a dialogue on this issue. Despite the 20% cap I have proposed for the next two years, a number of Members (and indeed parties) considered rates bills may still be too high. Some suggested that there should be a one-year freeze, others a reduction in the overall percentage charge of 5.5%. They argued that this would be well within the Government's means given our projected surplus of \$7.7 billion next year. Let me explain further our thinking on rates revaluation.

The purpose of the general revaluation is to reassess the rateable values of properties so that rates fall equitably among ratepayers in proportion to the up-to-date rental values of their properties. This triennial exercise has become an accepted practice with both Members and the general public.

I have referred already to the fact that as a stable and broadly-based tax, rates are a reliable source of revenue and have over the years made a steady contribution to the public finances. I will not repeat that argument again, but it is an important one.

Some Members commented that the envisaged rates increase would bring too much of a burden on the general public. I find this difficult to accept, set against rising real wages, and the minimal taxes that most of our population enjoy. In the latest revaluation, the average increase in the rateable values for all classes of properties is 33%, which reflects the increase in rental values over the three years to July 1993. This percentage happens to be in line with inflation over the past three years, and well below the rise in property prices. Moreover, the annual adjustments in 1994-95 and 1995-96 will each be capped at 20%, so that the full impact of the new rates will be spread over the coming three years. Public housing tenants, who account for as much as 42% of our population, will not be directly affected in practice, because the Housing Authority follows the policy of setting rents by reference to tenants' affordability.

The current overall percentage charge at 5.5% is historically low. And we are not proposing to increase it. Back in the seventies, as some of you may recall, the overall charge was as high as 17%. Rates only take up about 2% of average household income. For businesses, rates represent 0.2% of their outgoings.

The plain truth is: this is a modest measure which strikes a balance between maintaining the real worth of a stable revenue source, and giving due weight to easing the impact on ratepayers.

I should emphasize that in considering a tax concession, the Government's fiscal position is important, but it is by no means the only consideration. And when I say the Government's fiscal position, I do not mean our surplus or deficit in any one year, but our overall financial health during the forecast period. Affordability aside, we also need to take into account the implications of the proposed measure on our taxation system. To make fiscal decisions on the basis of the surplus or deficit figures for a single year is not wise. To argue to delay the implementation of the latest rates valuation or to reduce the overall percentage charge, simply because we have projected a moderate surplus for next year, is I suggest to take a very short-term view.

I realize that there are ongoing discussions among Members on this subject. I will not try to stampede Members on this issue. We have time for reasoned discussions. I will also look further at the suggestion that in future we should index the rateable values in between revaluation years, so as to soften the impact of any large increase immediately following a general revaluation. I remain hopeful that we shall find a satisfactory solution as to how best to handle rates revisions in the coming years through further discussions with Members.

#### *Alcohol Duty*

Since the announcement of the new alcohol duty system, I have been under criticism from some for penalizing those who enjoy the finer things in life, by which they mean not art or music, but expensive wine. It is a strange paradox that a measure designed to introduce a fairer tax system, to be entirely GATT-compatible, and to be revenue neutral, should have raised such emotion, admittedly among a minority. In introducing a straight *ad valorem* duty system for alcoholic drinks, one of my objectives is to amend the previous system under which cheaper products were subject to a heavier duty relative to their cost, compared with more expensive products of the same type. In short, I have aimed to design a fairer system.

There is some understandable confusion over the precise effect of the duty changes on retail prices, and indeed retailers will not necessarily adjust prices in uniform ways. To illustrate the effects of the new system, let me use wine as an example, since it has been singled out for criticism. Following the proposed changes, products with an export price less than \$50 a litre, which accounted for some 89% of the local wine consumption in 1993, will pay much less in duty. I repeat, some 89% of the wine sold in Hong Kong will pay less duty. For the nine best-selling brands in this price range, the duty reduction ranges from \$21 to \$29 a litre. These nine products were being sold before the introduction of the new duty system at a retail price of about \$70 to \$115 a litre.

Products which cost more than \$50 a litre at the point of exportation will be subject to higher duty under the new system. To serve as an illustration, two of the more popular brands retailing at around \$200 a litre will be paying about \$9 more in alcohol duty. Wines in the top price range, some retailing at a few thousand dollars a bottle, will be harder hit. But the higher duty will only be a reflection of the consumer's ability to pay, and is proportional to the cost of the product. And such products, which account for well under 1% of our total wine consumption, occupy an exclusive niche in the market where I believe price is of less importance than quality and personal preferences in determining consumer choice.

Some Members have drawn my attention to the possible problem of under-declaration of prices under the new system. Let me assure Members that I fully recognize the administrative problems inherent in a full *ad valorem* system. For this reason, I have already asked the Customs and Excise Department to closely monitor any attempt to avoid paying the appropriate duty. I understand that there are already eager volunteers for the arduous duty of carrying out field audits in the vineyards of France, Australia and California. *(Laughter)* In sum, I hope that Members will agree with me that the new system commends itself because of its greater degree of fairness, including a clearer compatibility with the GATT, and the benefits it brings to the average consumer.

#### *Profits tax*

Members' reaction to the reduction in profits tax was mixed, and I believe this partly arises from a misunderstanding over the relationship between revenue and expenditure, a point to which I shall return shortly. It is perhaps worth recalling that when two years ago I raised profits tax by 1%, some Members expressed concern that further increases would undermine our competitiveness as a business and financial centre. I reassured Members that we did not have any intention of embarking on a trend towards a heavier tax on profits. I am glad to have been able to honour that undertaking.

At a time when our fiscal position permits, I think it is right to restore profits tax to its previous, lower level. It will be helpful in ensuring that Hong Kong will continue to enjoy an environment that encourages investment and reinvestment, particularly at a time when there is concern over high rents. But I also believe the symbolic nature of this step is important. It illustrates by action that this Government really does believe in keeping taxes to the lowest possible level, and in returning money to the taxpayer when this can safely be done, so preserving the incentive to succeed for both individuals and companies. This is one of the reasons for our success.

I return now to the misunderstanding about the relationship between revenue and expenditure I referred to earlier. The confusion is well illustrated by one Member's suggestion that the reduction in profits tax had deprived us of much needed resources to expand the range of government services and programmes. I am afraid this is based on a misconception of the way we manage our public finances. It is a common misconception, and one I hope I can correct here. As Members know — not least because I repeat it every year — a key budgetary principle is to keep growth in government expenditure in line with the trend growth of our economy. This sets the limit on how much we can spend in the public sector. A bumper year for profits tax does not therefore translate into a sudden expansion in government services. Nor does a cut in profits tax result in a cut in expenditure. It is also worth noting that given our buoyant business outlook, revenue from profits tax is in fact expected to increase in 1994-95 not only in money terms, but as a proportion of total revenue, even after the reduction.

### *Service companies*

In my Budget speech, I proposed to address the problem of service companies being used to avoid tax. Whilst this was generally welcomed, there was some concern, especially from the professions, who understandably were concerned lest their reputations were being stained, or that we intended to ban service companies altogether.

Neither concern is justified by that section of my speech which dealt with tax avoidance, as opposed to tax evasion. I never suggested an attack on service companies *per se*. What I did do was to set out two types of case where service companies are being used to take advantage of our simple tax system. Members asked me for examples illustrating how these arrangements operate, and I have attached two to the printed version of this Speech. The example of a disguised employer/employee relationship shows how a service company may be used to reduce the tax liability for a gentleman I have tactfully called Mr X from, in round figures, \$105,000 to \$19,000.

In my speech, I also made it clear that people had the right to order their affairs to pay the least tax consistent with their legal obligations. But it must be clear to everyone that any government also has the right to clarify those legal obligations so that the intended amount of tax gets paid by the intended group of taxpayers. To put it plainly, a very large loophole has emerged, and it is my duty to close it.

It was interesting that one Member described this as using a sledgehammer to crack a nut. I infer from this analogy that some Members realize the size of the nut and feel that a sledgehammer is looming. *(Laughter)*

In fact it is a very substantial nut. On the basis of a survey of about 1 000 files in the Inland Revenue Department, we believe that there may be over 4 000 cases where service companies are being used to avoid tax. We would expect the amount of tax involved to be about \$400-\$500 million a year. I would feel fully justified in putting significant resources and some hard-hitting legislation in place to go after that amount of money. There is also the corroding effect on the public's faith in the tax system, if it is perceived that the system is unfair, and some well-off people get away with paying less tax than others. This loophole must be closed.

Some Members raised the technical question of why existing legal provisions are not sufficient to tackle this problem. I do not want to get into technical arguments here, but where tax avoidance arrangements involving significant amounts of revenue are identified, the enactment of specific legislation has two advantages over the use of the existing general anti-avoidance provisions of the Inland Revenue Ordinance. First, it benefits the Government in that we can specify the exact problem and the exact remedy, and reduce the amount of costly litigation that would be required to bring cases to book. Secondly, for the taxpayer, it would have the benefit of allowing business people to understand with certainty the purposes for which service companies can and cannot be used. This means that service company arrangements which are for a *bona fide* commercial purpose can be used with more confidence.

Since highlighting this problem in my Budget speech, I have had some meetings with professional groups and I have pledged that we will consult fully on how legislation is best formulated to plug the service company loophole. I believe that professional groups in turn accept that I cannot be expected to maintain a simple and low tax system, while at the same time standing by while hundreds of millions of dollars haemorrhage through loopholes. I am happy to acknowledge publicly the expert advice and encouragement I have received over the years on tax matters from the accountancy profession in particular. I am sure they will assist me in ensuring the sledgehammer only hits the appropriate nuts.

#### *Growth of public expenditure*

One Member was under the mistaken impression that we were not succeeding in keeping expenditure under control, and in particular in keeping it from growing faster than the growth in the economy. Some confusion is understandable here, because one can easily mix up public expenditure and government expenditure. A simple explanation of the difference is on page 2 of the booklet entitled "Introduction to the Estimates 1994-95", and on page 3 is a chart which (together with the note on page 7) will, I hope, convince Members that we have in fact kept the cumulative real growth in government expenditure in line with the cumulative real growth in GDP.

But the full implications of this point need to be brought out. Restraining government expenditure to economic growth, when that growth is running at about 5% in real terms, would be regarded in most places in the world as no restriction at all, but on the contrary as growth beyond their wildest dreams. Compound growth of this level, focused especially on infrastructure and the social services, has enabled us to expand our services at a dramatic pace. This is the answer to those who produce yet again the rather tired argument that tax concessions do not help the less well-off. Of course they do not, because in Hong Kong, unlike in most other places in the world, the less well-off are virtually tax-free — we help them not through tax cuts but through our expenditure on public housing and the social services. And incidentally that is also part of the answer to the annual references to the GINI Coefficient and other such measures of income distribution — they do not take into account the benefits derived from government expenditure and subsidies, and in that sense they are misleading.

It will not surprise Members then if I say clearly I do not accept that we should be anything but proud of the increases in spending on the social services. To underline this point, recurrent expenditure over the last five years to 1994-95 will have increased:

- on health, to \$17.1 billion from \$6.0 billion, an increase of 70% in real terms;
- on social welfare, to \$11.3 billion from \$4.4 billion, an increase of 53% in real terms; and
- on education, to \$25.8 billion from \$11.2 billion, an increase of 36% in real terms.

Those Members who urge us to expand government expenditure at an even faster rate, whether funded by smaller tax concessions or by drawing on our reserves, should be under no misapprehension. Further increases in government spending would inevitably place greater demands on the limited pool of real resources available in our economy. This in turn would not only put at risk our future growth prospects, but would also add further pressure to our rate of inflation. These are risks, I am sure, which most Members find unacceptable.

#### *Old Age Pension Scheme*

Whilst I am discussing what we have done to improve social services, I should acknowledge the concerns expressed by many Members on the need to provide a secure retirement for the elderly. Members know that we are proceeding with a feasibility study on the proposed Old Age Pension Scheme. A

consultation document will be issued in the summer and a decision will be taken by the end of the year. I just wish to reassure Members that I am as anxious as they are that this should not lead us down the path of a western-style welfare state. It is essential that we maintain discipline through an iron link between the amount of contributions and the benefits to be paid out. As long as we ensure that the two amounts are equal over a reasonable period of time, and are kept separate from other revenue and expenditure, the proposed scheme should be affordable to the community as a whole and not become a burden to future generations.

### *Capital Investment Fund*

One Member has questioned the use made of the Capital Investment Fund and suggested that it is used as a means of avoiding normal approval procedures. Whilst the thought of many hard afternoons in Finance Committee might tempt me to find that a happy prospect, in fact it is not the case.

All investments and loans made from the fund are subject to the approval of Finance Committee, so Members may rest assured that use of the fund is not a means of escaping their scrutiny.

Moreover, the major recipients of investments and loans from the fund — the Housing Authority, the Mass Transit Railway Corporation, the Provisional Airport Authority, and the recently established trading funds — all have their accounts tabled in the Legislative Council, so providing Members with the opportunity to monitor and question the use to which these bodies have put the funds.

### *The Monetary Authority and the Exchange Fund*

A Member asked about the relationship of the Monetary Authority and the Financial Services Branch, and urged more transparency over the Exchange Fund.

The details of the role and relationship of the two organizations are of course set out in the papers put to Members when they were created, but the nub of the situation is simply stated : the Chief Executive of the Monetary Authority is responsible to me, and I am answerable to this Council. In practice, what happens if Members raise questions concerning the work of the Monetary Authority is that either I, or the Secretary for Financial Services on my behalf, answers those questions with input from the Monetary Authority.

The Secretary also has housekeeping responsibilities for the Monetary Authority which include the monitoring of major policy issues and legislative programmes. The Secretary also has a role in matters involving legislation,

principally at the initial and final stages of the process, when issues have to be considered in the Executive Council and in this Council.

So far as the resources of the Exchange Fund are concerned, these are subject to the scrutiny of the Director of Audit. The annual reports of the Monetary Authority will be tabled in this Council, and the first such report is expected to be ready very soon. Moreover, if Members wish to have direct contact with the Monetary Authority, the Panel on Finance, Taxation and Monetary Affairs has only to invite the Chief Executive or his representative to one of its meetings to discuss issues of interest to Members. This system has already been working well for the past year.

So far as the details of the Exchange Fund figures are concerned, we need to strike a balance on the level of detail and frequency of disclosure. Members will recall that it was only in 1992 that I first revealed the key statistics, and committed us to publishing them annually.

I am happy to be able to inform Members that the Exchange Fund had another very good year in 1993. Although the figures are as yet unaudited, I can reveal that the Exchange Fund stood at \$348 billion at the end of 1993, an increase of 21% over the previous year. Accumulated earnings of the fund stood at \$128 billion, 20% higher than a year ago. These are impressive figures. Moreover, the foreign currency holdings of the fund increased from US\$35 billion to over US\$43 billion. This places Hong Kong sixth in the world in overall foreign currency reserves, compared with tenth last year. And we stand second in the world in terms of reserves *per capita*.

The Monetary Authority's first annual report will contain a fuller report and more detailed figures will be available for Members' information.

### *Conclusion*

In conclusion, I believe that we in Hong Kong can be proud of what we have, together, achieved. I believe that in our modest way we set a good example to the rest of the world in our fiscal management — zero debt, use of the private sector wherever appropriate, small government, low and predictable taxes, and adequate reserves to cushion us against downside risks. And in the context of this Budget, I would also have to mention our willingness to return money to the taxpayer when it is more than we need, rather than increase expenditure to use up the available revenue.

More broadly, we have a law-abiding, prosperous and confident community. We enjoy good economic growth and full employment. And we are willing to carry on investing both in our social services, and in the infrastructure necessary to enable that economic growth to continue. I am convinced that this is the path we must continue to travel.

TWO ILLUSTRATIONS OF TAX SAVING  
THROUGH THE USE OF SERVICE COMPANIES

**Example 1**

This example amounts to an attempt to disguise an employer/employee relationship. It compares the tax liabilities in the direct employment and service company situations (please see detailed illustration at Annex A).

I. *Direct employment situation*

In the direct employment situation, Company A pays Mr X an annual remuneration package of **\$960,000**, comprising the following elements:

salary	:	\$635,000
accommodation	:	\$280,000 (in terms of costs to the employer)
holidays	:	\$45,000
Total	:	\$960,000

For the assessment of tax, the salary of \$635,000 is fully taxable and, in accordance with the Inland Revenue Ordinance, the Inland Revenue Department takes 10% of this amount to be the taxable value of Mr X's accommodation (that is, \$63,500). The Ordinance specifically exempts the value of his holiday passage for tax assessment purposes. As a result, **Mr X's** total taxable income would be \$698,500, on which he has to pay **\$104,775** as salary tax.

II. *Service company situation*

This situation involves the introduction of a service company, S C Limited, to which Company A pays a fee of \$960,000. (N.B. Company A pays the same amount direct to Mr X as the cost of his remuneration package in the first situation.) S C Limited in turn provides Mr X and Mrs X with generous employee benefits.

For the assessment of tax, **S C Limited** has **no tax liability** as it uses its entire income of \$960,000 to remunerate Mr X and Mrs X in a tax-efficient manner and to meet secretarial and audit costs.

For **Mr X**, the only taxable elements of his remuneration are his salary (\$220,000) and the value of his accommodation of \$22,000 (that is, 10% of

\$220,000). After deducting salaries tax allowances of \$130,000(1) for two dependent children and two dependent parents from the total chargeable income of \$242,000, Mr X has a net taxable income of \$112,000 on which he has to pay **\$16,200** as salary tax.

As for **Mrs X**, after deducting the basic allowance of \$56,000(1) she has a net taxable income of \$44,000 on which she has to pay **\$2,560** as salary tax.

The overall tax liability in this situation is **\$18,760**, that is **\$86,015 (or 82%) less** than the tax payable in the direct employment situation.

## **Example 2**

This example involves the payment of management fees by a firm to a service company which is controlled by the firm's proprietor or its partners. It compares the tax liabilities in two situations (please see the detailed illustration at Annex B).

### *I. Without service company situation*

In the first situation, Mr P operates a professional firm of which he is the sole proprietor. The firm derives professional fees of \$5,000,000 and incurs expenses of \$3,000,000 on operating requirements (such as office rent, staff salaries and so on). **The firm's** taxable profits are therefore \$2,000,000, on which the profits tax due is \$300,000(2). It should be noted that in calculating the firm's taxable profits, Mr P cannot claim any deduction in respect of any salary or benefits provided to him.

### *II. With service company situation*

In the second situation, Mr P remains as the sole proprietor of the firm and receives the same professional fees of \$5,000,000. But he sets up a service company, S C Limited, to provide the operating requirements to the firm at a charge of \$4,000,000 as management fee. Mr P and his wife are directors of S C Limited.

For the assessment of tax, the **professional firm's** taxable profits amount to \$1,000,000 as the management fee of \$4,000,000 paid to S C Limited is deductible. The profits tax due is **\$150,000(2)**.

As for **S C Limited**, after deducting \$3,000,000 for the actual cost of providing the operating requirements and \$960,000 for the emoluments and benefits provided to Mr P and his wife as directors, the taxable profit is \$40,000 on which the service company has to pay **\$7,000** as profits tax(3).

In the case of **Mr P and his wife** as directors of S C Limited, their emoluments and benefits are structured in such a way that they do not **attract any salaries tax**.

The total tax liability in this situation is **\$157,000**, made up of \$150,000 due from the professional firm and \$7,000 due from S C Limited. This is **\$143,000 (or 48%) less** than the tax liability in the first situation.

Notes:

- (1) The salaries tax concessions announced in the 1994 Budget will, subject to amendments to the Inland Revenue Ordinance, apply with effect from the 1994-95 year of assessment. For the purpose of calculating the tax liability in this example, we have used the salaries tax rate and tax allowances applicable to the 1993-94 year of assessment, that is:

basic allowance:		\$56,000	
dependent child allowance:		\$17,000	
dependent parent allowance:		\$17,000	
additional allowance for dependent parent residing with taxpayer:		\$3,000	
marginal tax bands and tax rates:	first	\$20,000	2%
	next	\$30,000	9%
	next	\$30,000	17%
	remainder	25%	
standard tax rate:			15%

- (2) The profits tax rate for unincorporated businesses is 15%.
- (3) The 1% reduction in the corporate profits tax rate announced in the 1994 Budget will, subject to an amendment to the Inland Revenue Ordinance, apply with effect from the 1994-95 year of assessment. For the purpose of calculating the tax liability in this example, we have used the current rate of 17.5%.

## Annex A

In both the direct employment situation and the service company situation, the cost to Company A is the same, that is, \$960,000

## I. Assessment of Remuneration/Profits

Direct Employment Situation		Service Company Situation	
	\$		\$
<b>Mr X</b>		<b>S C Limited</b>	
Remuneration received		Income	960,000
Salary	635,000	Less:	
		Salary for Mr X	220,000
		Salary for Mrs X	100,000
		Cost of benefits provided to employees:	
		- Wages for domestic helper	38,400
		- Rates	36,000
Accommodation	280,000	- Accommodation	280,000
		- Gas/Electricity	10,600
		- Entertainment	96,000
Holidays	45,000	- Holidays	45,000
		- Car/Boat	120,000
		* Audit	12,000
		* Secretarial fees	2,000
			960,000
<b>Total:</b>	<b>960,000</b>	<b>Balance:</b>	<b>NIL</b>

## II. Assessment of Tax

Direct Employment Situation	\$	Service Company Situation	\$
		<b>(a) S C Limited</b>	
		Income	960,000
		Less: Expenses	<u>960,000</u>
		Taxable Profits:	<u>NIL</u>
		<b>Tax:</b>	<b>NIL</b>
<b>Mr X</b>		<b>(b) Mr X</b>	
Salary	635,000	Salary	220,000
Housing (10%)	<u>63,500</u>	Housing (10%)	<u>22,000</u>
			242,000
		Less: Allowances (basic allowance, 2 children, 2 dependent parents residing with Mr X)	<u>130,000</u>
Chargeable Income:	698,500	Net Chargeable Income:	112,000
<b>Tax:</b>	<b>104,775</b>	<b>Tax:</b>	<b>16,200</b>
		<b>(c) Mrs X</b>	
		Salary	100,000
		Less: basic allowance	<u>56,000</u>
		Net Chargeable Income:	44,000
		<b>Tax:</b>	<b>2,560</b>
<b>Overall Tax:</b>	<b><u>104,775</u></b>	<b>Overall Tax:</b>	<b><u>18,760</u></b>

**Tax Saving**

Direct Employment Situation	\$104,775	(100%)
Service Company Situation	<u>\$18,760</u>	(18%)
Tax Saving	<u>\$86,015</u>	(82%)

## Annex B

## I. Assessment of Profits

Without Service Company Situation	\$	With Service Company Situation	\$
Professional firm		(a) Professional firm	
Income Professional fees	5,000,000	Income Professional fees	5,000,000
Less:		Less:	
Expenses on operating requirements		Expenses that is fee paid to service company	
(office rent, staff salaries and so on)	3,000,000	(S C Limited)	
	<u>4,000,000</u>		
<b>Taxable profits:</b>	<b><u>2,000,000</u></b>	<b>Taxable profits:</b>	<b><u>1,000,000</u></b>
		(b) S C Limited Income Management fee from professional firm	4,000,000
		Less:	
		Cost of providing operating requirement	<u>3,000,000</u>
		Emoluments and benefits to directors	
		(that is, quarters, domestic helper, car and so on)	<u>960,000</u>
		<b>Taxable profits:</b>	<b><u>3,960,000</u></b>
			<b><u>40,000</u></b>

## II, Assessment of Tax

Without Service Company Situation		With Service Company Situation	
	\$		\$
Professional firm		(a) Professional firm	
Taxable Profits: 2,000,000		Taxable Profits:	150,000
<b>Tax (15%):</b>	<b>300,000</b>	<b>Tax (15%):</b>	<b>150,000</b>
		(b) S C Limited	
		Taxable Profits: 40,000	
		<b>Tax (17.5%):</b>	<b>7,000</b>
		(c) <b>Directors of S C Limited</b>	
		Emoluments and Benefits are so designed that they do not attract tax	<b>NIL</b>
<b>Overall Tax:</b>	<b>300,000</b>	<b>Overall Tax:</b>	<b>157,000</b>
Tax Saving			
Without Service Company Situation		\$300,000 (100%)	
With Service Company Situation		\$157,000 (52%)	
		-----	
Tax Saving		\$143,000 (48%)	
		=====	

*Question on the Second Reading of the Appropriation Bill 1994 put.*

*Voice vote taken.*

THE PRESIDENT said he thought the "Ayes" had it.

MISS EMILY LAU: Mr President, I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Are there any queries? If not, the result will now be displayed.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr Andrew WONG, Mr Edward HO, Mrs Peggy LAM, Mr LAU Wah-sum, Mr Jimmy McGREGOR, Mr Peter WONG, Mr Albert CHAN, Mr Vincent CHENG, Mr Marvin CHEUNG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Timothy HA, Mr Michael HO, Dr HUANG Chen-ya, Mr Simon IP, Dr LAM Kui-chun, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr MAN Sai-cheong, Mr Steven POON, Mr Henry TANG, Mr TIK Chi-yuen, Mr James TO, Dr Samuel WONG, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Dr TANG Siu-tong, Miss Christine LOH, Ms Anna WU and Mr James TIEN voted for the motion.

Dr David LI voted against the motion.

Dr Philip WONG and Mr Alfred TSO abstained.

THE PRESIDENT announced that there were 44 votes in favour of the motion on the Second Reading of the Appropriation Bill 1994 and one vote against it. He therefore declared that the motion on the Second Reading of the Bill was carried.

## **THE HONG KONG INSTITUTE OF EDUCATION BILL**

### **Resumption of debate on Second Reading which was moved on 26 January 1994**

*Question on Second Reading proposed.*

DR YEUNG SUM (in Cantonese): Mr President, the Hong Kong Institute of Education Bill was introduced to the Legislative Council on 26 January 1994. The objectives of the Bill are to establish the "Hong Kong Institute of Education" (hereinafter called "the Institute") as a body corporate, and to provide teacher education and facilities for research into and the development of education.

On 23 February 1993, on the advice of the Executive Council, an Order in Council was made by the Governor to the effect that the various Colleges of

Education and the Institute of Language in Education (that is, the existing teachers' training colleges) be separated from the government structure and be merged as an autonomous Institute of Education.

In January 1993, the Provisional Governing Council (PGC) was appointed and charged with the responsibility of preparing for the establishment of the Hong Kong Institute of Education. Since then, the PGC has made significant progress in preparing for the setting up of the new Institute. The PGC is confident that the target can be achieved and the Institute can take over the various existing colleges of education and offer its own academic programmes by September 1994. To facilitate the carrying out of this task, the new Institute should incorporate as soon as possible.

As a result, the Legislative Council set up a Bills Committee, chaired by me, to study the Bill. The Bills Committee has received representation from the Association of Lecturers at Colleges of Education (herein after called the "Association"). The Association advocates amendments to clauses 8(1)(e) and 8(1)(f)(ii) of the Bill concerning the composition of the Council of the Institute. The Bills Committee has held one meeting with the Administration to discuss the Bill and the comments received.

Generally speaking, Members support the Bill and agree that it should be enacted as soon as possible. However, they concur with the Association's view that the composition of the Council of the Institute should be revised.

Since the teaching staff of the future Institute will include various categories of lecturers from the existing colleges of education, that is, those serving lecturers seconded to the Institute and the newly appointed lecturers plus a substantial number of administrative staff, Members are of the view that the Council of the Institute should have more than one member representing the teaching and administration staff. Hence, we request the Administration to consider, first of all, that the number of persons elected to sit on the Council to represent the teaching and administrative staff should be increased from one to three. This way, the composition of the Council will be consistent with that of the Hong Kong Polytechnic, City Polytechnic of Hong Kong, Hong Kong Baptist College and Lingnan College.

Of the 11 members appointed to the Council by the President pursuant to clause 8(1)(f) of the Bill, eight will be subject to specific requirements as to experience and background. Among these eight members of the Council, three should have "relevant experience in higher education". Members think that this requirements is too restrictive. Since future graduates of the Institute will teach in pre-school educational institutions, primary schools and secondary schools, it will be helpful to have on the Council representatives from this particular sector. Therefore, Members make a second request that the Administration should consider having persons with school or pre-school education experience fill the remaining three vacancies on the Council.

Thirdly, Members request the Administration to consider adding one student representative to the Council.

The Administration has informed the Bills Committee that since the Council will be smaller than that of the other tertiary institutions in term of scale, in order to ensure a balanced view in the Council, the Administration thinks that one elected staff representative will already be enough. The Administration also points out that the representatives nominated by the Academic Board under clause 8(1)(d) of the Bill will mostly be teaching staff; so the Council will actually have two to four staff representatives. Nevertheless, Members hold the view that if the number of elected staff representatives is increased from one to three while the number of persons nominated by the Academic Board is set at one, the same total number of staff representatives can still be maintained. The Administration accepts Members' proposal to increase the number of elected staff representatives from one to three.

Regarding the three vacancies without specified requirement under clause 8(1)(f) of the Bill, the Administration explains that this is a deliberate arrangement. The purpose is to give a measure of flexibility so that the authorities concerned can appoint persons who do not belong to any specified category but whose appointment will nevertheless be beneficial to the Institute. In order that the Administration can accommodate Members' proposal of appointing those persons with school experience to the Council and that the arrangements admit of a similar degree of flexibility to cater for the future needs of the Institute, members further suggest that the total number of appointed persons under this category should be increased from 11 to 14. The Administration has accepted this proposal.

The Administration does not object to the appointment of one student representative to the Council, but it is of the view that since the President of the Institute can appoint persons who are neither public officers nor employees of the Institute to the Council under clause 8(1)(f) of the Bill, the appointment of one student representative to the Council can be left to the President's discretion according to the flexible arrangements provided by clause 8(1)(f) of the Bill. Moreover, the Administration confirms one point, that is, only the membership of the Court of the University of Hong Kong is subject to the statutory requirement that a student representative should be included. However, Members consider that the existing social trend calls for a more open system. Since the Institute is a new organization, a more open approach should be adopted. A student representative should be included in the composition of the Council to ensure effective communication and exchange of ideas among various parties.

The Administration agrees to the inclusion of one student representative in the Council but the total numbers of members of the Council should be increased by one so that the Council can maintain a balanced ratio of representatives. Members support the increase in the number of members of

the Council and the appointment of one student representative to the Council by the President.

The Bills Committee is pleased to learn that the Administration has accepted Members' views and suggestions. The Administration will move the relevant amendments to this Bill later during the Committee stage.

Mr President, with these remarks, I recommend the Hong Kong Institute of Education Bill to Members.

MR SIMON IP: Mr President, as Chairman of the Provisional Governing Council of the Hong Kong Institute of Education (HKIED), I welcome this opportunity to say a few words.

Our community expects the best education for our children at every level: pre-school, primary, secondary and tertiary. At each level, it is essential to have professionally qualified and well-trained teachers. Without them, the education our children receive will be second rate.

People are the key to Hong Kong's success. To sustain its social and economic prosperity, Hong Kong needs knowledgeable, creative and enterprising people. Our education should, therefore, be capable of equipping young people with the necessary knowledge, skills and attitudes so that they could contribute to and benefit from the social and economic development of this society. Education systems world-wide are currently undergoing rapid and complex reform to respond to global socio-economic and technological changes. Hong Kong is no exception to this world-wide pattern and our education system is also engaged in a major reform process.

The school is the most important agency for helping young people to acquire knowledge and skills, develop their personality and potential, and nurture a sense of civic responsibility to the community. Teachers, the direct providers of education and the human resources which account for about nine-tenths of the Government's recurrent spending on schools, are no doubt the most important element in the school system.

*The Education Commission Report No. 5*, which was published in June 1992, recommended that the four Colleges of Education and the Institute of Language in Education (ILE) should be merged into a unitary and autonomous tertiary institution to be called the Hong Kong Institute of Education. This would enable teacher education to undergo the same kind of academic growth and development as has already been achieved by other tertiary education programmes. More focused and co-ordinated efforts could then be made to upgrade the quality of teacher education and to provide courses designed to meet the present-day needs of schools and students. The Commission further recommended that an Advisory Committee on Teacher Education and Qualifications should be set up to advise the Government on the level and types

of teacher education and training activities to meet the present and future needs of schools. The advisory committee will be closely involved in assessing the funding and academic quality of teacher education programmes, other than those funded by the University and Polytechnic Grants Committee.

In line with the recommendations of the Education Commission, the Provisional Governing Council of the Hong Kong Institute of Education was set up in February last year to prepare for the establishment of the institute, arrange for the separation of the colleges from the civil service and draw up strategies for upgrading the quality of teacher education.

The overall mission of the new institute is to become a centre of excellence in teacher education and continuous professional development for teachers in Hong Kong and in the region. Specifically, the institute aims to set and sustain standards of academic and professional excellence in all programmes offered; attract good quality students with the personal qualities necessary to become successful teachers; recruit and retain high quality staff; and become an internationally recognized centre for research and development in teacher education. The institute will initially focus on the upgrading of courses at the pre-degree level while preparing to offer some degree programmes as soon as possible.

The enactment of the HKIED Bill, and hence the establishment of the institute, will be an important milestone in the history of teacher education in Hong Kong.

We have already selected the first Director of the institute as well as the Deputy Director and the Associate Director for academic affairs. We are now assembling a nucleus of high level staff to assist them in this challenging mission. Our recruitment campaign here and overseas has attracted applicants of the highest quality and reputation in the field of teacher education.

In addition to establishing the legislative and institutional framework for the upgrading of teacher education, plans are in hand to develop a purpose-built campus for the institute. A site of 12.5 hectares at Ting Kok Road, Tai Po, has been designated for the development of the new campus. The site will accommodate all essential facilities, including administrative and academic buildings, student and staff accommodation, sports and other major facilities. Planning and design work for the campus is underway. The current plan is to complete the new campus in June 1997, with the first intake of students in September 1997. The completion of the new campus would bring about significant improvements to the teaching and learning environment of the institute.

One fundamentally important element of the upgrading process is to establish a sound academic framework on which to develop the institute's academic programmes. A comprehensive review of the existing curriculum is being conducted to ensure that the institute's curriculum will be designed to

meet the present-day needs of schools and students as fully and effectively as possible. We hope to be able to introduce a new and improved curriculum for the Teacher's Certificate courses in the next academic year. The institute will be working together with other local tertiary institutions to develop two in-service Bachelor of Education (Primary) programme leading to a qualification in primary education studies. Continuing efforts will be made to upgrade the quality of teacher education programmes to prepare our teachers to meet the changing needs and expectations of the community.

The knowledge and experience of the serving staff in the colleges and the ILE will be invaluable in the upgrading process. It is, therefore, proposed that all serving academic staff be seconded to the institute upon the commencement of the next academic year in September 1994. There will be a transitional period of five years during which they may apply to join, or to become qualified to join, the institute and the institute will facilitate this process through an active staff development programme.

The upgrading exercise will inevitably be a lengthy process, but I am confident that the institute will be able to achieve the mission of becoming a centre of excellence in teacher education and professional development for teachers by the turn of the century.

This would be a fitting occasion for me to pay tribute to and thank the staff of the colleges and the ILE who have given their time so willingly and enthusiastically to help set up the institute. They have all responded to calls for help over and above their already heavy and demanding duties.

The success of the institute will depend very much on the support of all those who are concerned about education in Hong Kong. I appeal to Members of this Council and the public to support the mission of upgrading the quality of teacher education for the benefit of our future generation of teachers and pupils.

Mr President, I support this Bill.

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I am most grateful to Dr YEUNG Sum and his colleagues on the Bills Committee for their thorough and expeditious examination of this Bill.

Members of the Bills Committee have focussed on the composition of the Governing Council of the institute. They have suggested more staff and student participation in the affairs of the council and the specific inclusion of persons who have experience in school or pre-school education.

The composition of the Governing Council of the institute as originally proposed sought to maintain a balance of staff, academic and broader interests, while maintaining a reasonable size for effective management. The Administration is able to accommodate the Bills Committee's suggestions,

through an increase in the maximum size of the council from 20 to 26. The changes now agreed include:

- (a) an increase in the number of elected staff representatives from one to three;
- (b) a specific reference to the appointment of one to three persons with experience in school education; and
- (c) the addition of a student representative.

Accordingly, amendments are proposed to clause 8 of the Bill to give effect to these changes. Consequential amendments to clause 11 and section 7 of the Schedule are also proposed.

We have taken the opportunity to propose technical amendments to clauses 16 and 20. The first clarifies the timing for the Governor to table financial statements and reports submitted by the institute before this Council. The second describes the action to be taken by the President of this Council when he receives reports on the institute from the Director of Audit.

Further textual amendments are also proposed to clauses 11, 13, 20 and 21 of the Chinese text of the Bill, to bring them in line with similar terms used in other ordinances.

Thank you, Mr President.

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

Bill read the Second time.

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

## **LAYOUT-DESIGN (TOPOGRAPHY) OF INTEGRATED CIRCUITS BILL**

### **Resumption of debate on Second Reading which was moved on 9 June 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).*

**TELECOMMUNICATION (AMENDMENT) BILL 1994****Resumption of debate on Second Reading which was moved on 23 February 1994**

*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).*

**AIR POLLUTION CONTROL (AMENDMENT) (NO. 2) BILL 1993****Resumption of debate on Second Reading which was moved on 8 December 1993**

*Question on Second Reading of the Bill proposed.*

MR PETER WONG: Mr President, urban Hong Kong's air quality is unacceptable and getting worse. The Air Quality Objectives are being continuously breached. The measuring stations are located above the carcinogenic smoke belching exhausts of our diesel vehicles and the air quality statistics should be worse than they seem.

It would be unfair at this stage to blame either the supplier of those vehicles or the oil companies that supply the fuel. Basically, we have only ourselves to blame because we wanted the cheapest means of road transport. I hope that with better environmental education, we are now a little wiser, and pay more attention to clean, environmentally friendly fuels.

When this Bill came before the House Committee, I made the request that the Government should try to persuade the oil companies to make the cleaner diesel fuel available earlier than the set date of 1 April 1995. Again, I appeal to all those who have a hand in the provision of this higher quality diesel fuel to do everything in their power to make the cleaner fuel available earlier.

I also understand from the vehicle importers that maintenance is still a big problem in that many of our vehicle operators do not maintain their engines until after being spotted for smoky engines. The Environmental Protection Department will have to consider the imposition of, say, quarterly mandatory inspections. One thing is clear, we must all work together to ensure that our air is once again fit to breathe.

I hope in the not-too-distant future, in line with other advanced industrialized countries, the Administration can bring proposals before this Council to introduce even higher quality fuel. With this cleaner fuel, we can all

breathe a little easier, respiratory diseases causing deaths may be avoided, and for certain, our health will be generally enhanced.

*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).*

## **LAND DRAINAGE BILL**

### **Resumption of debate on Second Reading which was moved on 7 July 1993**

*Question on Second Reading of the Bill proposed.*

MR WONG WAI-YIN (in Cantonese): Mr President, Members of this Council have been urging the Government to take action to relieve the north and northwest New Territories of flooding. The Bill before us today represents a significant step towards solving this problem. The object of this Bill is to authorize the Drainage Authority to carry out drainage works for the prevention of flooding in Drainage Authority Areas shown in approved plans.

In the course of the Bills Committee's discussion with the Administration, we stressed that public consultation must be carried out when implementing the provisions of the Bill and publicity given thereof. The Government has assured us that its established policy is to prepare the draft Drainage Authority Area plans in consultation with the district boards, the Heung Yee Kuk and the rural committees concerned. Apart from that, information leaflets and posters will be distributed to local residents at the appropriate time to explain the impact of the Bill. As for the details of the areas covered by the main watercourses, the Administration indicates that the district lands offices concerned and the Drainage Services Department are preparing a factual record of watercourses, including their detailed engineering survey maps.

The Bills Committee has asked the Administration to clarify the effects of the Bill on property rights. The Administration assures us that it has no intention ever to interfere with property rights. Although the Bill provides that no person shall, without the consent of the Drainage Authority, carry out any engineering works in any main watercourse, the relevant clause only seeks to ensure that such kind of works will not cause blockage to the watercourse and lead to drainage problems in the future. If the Drainage Authority temporarily occupies private land to execute works, disturbance payments will be made under the Schedule. In case resumption of land along the banks of the river course is required under large scale drainage projects, the Administration will

apply other Ordinances in the resumption of land and the payment of compensation.

Clause 21 of the Bill seeks to empower the Drainage Authority to remove structures from main watercourses. Members of the Bills Committee have expressed concern over this aspect, in particular clause 21(3) of the Bill. The clause provides that in case of emergency, the Drainage Authority may execute works to remove any structure without notice and recover from any such occupier, owner or person the cost of such removal.

The Administration explains that the power provided under clause 21 is necessary because some of the existing structures seriously impede the free flow of floodwater. A badly-constructed low bridge is a case in point. In any event, the Administration has introduced a clause to counter-balance this clause by specifying that any person aggrieved by the Drainage Authority's requirement may appeal to the Drainage Appeal Board. In view of Members' concern, the Administration will be moving amendments to clause 21 at the Committee stage. These will include the deletion of clause 21(3) of the Bill and the redefining of the term "structures" to ensure that village houses, domestic buildings and factories will not be caught under this clause. Furthermore, the Administration will move amendments such that the removal of legal structures under the clause will be compensated for. The cost of removal will also be borne by the Government and the owner of the structures will be paid the compensation assessed on the value of the structure at the time of removal.

As for the reconstruction cost of the structure demolished under clause 21, the Administration informs the Bills Committee that if the reconstruction is in the interests of the community, the Government will for this purpose allocate funds outside of the scope of this Bill. On the other hand, if the reconstruction only benefits the owner, the owner will, without prejudice to any relevant legislation in force, be allowed to reconstruct the structure concerned at his own expense and according to his own standard. It is because under the Bill, the owner has been paid the compensation assessed on the current value of the structure.

Members of the Bills Committee have also requested that all materials, equipment and debris on site after carrying out drainage works should be cleared. The Administration points out that such requirements have already been provided for in clause 22. It further undertakes to clarify the intention of this policy when it responds to Members' comments later today.

The Bills Committee has proposed some amendments in respect of the procedural arrangements provided under the Bill and the wording of the Bill. These include the extension of the time limit for lodging objections to the amended draft plan from 21 to 30 days and the requirement that the Drainage Authority and the Drainage Appeal Board shall give the reasons for their decision. Most of our recommendations have been included in the amendments to be moved at the Committee stage. The Administration will explain later that

although no amendment is made to clause 18(6) to require the Drainage Authority to give reasons when he decides to proceed with the execution of the drainage works, he will in practice certainly explain his decision.

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

REV FUNG CHI-WOOD (in Cantonese): Mr President, the New Territories are always subject to the harm and threat of flooding. There was even an instance of severe flooding in September last year. The Administration should therefore take a more active attitude in cleaning up watercourses.

The provisions of the Bill enable the Administration to execute its duties in this respect more effectively. The Administration estimates that the expenditure on cleaning up and improving watercourses, including the payment of premium and compensation and so on, will amount to about \$12 million a year. In fact, this amount of funding can be further increased so that the relevant works can be carried out more expeditiously.

In addition, I have to point out that, to eradicate completely the harm and threat of flooding, the more important work that need to be done is to train rivers, especially the Shenzhen and Indus Rivers and Sheung Yu Ho where works have not yet commenced. These rivers require large-scale training works. The Government can no longer delay the relevant works on financial grounds. In fact, some works can be carried out concurrently to shorten the time required for river training.

Mr President, the rainy season comes every year. During such periods, New Territories residents live in worries and fear. We have to dispel all their worries. If the Administration has the determination, I believe that it will only take about five years to complete all the river training works. I very much hope that the Administration can furnish this Council with a schedule on the training of all rivers so that New Territories residents may know when they will be completely immune to the threat of flooding.

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

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I am grateful to the Honourable WONG Wai-yin, the Chairman of the Bills Committee to study the Land Drainage Bill, and to other members of the Bills Committee for their careful and detailed consideration of this legislation.

In the course of their deliberations on the Bill, a number of issues and concerns were raised by the Bills Committee. These issues are mainly related to consultation during the plan-making process, the removal of structures in main

watercourses, objection to the execution of drainage works and clearance of site after completion of such works. I shall address the concerns of the Bills Committee and then move some amendments during the Committee stage.

#### *Plan-making process*

The plan-making procedures proposed under the Bill are similar to those in the Town Planning Ordinance. I assure Members that it has always been the Administration's intention to prepare the draft plans in consultation with the Heung Yee Kuk and the rural committees and district boards concerned.

#### *Removal of structures*

Members have expressed concern over section 21 of the Bill which empowers the Drainage Authority to require the removal of structures from main watercourses. Members also urged that adequate safeguard should be provided to protect property rights. After detailed discussions and careful consideration of the Bills Committee's suggestions, we agree that section 21 should be amended to clarify our intention as well as its application.

First, I reiterate that the Administration has no intention ever to remove any structure under this legislation unless it obstructs waterflow in the main watercourse. To remove any ambiguity, the term "structures" will be defined under this section specifically to cover bridges, fences, barriers, pillars, posts, culverts, pipe-crossings, piers, walls, stairs and sheds. This should ensure that village houses, domestic buildings and factories will not be caught under this section.

Second, this section will apply to both legal and illegal structures. Legal structures will only be affected on very rare occasions. In case removal of legal structures cannot be avoided, compensation will be paid for the value of the structures at the time of removal and the cost of removal will also be borne by the Government. Details of the compensation arrangements will be set out in the Schedule.

Third, if any structure, for instance a footbridge which provides common access for villages, needs to be removed, the Administration will construct an alternate footbridge after consulting the local community, before demolition works commence.

#### *Objection procedures*

Objection procedures against the execution of drainage works by the Drainage Authority are provided under section 18. Members have suggested that the authority be required to give reasons for his decisions when notifying the objectors of his decision under section 18(6). It has always been the Administration's intention to resolve any objection through discussion. During this process, the need for the drainage works in question and how the works will

be carried out will be explained fully to the objector to address his concerns. Since the authority's final decision on the execution of the drainage works will often be a matter of professional judgement, which may involve a combination of past experience, site constraints and the nature of the proposed works, we do not consider it practical to make it a statutory requirement for the authority to give reasons when conveying his decisions under section 18(6). In any case, if the objector is not satisfied with the authority's decision, he can always appeal to the Drainage Appeal Board. Notwithstanding this, Members may rest be assured that the authority in practice will explain to the objectors the relevant considerations in support of his decision to proceed with the execution of drainage works.

#### *Clearance of works sites*

Members have also requested that a provision should be included in section 22 to require the Drainage Authority to clear all materials, equipment and debris on site after carrying out drainage works on private land. It is the Administration's intention to require the contractor for the drainage works to remove all surplus materials, equipment and so on from the site upon completion of the works, and this requirement will always be stipulated in the conditions of the contract. I assure Members that the work of the contractor will be closely monitored by the authority and the contract conditions will be strictly enforced.

Mr President, this legislation is necessary to facilitate the Government to carry out drainage maintenance work and to ensure proper maintenance of the main watercourses. The present proposals take into account valuable suggestions by the Bills Committee and have been agreed with the Bills Committee.

Thank you, Mr President.

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

Bill read the Second time.

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

#### **Committee Stage of Bills**

Council went into Committee.

#### **THE LEGISLATIVE COUNCIL COMMISSION BILL**

Clause 1 to 3, 6 to 8, 11 to 21, 23 and 24 were agreed to.

Clauses 4, 5, 9, 10 and 22

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

Clause 4(1)(ca) provides that, until the first election of the elected members of the Legislative Council Commission is held, the existing members of the provisional Legislative Council Commission will act as members of the Legislative Council Commission. This is a transitional provision to enable the Commission to deal with essential matters before its members are formally elected.

Clause 22(1) and (1A) specify the details regarding the dissolution of the Legislative Council Secretariat Incorporated under the Companies Ordinance.

To make it clear that the jurisdiction of the Commissioner for Administrative Complaints (COMAC) will continue to extend to the staff of the Legislative Council Secretariat, section 5 of Schedule I provides that the term "Office of Members of the Legislative Council" as it appears in the Schedule to the COMAC Ordinance should be replaced by the term "Legislative Council Secretariat".

The opportunity is taken to amend the Chinese text of clauses 5(6), 9(d), 10(2) and 22(9).

Mr Chairman, I beg to move.

*Proposed amendments*

**Clause 4**

That clause 4(1) be amended, by adding —

"(ca)the persons who are members of the Executive Committee of the Company immediately before the commencement of this Ordinance and who do not become members of the Commission by virtue of paragraph (a), (b) or (c);".

**Clause 5**

That clause 5 be amended, by adding —

"(1A) Without prejudice to subsection (1), a person who becomes a member by virtue of section 4(1)(ca) shall cease to hold his office upon the election of members under section 4(1)(d) next after the commencement of this Ordinance."

That clause 5(6) be amended, by deleting "假使" and substituting "假若".

#### **Clause 9**

That clause 9(d) be amended, by deleting "立法局全局任何" and substituting "任何立法局全局".

#### **Clause 10**

That clause 10(2) be amended, by adding "條款及" before "條件" where it first appears.

#### **Clause 22**

That clause 22 be amended, by deleting subclause (1) and substituting —

"(1) Notwithstanding -

- (a) any provisions in the memorandum of association or articles of association of the Company governing the winding up or dissolution of the Company; and
- (b) the provisions of any other Ordinance,

the Company shall, on the commencement of this Ordinance, be deemed to be dissolved under section 291A(1) of the Companies Ordinance (Cap. 32) as if, on that commencement, the High Court had made an order under that section that the company be struck off the register of companies and dissolved and, accordingly, the Registrar of Companies shall as soon as practicable after that commencement strike the Company off the register.

(1A) For the avoidance on doubt, it is hereby declared that -

- (a) section 291A(2) of the Companies Ordinance (Cap. 32) shall not apply;
- (b) section 291B of that Ordinance shall apply,

to the Company."

That clause 22(9) be amended, by deleting "的情況".

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

*Question on clauses 4, 5, 9, 10 and 22, as amended, proposed, put and agreed to.*

Schedule

CHIEF SECRETARY: Mr Chairman, I move that the Schedule be amended as set out in the paper circulated to Members.

### **Proposed amendment**

#### **Schedule**

That Schedule be amended, in Part I by adding —

"5. Commissioner for Administrative Complaints Ordinance (Cap. 397) Secretariat.".	In Schedule 1 by repealing "Office of Members of the Legislative Council." and substituting "Legislative Council
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*Question on the amendment proposed, put and agreed to.*

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

### **APPROPRIATION BILL 1994**

CHAIRMAN: We will consider the Schedule first in accordance with Standing Order 55.

Heads 21 to 194 were agreed to.

CHAIRMAN: We shall now consider the remainder of the Bill.

Clauses 1 and 2 were agreed to.

### **THE HONG KONG INSTITUTE OF EDUCATION BILL**

Clauses 1 to 7, 9, 10, 12 to 15, 17 to 19 and 21 to 27 were agreed to.

Clauses 8, 11, 16 and 20

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

*Proposed amendments*

**Clause 8**

That clause 8(1) be amended —

- (a) in paragraph (e) by deleting "one member" and substituting "3 members".
- (b) in paragraph (f) -
  - (i) by deleting "11" and substituting "14";
  - (ii) in subparagraph (i) by deleting "and" at the end;
  - (iii) in subparagraph (ii) by deleting the full stop and substituting "; and";
  - (iv) by adding -

"(iii)not more than 3 shall be persons considered by the President to have had relevant experience in education, other than higher education, either in Hong Kong or elsewhere;"

- (c) by adding -

"(g) a full-time student of the Institute appointed by the President."

**Clause 11**

That clause 11(3), (4) and (5) be amended, by deleting "行事" and substituting "履行職務".

That clause 11(7) be amended, by adding "or (g)" after "8(1)(d)".

**Clause 16**

That clause 16(2) be amended —

- (a) by deleting "not sitting" and substituting "not then in session".
- (b) by deleting "it again commences sitting" and substituting "the next session of the Legislative Council begins".

**Clause 20**

That clause 20(2)(a) be amended, by deleting "接觸" and substituting "查閱".

That clause 20(3) be amended, by adding after "subsection (1)" —

" , and the President of the Legislative Council shall, on receiving such results, cause them to be laid on the table of the Legislative Council".

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

*Question on clauses 8, 11, 16 and 20, as amended, proposed, put and agreed to.*

**Schedule**

SECRETARY FOR EDUCATION AND MANPOWER: Mr Chairman, I move that the schedule be amended as set out in the paper circulated to Members.

*Proposed amendment*

**Schedule**

That schedule be amended, in section 7 by deleting "or consultant" and substituting ", consultant or full-time student".

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

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

**LAYOUT-DESIGN (TOPOGRAPHY) OF INTEGRATED CIRCUITS BILL**

Clauses 1, 3 to 7, 9 to 15, 17 to 21 and 24 were agreed to.

Clauses 2, 8, 16, 22 and 23

SECRETARY FOR TRADE AND INDUSTRY: Mr Chairman, I move that clauses 2, 8, 16, 22 and 23 of the Chinese text of the Bill be amended as set out in the paper circulated to Members. These are minor drafting amendments which seek to reflect better the meaning of the English text.

Following the conclusion of the Uruguay Round of multilateral trade negotiations which resulted in an Agreement on the Trade-related Aspects of Intellectual Property Rights, we have reviewed the Bill and consider that its provisions are fully compatible with the provisions of the agreement.

Mr Chairman, I beg to move.

*Proposed amendments*

**Clause 2**

That clause 2(1) be amended —

- (a) in the definition of "專用特許", by deleting "該等權利" and substituting "該項權利".
- (b) In the definition of "設計師", by deleting "負責".
- (c) in paragraph (b) of the definition of "商業開發", by deleting "邀約" where it twice appears and substituting "要約".

**Clause 8**

That clause 8(1) be amended —

- (a) by adding "該" before "集成電路" where it last appears.
- (b) by adding "該" before "合資格擁有人" where it last appears.

**Clause 16**

That clause 16(2) be amended, by deleting "與該特許是" and substituting "與猶如該特許是一項".

That clause 16(4) be amended, by deleting everything after "訴訟中," and substituting —

"被告可引用的免責辯護為假若該訴訟是由合資格擁有人提起, 被告可引用的任何免責辯護。".

**Clause 22**

That clause 22(5) be amended, by deleting "數額" wherever it appears and substituting "款額".

**Clause 23**

That clause 23(4) and (5) be amended, by deleting "數額" wherever it appears and substituting "款額".

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

*Question on clauses 2, 8, 16, 22 and 23, as amended, proposed, put and agreed to.*

**TELECOMMUNICATION (AMENDMENT) BILL 1994**

Clause 1 to 15 were agreed to.

**AIR POLLUTION CONTROL (AMENDMENT) (NO. 2) BILL 1993**

Clause 1

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, I move that clause 1 be amended as set out in the paper circulated to Members.

*Proposed amendment*

**Clause 1**

That clause 1(1) be amended, by deleting "(No. 2) Ordinance 1993" and substituting "Ordinance 1994".

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

*Question on clause 1, as amended, proposed, put and agreed to.*

Clauses 2 to 13 were agreed to.

**LAND DRAINAGE BILL**

Clauses 1, 3, 4, 10, 12, 15, 16, 23, 25, 29, 34 to 36, 40 to 44, 47, 48 and 50 were agreed to.

Clauses 2, 5 to 9, 11, 13, 14, 17 to 22, 24, 26 to 28, 30 to 33, 37 to 39, 45, 46 and 49

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

The major amendments are summarized as follows:

- (a) clauses 5(5), 7(2), 7(5), 8(1) and 8(9) are amended to extend the time limit for lodging objection from 21 to 30 days;
- (b) clause 7(5A) is added to make provision for the public to act on their right to object which is provided under clause 7(5);
- (c) clause 8(8) is amended to correct the implication that the applicant applying for review must necessarily own land;
- (d) clause 8(12)(a) is amended to require that the Drainage Appeal Board, when notifying the applicant and objector its decisions in respect of a review, should also convey the reasons for its decision;
- (e) clauses 11(3), 13(1), 14(1) and 17(2) are amended to indicate some sort of timescale within which the publication of notice in respect of drainage plans should take place;
- (f) clauses 20(2) and 20(3) are amended to specify that the cost of removal to be recovered by the Drainage Authority should be a reasonable cost;
- (g) clause 21 is amended to address the concerns of Members over the power of the Drainage Authority to require removal of structures in main watercourses, as detailed in my speech earlier;
- (h) clauses 26(2A) and 27(3A) are added to require the Drainage Authority to give reasons for refusing to give consent to an applicant for carrying out engineering works;
- (i) clauses 45(3) and 45(4) are added to specify how the date of serving notice should be determined and proven; and

- (j) clause 46(1A) is added to provide for penalty for interfering with drainage works executed by the Drainage Authority, that is, contravening clauses 18(10) or 19(4).

Other amendments to the clauses are drafting points considered and have been agreed at the Bills Committee.

Mr Chairman, I beg to move.

*Proposed amendments*

**Clause 2**

That clause 2 be amended —

- (a) in the definition of "occupier" -
- (i) by deleting the comma and substituting "and";
  - (ii) by deleting "and a person who carries on a full-time occupation in a building".
- (b) in the definition of "structure" by adding ", subject to section 21(3)," after "IV".

**Clause 5**

That clause 5(5) be amended, by deleting "21 days" and substituting "30 days".

**Clause 6**

That clause 6(1)(c) be amended, by adding "and so replaced by a draft plan notified under section 5(1)" after "section 17(1)(b)".

**Clause 7**

That clause 7 be amended, by deleting subclauses (1) and (2) and substituting -

- "(1) Any person aggrieved by a draft plan notified in the Gazette under section 5(1) may, by a written statement of objection delivered to the Drainage Authority not later than the 60 days referred to in section 5(3), object to the draft plan.
- (2) Any person aggrieved by an amended draft plan notified in the Gazette under section 5(5) may, by a written statement of objection

delivered to Drainage Authority not later than the 30 days referred to in that subsection, object to the amended draft plan."

That clause 7(3) be amended, by adding "or (2)" after "subsection (1)".

That clause 7(4) be amended, by adding "or (2)" after "subsection (1)".

That clause 7(5)(a) be amended, by deleting subparagraph (ii) and substituting —

"(ii) specify that any person aggrieved by the proposed alterations may, by a written statement of objection delivered to the Drainage Authority not later than 30 days from the date of first publication of the notice in the Gazette, object to the proposed alterations and the written statement shall set out the nature of and reasons for the objection; and".

That clause 7(5)(b) be amended, by deleting "21 days" and substituting "30 days".

That clause 7 be amended, by adding —

"(5A) Any person aggrieved by the proposed alterations as contained in the notice published under subsection (5)(a) may, by a written statement of objection delivered to the Drainage Authority not later than 30 days from the date of first publication of the notice in the Gazette, object to the proposed alterations and the written statement shall set out the nature of and reasons for the objection."

## **Clause 8**

That clause 8(1) be amended, by deleting "21 days" and substituting "30 days".

That clause 8(8) be amended, by deleting "other than that of the applicant" and substituting "other than land which appears to the Board to be of concern to the applicant".

That clause 8(9) be amended, by deleting "21 days" and substituting "30 days".

That clause 8(12)(a) be amended, by adding "and the reasons for that decision" after "decision".

## **Clause 9**

That clause 9(4) be amended, by adding "to consider making alterations" after "given a direction".

**Clause 11**

That clause 11(3) be amended, by adding ", as soon as practicable," after "Secretary shall".

**Clause 13**

That clause 13(1) be amended, by adding ", as soon as practicable," after "Secretary shall".

**Clause 14**

That clause 14(1) be amended, by adding ", as soon as practicable," after "Secretary shall".

**Clause 17**

That clause 17(2) be amended, by adding "as soon as practicable" after "published".

**Clause 18**

That clause 18(8) be amended, by deleting "section 35" and substituting "section 36".

**Clause 19**

That clause 19(1) be amended, by adding ", subject to section 22," after "may".

That clause 19(2) be amended, by deleting "the Drainage Authority is of the opinion" and substituting "it appears to the Drainage Authority".

**Clause 20**

That clause 20(1) be amended, by deleting everything after "by notice" and substituting —

"require -

- (a) the occupier and owner of the land on which the obstructions are situated; or

- (b) any person causing the obstructions,

to remove such obstructions within such time as may be specified in the notice."

That clause 20(2) be amended, by deleting everything after "Drainage Authority may recover the" and substituting —

"expenses, including supervision charges, reasonably incurred in doing so from the person on whom the notice has been served and in the case of the occupier and owner who have both been served with the notice under subsection (1)(a), they shall be jointly and severally liable to the Drainage Authority for such expenses."

That clause 20(3) be amended, by deleting "cost of such removal" and substituting "expenses, including supervision charges, reasonably incurred in doing so".

### **Clause 21**

That clause 21(1) be amended, by deleting everything after "by notice" and substituting —

"require -

- (a) the occupier and owner of the land on which the structure is situated; or
- (b) the person having control or possession or causing the erection or setting up of the structure,

to remove it within such time as may be specified in the notice."

That clause 21(2) be amended, by deleting everything after "Drainage Authority may recover the" and substituting —

"expenses, including supervision charges, reasonably incurred in doing so from the person on whom the notice has been served and in the case of the occupier and owner who have both been served with the notice under subsection (1)(a), they shall be jointly and severally liable to the Drainage Authority for such expenses and such expenses may be waived by the Drainage Authority if the structure was erected, or set up, and maintained without the contravention of any Ordinance, Crown lease or other instrument under which the land, where the structure was erected, or set up, and maintained, is held."

That clause 21 be amended, by deleting subclause (3) and substituting —

"(3) For the purpose of this section, "structure" means a bridge, fence, barrier, pillar, post, culvert, pipe crossing, pier, wall, stair, shed or other similar structure."

#### **Clause 22**

That clause 22(3) be amended, by deleting "the Drainage Authority is of the opinion" and substituting "it appears to the Drainage Authority".

That clause 22 be amended, by deleting subclause (6) and substituting —

"(6) Any person who, in the exercise of any power of entry authorized under this section, enters on any land shall, if required to do so by any person, produce evidence of such authority."

#### **Clause 24**

That clause 24(2) be amended, by deleting "intends to take" and substituting "has taken".

#### **Clause 26**

That clause 26 be amended, by adding —

"(2A) If the Drainage Authority refuses to give his consent required under this section, the Drainage Authority shall give the reasons for such refusal to the applicant."

#### **Clause 27**

That clause 27 be amended, by adding —

"(3A) If the Drainage Authority refuses to give his consent or approval required under this section, the Drainage Authority shall give the reasons for such refusal to the applicant."

#### **Clause 31**

That clause 31(1) be amended, by adding "in the civil, geotechnical or structural engineering discipline" after "engineer".

**Clause 32**

That clause 32(1)(e) be amended, by deleting "or the chairman and members of the Board,".

That clause 32 be amended, by adding —

"(1A) The chairman and members of the Board may, for the purpose of proceedings before the Board, enter, inspect and view any land within a Drainage Authority Area."

**Clause 33**

That clause 33(3) be amended, by adding "and procedure" after "practice".

**Clause 45**

That clause 45 be amended, by adding —

"(3) Any notice or order served by registered post shall be deemed, unless the contrary is shown, to have been served on the day succeeding the day on which it would have been received in the ordinary course by registered post.

(4) In proving service by registered post it shall be sufficient to prove that the letter containing the notice or order was duly addressed and posted."

**Clause 46**

That clause 46 be amended, by adding —

"(1A) Any person who contravenes section 18(10) or 19(4) commits an offence and is liable to a fine not exceeding \$25,000."

**Clause 49**

That clause 49(1) be amended, by deleting "Government" and substituting "Crown".

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

*Question on clauses 2, 5 to 9, 11, 13, 14, 17 to 22, 24, 26 to 28, 30 to 33, 37 to 39, 45, 46 and 49, as amended, proposed, put and agreed to.*

## Schedule

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, I move that Part I and Part II of the Schedule of the Bill be amended as set out in the paper circulated to Members.

Amendment to section 8 of Part I of the Schedule is required to provide that compensation will be assessed on the basis of structures as well as land.

The addition of section 6 of Part II of the Schedule is required to provide for compensation for removal of structures required by the Drainage Authority under clause 21, as detailed in my speech earlier. The compensation will cover cost of removal of the structures, current value of the structures to be removed, and disturbance resulting from the removal.

Mr Chairman, I beg to move.

### *Proposed amendment*

## **Schedule**

That schedule be amended, in section 8 of Part I, by adding "or structure" after "value of land".

That schedule be amended, in Part II, by adding —

- |  |   |   |  |
|--|---|---|--|
| <p>"6. (a) The removal, under section 21 of this Ordinance, of any structure which was erected, or set up, and maintained without the contravention of any Ordinance, Crown lease or other instrument under which the land, where the structure was erected, or set up, and maintained, is held.</p> | <p>The expense which is fairly and reasonably incurred in the removal of the structure.</p> | <p>Any person on whom a notice has been served under section 21(1) of this Ordinance and who has complied with such notice to remove the structure.</p> | <p>Before the expiration of 1 year from the date of removal.</p> |
|--|---|---|--|

- |  |   |  |                            |
|--|---|--|----------------------------|
| (b) The loss sustained in respect of a structure removed under section 21 of this Ordinance, which was erected, or set up, and maintained without the contravention of any Ordinance, Crown lease or other instrument under which the land, where the structure was erected, or set up, and maintained, is held.     | The amount which is fairly and reasonably estimated as the value of the structure at the time of removal. | Any person owning a share or interest in the structure.                                    | Same as in paragraph (a).  |
| (c) Disturbance resulting from the removal, under section 21 of this Ordinance, of any structure which was erected, or set up, and maintained without the contravention of any Ordinance, Crown lease or other instrument under which the land, where the structure was erected, or set up, and maintained, is held. | A disturbance payment.  | Any person owning a compensatable interest in the land on which the structure is situated. | Same as in paragraph (a)." |

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

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

Council then resumed.

### **Third Reading of Bills**

THE ATTORNEY GENERAL reported that the

**APPROPRIATION BILL 1994** and

**TELECOMMUNICATION (AMENDMENT) BILL 1994**

had passed through Committee without amendment and

**THE LEGISLATIVE COUNCIL COMMISSION BILL**

**THE HONG KONG INSTITUTE OF EDUCATION BILL**

**LAYOUT-DESIGN (TOPOGRAPHY) OF INTEGRATED CIRCUITS BILL**

**AIR POLLUTION CONTROL (AMENDMENT) (NO. 2) BILL 1993** and

**LAND DRAINAGE BILL**

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

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

Bills read the Third time and passed.

PRESIDENT: This is the last occasion when Mr Cletus LAU Kwok-hong will be present in this Chamber as Clerk to the Legislative Council. I am sure Members will wish to join me in thanking him for his service and to wish him well in his re-posting to Government service.

**Adjournment and Next Sitting**

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 20 April 1994.

*Adjourned accordingly at twenty-one minutes past Six o'clock.*

*Note:* The short titles of the Bills/motions listed in the Hansard, with the exception of the Official Languages Ordinance, Hong Kong Academy of Medicine Ordinance, Land Survey Bill, The Legislative Council Commission Bill, Appropriation Bill 1994, The Hong Kong Institute of Education Bill, Layout-design (Topography) of Integrated Circuits Bill and Land Drainage Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

