

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 14 December 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 HUI YIN-FAT, O.B.E., J.P.

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

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

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

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

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

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

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

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE VINCENT CHENG HOI-CHUEN, O.B.E., J.P.

THE HONOURABLE MOSES CHENG MO-CHI

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

THE HONOURABLE EMILY LAU WAI-HING

IN ATTENDANCE

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

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

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

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

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

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

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

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

MRS KATHERINE FOK LO SHIU-CHING, O.B.E., J.P.
SECRETARY FOR HEALTH AND WELFARE

MR PETER LAI HING-LING, J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

MRS REGINA IP LAU SUK-YEE, J.P.
SECRETARY FOR TRADE AND INDUSTRY

MRS WEI CHUI KIT-YEE, LESSIE, J.P.
SECRETARY FOR FINANCIAL SERVICES

THE DEPUTY SECRETARY GENERAL
MR LAW KAM-SANG

PAPERS

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Road Traffic (Public Service Vehicles) (Amendment) (No. 4) Regulation 1994	652/94
Road Traffic (Public Service Vehicles) (Amendment) (No. 5) Regulation 1994	653/94
Boundary and Election Commission (Electoral Procedure) (Geographical Constituencies) (Amendment) (No. 2) Regulation 1994	656/94
Ozone Layer Protection Ordinance (Amendment of Schedule) Order 1994	657/94
Admission and Registration (Amendment) (No. 3) Rules 1994	658/94
Merchant Shipping (Safety) (GMDSS Radio Installations) (Amendment of Schedules) Notice 1994	659/94
Hong Kong Airport (Control of Obstructions) (Amendment) Ordinance 1994 (88 of 1994) (Commencement) Notice 1994	660/94
Official Languages (Authentic Chinese Text) (Police Force Ordinance) Order	(C)35/94
Official Languages (Authentic Chinese Text) (Police Forces (Change of Title) Ordinance) Order	(C)36/94
Official Languages (Authentic Chinese Text) (Cross-Harbour Tunnel (Passage Tax) Ordinance) Order	(C)37/94
Official Languages (Authentic Chinese Text) (Government Lotteries Ordinance) Order	(C)38/94

Sessional Papers 1994-95

- No. 47 — Vocational Training Council
Annual Report 1993-94
- No. 48 — Social Work Training Fund Thirty-Third
Annual Report by the Trustee
for the year ending on 31 March 1994
- No. 49 — Emergency Relief Fund
Annual Report by the Trustee
for the year ending on 31 March 1994
- No. 50 — The Lord Wilson Heritage Trust
Annual Report 1993-1994
- No. 51 — Hong Kong Housing Authority Annual Accounts
for the year ended 31 March 1994 and
Balance Sheet as at that date
- No. 52 — The Sir Murray MacLehose Trust Fund Trustee's
Report for the period 1 April 1993 to 31 March 1994
- No. 53 — Grantham Scholarships Fund Income and
Expenditure Account with Balance Sheet and
Certificate of the Director of Audit
for the year ended 31 August 1994
- No. 54 — Report of the Brewin Trust Fund Committee
on the Administration of the Fund
for the year ended 30 June 1994
- No. 55 — The Accounts of the Lotteries Fund 1993-94
- No. 56 — Queen Elizabeth Foundation for the
Mentally Handicapped
Report and Accounts 1993-94

ORAL ANSWERS TO QUESTIONS**Refunds for Cancelled Public Events**

1. MR HENRY TANG asked: *It is reported that the World Heavy Weight Boxing Championship Event originally scheduled to be held in the Hong Kong Stadium was called off as the organizer failed to pay the boxers, and that there are still some ticket holders who have not yet received refunds. According to*

the statement made by the Chairman of the Urban Council, organizers who rent Urban Council venues for hosting such events are not required to sell tickets through the URB TIX, make a bank deposit as reserve fund or pay a certain amount of money as security so as to allow them to achieve cost-effectiveness and maximum cash flow. In view of this, will the Government inform this Council whether there are any measures to safeguard the interests of consumers so that they will not suffer any loss from the cancellation of scheduled programmes while at the same time protecting the interests of the organizers?

SECRETARY FOR RECREATION AND CULTURE: Mr President, all public spectator sports and entertainment venues, including the Hong Kong Stadium, in the urban area are managed by the Urban Council under the Urban Council Ordinance. The Urban Council has full autonomy in all matters relating to the management and hiring of these venues.

Under the Urban Council's existing arrangements, hirers of all Urban Council venues are required to use the URB TIX system to sell tickets for events held, with the exception of the Hong Kong Stadium. There, hirers are encouraged to use the URB TIX facility but are not required to do so. The reasons for this are twofold. First, the Hong Kong Stadium is managed separately and independently by Wembley International (Hong Kong) Limited under the supervision of the Urban Council Board of Governors. Second, greater ticketing flexibility needs to be given to hirers of the Hong Kong Stadium in view of its size, the multi-purpose usage it is intended for and the fact that in most cases the bulk of tickets sold are done at the door immediately prior to admission.

Under the present management arrangements, there are no specific measures to safeguard consumers' interest against loss from the cancellation of events held in the Hong Kong Stadium if the hirer does not act responsibly, as the onus of making ticket refunds rests entirely with the hirer.

As regards the case in question, the hirer however did take steps to ask its ticketing agents to make refunds and the majority of ticket holders were granted appropriate refunds. However, in a small number of cases, because of a dispute arising between the hirer and one ticketing agent over commission charged, refund has been held up for the time being.

Since the occurrence of the case in question, the Chairman of the Urban Council has assured me that his Council attaches great importance to the need to provide adequate protection to ticket holders in the case of an event being cancelled in the Hong Kong Stadium. The Urban Council Board of Governors have now taken this matter up with the stadium manager, Wembley International (Hong Kong) Limited, to consider what safeguards may be introduced to protect the interests of all parties concerned.

MR HENRY TANG (in Cantonese): *Mr President, there are more and more recreational activities in Hong Kong which offer advance booking and in such case, payment has to be made first before the event actually takes place. Examples are major concerts, operas and musical operas organized by foreign corporations. The fares of these events are usually more expensive than local productions and the period opened for advance booking is very long. Will the Government consider enacting legislation to require the organizer to designate a third party to operate an "escrow agent"? In case the programme concerned cannot be held as scheduled, money held in the escrow account can be used to compensate consumers first. Furthermore, there are also different kinds of businesses being operated in a similar manner such as moon-cake instalment packages, hiring packages offered by video clubs, services packages provided by beauty salons as well as gold funds operated by jewellery companies. In these cases, the companies concerned collect money from consumers first before services are provided. Does the Government have any measures in place to protect consumers from suffering losses when the companies concerned are wound up? The Secretary for Recreation and Culture may not be able to answer the second part of the question, but I hope the relevant officer can reply.*

SECRETARY FOR RECREATION AND CULTURE: Mr President, under the present arrangement, as I mentioned, if the hirer of the Urban Council venue uses the URBTIX system to sell tickets, there is a special condition requiring the hirer to authorize the Urban Council to retain ticket proceeds until after an event is held and to apply such proceeds to effect ticket refunds. Unfortunately, as I mentioned in my main answer, this arrangement does not apply to hirers using the Hong Kong Stadium. But I understand from the Chairman of the Urban Council that this is one of the matters which the Urban Council Board of Governors supervising the management of the Hong Kong Stadium will be discussing with its manager, Wembley International (Hong Kong) Limited, and I shall certainly ask the Urban Council to give special consideration to this particular request.

As the Honourable Member mentioned, the second part of the question deals with the broad policy of consumer protection on which I shall have to seek information from the Secretary for Trade and Industry before I can give the Honourable Member a reply.

DR HUANG CHEN-YA (in Cantonese): *Mr President, will the Government inform this Council whether in future it will require organizers to deposit a sum of money sufficient to compensate consumers in a designated account so that in case things go wrong, there will be sufficient money to compensate the consumers? Or will the Government require organizers to be adequately insured so that it will be able to pay compensation?*

PRESIDENT: Yes, Dr HUANG, when you say compensation, what do you mean?

DR HUANG CHEN-YA (in Cantonese): *What I meant is that just as the case in question, if the event cannot be held as scheduled, then the consumers can be compensated for what they have paid, that is, "refund".*

SECRETARY FOR RECREATION AND CULTURE: Mr President, I think I have provided an answer to that question already in answering the follow-up from the Honourable Henry TANG. Basically, there is no such arrangement with regard to the use of the Hong Kong Stadium at present, but the Urban Council Board of Governors will be discussing these various possibilities with the stadium manager, Wembley International (Hong Kong) Limited.

PRESIDENT: Not answered, Dr HUANG?

DR HUANG CHEN-YA (in Cantonese): *Mr President, will the Secretary for Recreation and Culture clarify whether the discussion he just mentioned will also cover the proposals of taking out insurance or setting up a designated account?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, I think as I replied earlier, I will certainly ask the Chairman of the Urban Council to take into account all aspects, including those mentioned by Dr HUANG, when they discuss with the manager.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, will the Secretary for Recreation and Culture inform this Council if the Consumer Council has ever put forward any relevant proposals to the Government? If yes, what are the details of the proposals? Will the Government accept these proposals? If no, why? Will the Government consider proposals put forward by the Consumer Council, or seek advice from it? Thank you, Mr President.*

SECRETARY FOR RECREATION AND CULTURE: Mr President, as I mentioned at the beginning of my main answer, the management of Urban Council venues rests solely with the Urban Council which has full autonomy under the Urban Council Ordinance. In this particular case, I understand that the Consumer Council did raise this matter with the Urban Council and the Urban Services Department and put forward certain proposals for the Urban Council to take into consideration in their discussion with the manager of the Hong Kong Stadium.

PRESIDENT: Not answered, Mr LAU?

MR LAU CHIN-SHEK (in Cantonese): *Mr President, will the Secretary for Recreation and Culture inform this Council the proposals which the Consumer Council has put forward for the Urban Council or the Government to consider, and the details of these proposals?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, I think I have pointed out that the Consumer Council did raise the issue with the Urban Council and the Urban Services Department. The detail of their communications, I am afraid, I am not privy.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, in addition to the losses sustained by the consumers, the failure to hold this boxing event will also adversely affect Hong Kong's international reputation to a certain extent. Will the Secretary for Recreation and Culture inform this Council whether or not organizers of international events will be required to supply more specific evidences or data in the future? It is because in such a way, not only the interests of consumers can be protected and the \$150,000 revenue of the Government can be guaranteed, Hong Kong's reputation may also be maintained.*

SECRETARY FOR RECREATION AND CULTURE: *Mr President, I think the Urban Council when receiving a hirer's request will consider the integrity bona fide, as well as the ability of the hirer to successfully organize the events. These will be given very careful consideration by the Council before it awards the hire of the venue to the hirer and I shall certainly be happy to pass on the Honourable Member's comments to the Urban Council for consideration in future.*

Measures to Improve Students' Language Skills

2. MR PETER WONG asked: *Will the Government inform this Council:*

- (a) *what specific measures the Government will take in the immediate future to improve the standard of English and Chinese among students at all levels of the school system; and*
- (b) *how much of the \$300 million Language Fund will be spent on proposals which aim to obtain short-term results as opposed to long-term research and projects?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) The Government is taking a pro-active approach in improving the standard of English and Chinese among school students. Apart from the various measures already implemented to upgrade the teaching and learning of Chinese and English under existing policies over the years, for example, curriculum renewal, teacher education, bridging courses and the medium of instruction policy, the following measures are being or will be introduced:
- (1) starting in September 1995, the introduction in Primary I classes of the Target Oriented Curriculum which sets clearer learning targets for three core subjects including Chinese and English;
 - (2) the gradual extension of the English Extensive Reading Scheme, which fosters good reading habits among secondary school pupils, to 200 secondary schools in 1997-98. A new scheme for primary schools will be introduced in September 1995;
 - (3) a Chinese Extensive Reading Scheme for primary schools is now being considered;
 - (4) with the support of the Language Fund, 35 projects have just been approved for implementation. Practically all these projects will have a direct or indirect beneficial effect on the teaching and learning of languages in our schools as indicated later in part (b) of this answer. Additional projects under the Fund will continue to be considered for approval and implementation over the next few years;
 - (5) the revamped Chinese Textbooks Committee is reviewing the availability and adequacy of good quality Chinese textbooks and reference materials for our schools;
 - (6) since September 1994, the Hong Kong Institute of Education has taken over teacher education courses from the former Colleges of Education and the Institute of Language in Education with the mission to upgrade our teacher education. The Institute has already made an encouraging start in this direction by separating the courses for secondary and primary school teachers and strengthening the course curriculum including the teaching of languages;

- (7) the Advisory Committee on Teacher Education and Qualification is looking into ways and means to upgrade the skills of language and other subject teachers; and
 - (8) finally, the Education Commission has concluded its public consultation on its Working Group Report on Language Proficiency and will submit its final recommendations to the Government early next year.
- (b) On the second part of the question, it is not possible to forecast how much of the \$300 million in the Language Fund will be spent on projects aimed to produce short-term as opposed to longer-term benefits. This is because the Language Fund Advisory Committee (of which Mr WONG is a member) does not operate by way of any pre-set quotas or amounts for the various projects. Rather, it wishes to apply the greatest flexibility in assessing and recommending projects on the basis of merits, having full regard to the need to improve equally the proficiency in both Chinese (including Putonghua) and English. The application of this approach has produced a good mix of projects in the first round of allocations from the Fund announced in early December this year. Of the 35 projects approved, seven are on language surveys or research with the remainder on teacher training, curriculum, teaching and learning resource materials and student activity projects. Many of these projects may produce both short- and longer-term benefits.

MR PETER WONG: *Mr President, what objective criteria will be employed to measure success or failure in our efforts to improve language standards?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, obviously the important longer-term objective is to assess how far over the years the amount of resources put into language improvement is producing the right results. So far of course research projects are in hand to look at various sectors of our teaching and learning packages to see how far they have been successful. Indications are that students' ability to understand through these new packages is beginning to improve with the materials designed for students' ability in languages. I think in the longer term, we must wait for those longer-term results before we can say with more clear and quantitative data how far these improvements have been successful and proved to be so.

MR TIK CHI-YUEN (in Cantonese): *Mr President, does the Government think that teaching in the mother tongue will have positive effects on improving the standard of English and Chinese among students? If yes, does the Government have any other approaches which are more proactive than the existing ones to encourage more schools to implement teaching in the mother tongue?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, yes, certainly the principle of using the mother tongue to learn language and learn other subjects is clearly a distinct advantage over using foreign languages. This has been proved beyond doubt. The question of course is to convince parents that while their children are allowed to be taught in their mother tongue, they must not lose out on English. This is always the question that has been worrying parents and we have been trying at pains to convince parents that this would not be the case.

Our existing policy is, first of all, to do it by stages. We are now starting to ensure that schools do not use mixed-mode teaching. In other words, they cannot use both English and Chinese in the same subject, in the same class, at the same time. This is going to cause confusion and chaos. What we are now doing in the interim is to ensure that schools have to choose either English or Chinese as it fits the pupils to teach in a particular class or a particular subject. This is only an interim measure pending the longer-term solution of deciding on the best language medium for their pupils, based on reliable results of the pupils' proficiency in languages as produced by results over the years. We are going to do this in 1997, with firm guidance given to schools to ensure that they do use the best medium suitable for their pupils and this we are going to do over the next few years, to ensure that schools are given the support and encouragement to do this.

DR TANG SIU-TONG (in Cantonese): *Mr President, the Secretary for Education and Manpower mentioned in paragraph (a)(1) of his main reply that starting from September 1995, the Target Oriented Curriculum (TOC) would be introduced in Primary One classes. But in his answer given last Wednesday in this Council, he said the TOC would only be fully implemented in 1996. Why is there a discrepancy? Furthermore, the Secretary for Education and Manpower did mention last week that schools would be left to decide for themselves whether or not to implement the TOC. Have there been changes since then again?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I thought that my answer last week had made it very clear to Dr TANG's question that first of all, according to the details of this Target Oriented Curriculum (TOC) which have been announced, as starting from September 1995, we are doing it in 70 primary schools at the Primary I level and then extending to all Primary I classes in September 1996. What I am saying here of course is a shorthand of what I said last week without repeating the details.

On the question of whether we must make it compulsory, I must, of course, make it clear, perhaps again for the record, that the TOC is intended for the benefit of the pupils in learning the subjects concerned. Now if teachers are not concerned with the benefits for their pupils, who else should be concerned with such benefits? So the question is, does it really matter? Do we have to

compel teachers to do so? Clearly the answer must be the teachers themselves must feel able and willing to teach through the new TOC what is best for their pupils, in their best interests. So I think the question of compulsion should not arise. It would be a shame if teachers have to be forced by us to do so against their wishes and to the disbenefit of pupils.

So I sincerely hope and believe that given the long lead time in preparing this curriculum over the years, this will not be fully implemented until in fact the year 2000. There will be plenty of time over the next few years to prepare teachers and schools fully for this important task of changing the curriculum, making learning and teaching much easier and livelier and happier for pupils, selling this to schools and teachers, and making sure that they are willing, happy and able to do so.

PRESIDENT: Not answered, Dr TANG? Otherwise we have to move on.

DR TANG SIU-TONG (in Cantonese): *Mr President, I would like to follow up this question. Regarding the TOC, the Secretary for Education and Manpower said it was a matter of principle. But if teachers are not happy with it, how can we make them adopt this curriculum?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I think I have made it very clear that there is plenty of time. There is plenty of resources for us to help the teachers to understand and accept this new curriculum and I have faith in our teachers and their ability to be professional, to be responsible and to care for their pupils, in taking up this challenge. I have no doubt they will do so.

MR MAN SAI-CHEONG (in Cantonese): *Will the Government inform this Council if there are any statistics showing that the standard of English and that of Chinese among students at the various institutions have declined? If there is none, what are the reasons?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, we do not have any reliable evidence so far. As regards the perception that language standards are falling, indeed we have evidence to show that language standards have been consistent based on examination results over the years. However, we realize there has been this perception from employers about falling standards in languages. We are conscious of this and we must find out in a more scientific manner how far this is true or valid. This is why we are now looking into this in more detail to establish in a more reliable manner whether language standards are falling, but until then I do not believe that this is the case. But we are not complacent. We are doing all we can, as just described in all these

measures, to improve teachers' learning and teaching of languages and I am sure this will continue to give students and teachers all the help they need to improve their English and Chinese.

MR HOWARD YOUNG: *Mr President, the service industry, in particular the tourism industry, thinks that the standard of English has dropped, not just in reading and writing but most importantly in oral English. In the Secretary's reply there were measures mentioned in subparagraphs (2) and (3) regarding using the Language Fund for reading and in subparagraph (5) for textbooks. I would like to know whether the Language Fund will make adequate provision for specifically upgrading the oral capabilities of students in the English language, in particular whether it has considered hiring native English speaking teachers to organize extra-curricular activities like English clubs or inter-active conversation lessons?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, yes, certainly the existing resource support for schools already includes the improvement of the learning of both languages, in particular their oral skills. In addition, the Language Fund has given sums of money to provide for these projects in learning to speak better, both in English and Putonghua. So I have no doubt this will continue and we will press ahead with improving the oral skills of our pupils in addition to their reading and writing skills.

Shortening Travellers' Clearance Time at Lo Wu

3. MR EDWARD HO asked: *In view of the long waiting time for travellers to clear immigration and customs formalities through the Lo Wu border, will the Government inform this Council whether:*

- (a) *any measures have been put in place to improve the present situation; and*
- (b) *consideration will be given to opening additional border crossing points for travellers crossing on foot?*

SECRETARY FOR SECURITY: Mr President,

- (a) Customs formalities rarely cause delays, because Customs officers do not check every traveller. Most of our efforts, therefore, have been directed at improving immigration facilities.

The Administration has adopted the following measures to reduce the waiting time for travellers using the Lo Wu border crossing:

- (i) resources have been allocated during the current financial year to enable an additional 51 immigration staff to be recruited for the Lo Wu Control Point;
 - (ii) optical character recognition readers are being installed at all control points, including Lo Wu. By September 1995, both Hong Kong identity card holders and machine-readable passport holders will be cleared by these readers. We estimate that the average processing time for a Hong Kong identity card holder will be reduced by four seconds and that for a machine-readable passport holder by 20 seconds;
 - (iii) an extension to the present immigration hall at Lo Wu is being constructed and will come into operation in early 1995. The extension will provide, for the Immigration Department, 48 additional arrival counters and 24 additional departure counters. Resources for an additional 60 staff will be provided. There will also be 30 additional customs counters and 67 additional customs staff; and
 - (iv) an Immigration Task Force of 46 staff was formed in April this year to undertake investigation duties and mount special operations. At peak travel periods members of the Task Force are deployed to reinforce Control Points, including Lo Wu. Resources for a further 46 staff will be allocated to the Task Force in the 1995-96 financial year.
- (b) We have no plans at present to open additional border crossing points for travellers on foot, but we are planning to introduce a shuttle bus service between the Lok Ma Chau and Huanggang checkpoints in the middle of next year.

MR EDWARD HO: *Mr President, the Secretary for Security has advised us of a number of measures to reduce waiting time for travellers using the Lo Wu crossing, in particular, saving a precious four seconds from the waiting time of probably 45 minutes or one hour in 1995. Would he please advise us of, on completion of such measures, that is, by September 1995, the longest time a traveller has to spend going through immigration at Lo Wu during peak hours?*

SECRETARY FOR SECURITY: Mr President, perhaps I should clarify my reference to a reduction in the average processing time for each passenger by four seconds. This will be a very significant improvement in immigration processing time. At present, about 95% of persons going through the Lo Wu Control Point do so on Hong Kong identity cards and the average processing time per passenger is 19 seconds. So a reduction of four seconds is a reduction of over 20%, which is a very significant improvement.

As regards the question itself, our aim is to meet the Immigration Department pledge to clear 92% of passengers within 30 minutes. This is not being achieved at the moment. At present, we are clearing about 86% of passengers within that time, but I am confident that with the introduction of the measures which I mentioned in my main answer, we shall achieve that sometime during the course of 1995-96.

MR MOSES CHENG: *Mr President, in view of the continual increase in the number of travellers crossing the Lo Wu border, which we can reasonably foresee right now, will the Government advise us whether it would be practical to further expand the Lo Wu facilities and if not, whether then it would be imperative upon the Government to open other border crossing points in order not to produce unbearable inconveniences to the travellers?*

SECRETARY FOR SECURITY: Mr President, we will, of course, intend to expand control points to meet demand but we do not have any plans at present to go further than the extension to Lo Wu which is being built and will be finished during next year.

I could perhaps mention slightly further, in the future, another development which should help to relieve Lo Wu considerably, that is, the considerable expansion of the customs and immigration facilities at the Hung Hom Railway Station and an increase in staff to man those facilities. Those will come into operation at the end of 1995 or the beginning of 1996 and there will then be, I believe, a very considerable increase in the proportion of passengers who travel to China on the through train rather than having to do their formalities at Lo Wu. So I would expect that will also help to relieve Lo Wu in about a year's time.

MR ALLEN LEE: *Mr President, I have had a number of experiences crossing Lo Wu in the past three months and the queue was very, very long and it would take more than an hour for passengers to cross Lo Wu. Therefore, I had had the opportunity to ask the Senior Immigration Officer why, and I noticed there were quite a number of stations not manned and the computers were already installed. His answer was that they were applying for these Immigration Officers and still had not had any news of getting the people yet.*

Will the Secretary for Security tell this Council what the plans are? When can you man all those stations? You said 51 have already been approved. But when are you going to inform the Immigration Department they can go ahead and hire the staff and man the stations? I noticed at least 10 of them were not manned properly then.

SECRETARY FOR SECURITY: Mr President, I find it very difficult to comment adequately on anecdotal evidence like that. What I can say is that less than 1%, between 0.2% and 0.5%, of passengers have to wait more than an hour, and the 51 staff that I referred to as having been approved have already been recruited and have been deployed.

MR RONALD ARCULLI: *Mr President, when I saw the words optical character recognition in subparagraph (ii) of the main answer, I thought to myself that perhaps the machine is actually detecting the personal traits of travellers, but I suspect that that cannot be right.*

But be that as it may, Mr President, I wonder whether the Secretary for Security can tell us that in view of the amount of traffic that is going backwards and forwards, what steps the Government or the Administration has taken, vis-a-vis their counterpart in China, to try and streamline immigration and customs control procedures, and whether there are any proposals that are being discussed; and if no discussions are taking place, why not?

SECRETARY FOR SECURITY: Mr President, we have very regular discussions between our own immigration staff and customs staff and those in China to make sure that any expansion which we do on our side of the border is matched by equivalent facilities on their side of the border, so that we do not get people going through very quickly on one side and very slowly on the other, and that sort of co-ordination will continue.

MR TAM YIU-CHUNG (in Cantonese): *Mr President, we have indeed heard a lot about the overcrowding condition and the shortage of manpower at the LO Wu Control Point as related by travellers as well as immigration officers. I would be quite surprised if the Secretary for Security has heard very little about them. Extension work at the Lo Wu Control Point has completed and the related facilities will be put into operation soon. However, I think the most crucial point is that while we have adequate number of counters, there is a serious shortage of manpower. Moreover, it takes six months to recruit and train up the staff. Will the Secretary for Security advise this Council how the problem can be solved completely and quickly under these circumstances? Besides, the overtime payment for immigration staff is \$17 million a year. As the problem has become so serious, why does the Secretary for Security not find a solution at an earlier stage? Even though the problem has developed into such a situation, it seems that he is still trying to cover it up. Will the Secretary for Security explain this in further detail?*

SECRETARY FOR SECURITY: Mr President, I will try and give a thorough answer if I can understand the question. I am not quite sure what question I am being asked to give a thorough answer to.

PRESIDENT: Would you like to clarify, Mr TAM?

MR TAM YIU-CHUNG (in Cantonese): *My question is to compell the Secretary for Security to recognize that there is a serious shortage of manpower.*

PRESIDENT: Is there a shortage?

MR TAM YIU-CHUNG (in Cantonese): *Yes, there is a serious shortage.*

SECRETARY FOR SECURITY: Mr President, yes, I recognize that with the present staff it is not possible to achieve an adequate clearance rate. We are, as I said, presently achieving below our performance target. But as I also said, I am confident that with the additional counters, the additional staff to man those counters, and the new facilities in the form of the optical readers which will be introduced next year, we shall achieve at least the performance target next year.

MR ROGER LUK: *Mr President, would the Secretary quantify the improvement in handling capacity at the Lo Wu Control Point on the completion of the measures to reduce waiting time as described in subparagraph (i) and how this capacity compares with the current peak hour demand?*

SECRETARY FOR SECURITY: Mr President, I will be happy to provide a written reply to that. I do not have the information with me. (Annex I)

Unlicensed Travel Agents

4. MR HOWARD YOUNG asked (in Chinese): *Regarding travel agencies operating without licences, will the Government inform this Council:*

- (a) *what action does the responsible department take to check those agencies;*
- (b) *how many travel agencies operating without licences were prosecuted in the past four years; and*
- (c) *whether current legislation prohibits organizations or societies from organizing package group tours without paying the Travel Industry Council (TIC) levy or issuing stamped receipts to people who join such tours?*

SECRETARY FOR TRADE AND INDUSTRY: Mr President, in reply to part (a) of the Honourable Member's question, the Registrar of Travel Agents, who is the licensing authority for travel agents, and the Travel Industry Council, which is the self-regulatory organization of the outbound travel industry, work together closely in monitoring the activities of unlicensed travel agents.

A private company has been engaged by the Travel Industry Council to conduct covert checks on travel agents. It reports cases of suspected unlicensed travel agents to the Travel Industry Council which then passes the information to the Registrar. Licensed travel agents are also encouraged to report cases of suspected unlicensed travel agents to the Registrar of Travel Agents, who will refer suspected cases to the police for investigation.

As regards part (b) of the Honourable Member's question, during the period from November 1990 to November 1994, the Registrar referred a total of 123 reports about suspected unlicensed travel agents to the police. 63 of these cases were found to be unsubstantiated. The police brought action against the remaining cases which resulted in 43 successful convictions. There are 17 cases outstanding.

Regarding part (c) of the Honourable Member's question, the Travel Agents Ordinance does not prohibit organizations or societies from organizing package group tours without paying the Council levy or issuing stamped receipts to participants in such tours. However, if an organization or a society carries on business as a travel agent and obtains for another person carriage on a journey or accommodation at a place outside Hong Kong, it has to apply for a licence from the Registrar. Licensed travel agents are liable to pay the Fund and Council levies in accordance with the provisions of the Travel Agents Ordinance. Failure to pay the levies will be an offence punishable by fines and may lead to the suspension or revocation of licence.

MR HOWARD YOUNG (in Cantonese): *Mr President, in recent years, particularly during the period before elections, some offices of members of the three-tier councils to organize package group tours. While organizing such tours may probably constitute an offence under the Prevention of Bribery Ordinance, is it also a kind of unlicensed operation of travel agencies for these offices to collect money from the public for the purpose of organizing group package tours and that they might have thus violated the law? Are those people who join these tours somehow protected?*

PRESIDENT: Are you able to answer that question, Secretary?

SECRETARY FOR TRADE AND INDUSTRY: Mr President, under the Travel Agents Ordinance, it is illegal for any person to hold himself out and carry on business as a travel agent obtaining for another person carriage on a journey or

accommodation at a place outside Hong Kong without a licence. Any person who carries on business as a travel agent without a licence is liable on conviction upon indictment to a fine of \$100,000 and to imprisonment for two years, or on summary conviction to a fine of \$10,000 and to imprisonment for six months. This includes the sort of situations described by the Honourable Member.

As regards the second part of the Honourable Member's question regarding protection for members of the public who take part in tours organized by unlicensed travel agents, if they take part in such tours they will not be in receipt of receipts franked by a licensed travel agent and will therefore not be eligible for compensation under the Travel Agents Ordinance.

MR ERIC LI (in Cantonese): *Mr President, in the third paragraph of the main reply, the Government mentioned that there were 43 cases in which the defendants were successfully prosecuted and convicted. Will the Government inform this Council how heavy are the punishments awarded to the offenders? As for the situation cited by Honourable Howard YOUNG just now, is the punishment currently applicable heavy enough to deter violation of the law?*

SECRETARY FOR TRADE AND INDUSTRY: Mr President, the average penalty in the cases referred to in my answer is a fine of approximately \$2,500. In 1992, an unlicensed travel agent was fined \$3,000 plus three months' imprisonment suspended for one year. In 1994, two directors of an unlicensed travel agent were bound over by the court for \$500 for six months. As regards the deterrent effect of these penalties, much will depend also on the efforts of the Registrar of Travel Agents and the Travel Industry Council to report on any suspected cases of unlicensed travel agents and to refer them to the police for investigation. I am pleased to reply to the Honourable Member that the Registrar of Travel Agents and the Travel Industry Council are keeping up their efforts to look into these unlicensed travel agents.

MR JAMES TO (in Cantonese): *Mr President, does the existing legislation prohibit societies and organizations which do not have a travel agent licence from acting as the "agent" of travel agencies and marketing on behalf of these travel agencies while the ultimate responsibility is to be borne by licensed travel agents? Is such a practice feasible?*

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

SECRETARY FOR TRADE AND INDUSTRY: Mr President, as I have said before, under the Travel Agents Ordinance, it is illegal for a person to hold himself out and carry on business as a travel agent obtaining for another person carriage on a journey or accommodation outside Hong Kong without a licence.

The sort of situation described by the Honourable Member may well fall foul of these provisions, but it will be necessary to obtain legal advice in each particular case depending on the circumstances.

PRESIDENT: Not answered, Mr TO?

MR JAMES TO (in Cantonese): *Mr President, I know that some member offices as well as residents' organizations will act as agents and referred or introduced clients to travel agencies. Some may even assist the travel agencies by putting up posters. Will the Government or the Travel Industry Council or other institutions concerned draw up clear guidelines so that the offices and organizations can act according to the law? In such a way, these offices and organizations will not violate the law by mistake while consumers can also be better protected.*

SECRETARY FOR TRADE AND INDUSTRY: Mr President, I am aware of the sort of situations described by the Honourable Member. In fact, complaints have been lodged with the Registrar of Travel Agents about such persons carrying on business as unlicensed travel agents. It is not appropriate for us to provide advice on guidelines except to draw attention to the provisions of the law as the Registrar of Travel Agents may be in a position where he may have to take referral action to prosecute such persons. I would suggest that, in case of doubt, people should seek their own legal advice.

Inadequate LRT Services in Western New Territories

5. MR WONG WAI-YIN asked (in Chinese): *As the population of the western part of New Territories has increased drastically to 700 000 following the successive completion of various public and private housing estates in Tin Shui Wai, the services provided by the Light Rail Transit (LRT) in the district are no longer able to cope with the demand. In view of this, will the Government inform this Council:*

- (a) *what measures are in place to resolve the problem of inadequate LRT services (especially during rush hours);*
- (b) *whether the Government will ask the Kowloon-Canton Railway Corporation to purchase additional LRT trains immediately to improve the services; if so, when the purchase will be effected; if not, what the reasons are; and*
- (c) *whether the Government will consider abolishing all LRT precincts and allowing other modes of public transport to operate in these*

areas, so as to help to resolve the problem of inadequate LRT services?

SECRETARY FOR TRANSPORT: Mr President, over the past two years, the number of passengers travelling on the Light Rail Transit (LRT) system has increased from about 267 000 to 347 000 a day or by about 30%. During the same period, the number of Light Rail Vehicles (LRVs) in service has correspondingly increased from 70 to 100, or, in terms of daily minimum carrying capacity by 32%, from 378 000 to 500 000. This demonstrates that the LRT system is, overall, able to cope with passenger demand. Perhaps, the Honourable WONG Wai-yin's concern relates more to peak hour demand. Like all other public transport operators, the LRT faces demand surges during rush hours, especially during the morning rush. At this time passengers may have to wait, but for not more than 10 minutes, to board a LRV. This particular problem seems to be most acute in Tin Shui Wai.

To cope with the population build-up in Tin Shui Wai, the number of LRVs deployed has been increased from nine vehicles in March 1993 to 26 at present. In addition, there are firm plans to improve services by deploying two additional LRVs in March next year. As an interim measure, the Kowloon-Canton Railway Corporation (KCRC) has also commissioned two special bus services to Tuen Mun Ferry Pier, one from Tin Shui Wai and the other from Long Ping, to supplement LRT services.

The KCRC is currently reviewing overall LRT service requirements, particularly the need to purchase new LRVs to meet increasing passenger demand. We expect the Corporation to make a decision in early 1995.

Since 1 June 1993, franchised bus restrictions within LRT precincts, or more accurately, the Transit Service Area (TSA), have been lifted. In effect, the LRT has to compete with other modes of public transport such as franchised bus services, public light buses and taxis. We will continue to monitor public transport services closely and, where necessary, arrange for additional bus services, green minibus services and residential coaches in the TSA area.

MR WONG WAI-YIN (in Cantonese): *Mr President, in the first paragraph of the main reply, the Secretary for Transport seems to imply that the Light Rail Transit (LRT) system should be able to cope with the existing demand as the growth in capacity of the LRT system has been keeping pace with the growth in the number of passengers. However, he also emphasizes that there are difficulties in facing the demand during rush hours. Will the Secretary for Transport inform us whether there are any forecasts of the situation in the coming years, for example, the passenger growth rate two years later? I understand that even if it is now decided that additional Light Rail Vehicle (LRV) should be acquired, it would take at least two years for the vehicles to be shipped to Hong Kong. It is expected that passenger growth rate in the coming*

two years will impose greater and greater demand on LRT services. Will the Administration inform us what further measures will be taken in these two years to solve the problem of inadequate services, especially in Tin Shui Wai? Will the Government consider requiring the Kowloon Canton Railway Corporation (KCRC) to provide more shuttle bus services with routes running from Tin Shui Wai and passing by the schools in these areas to Yuen Long town centre so as to streamline the flow of commuters?

SECRETARY FOR TRANSPORT: Mr President, the Honourable WONG Wai-yin is quite right. In fact, we have conveyed to the Corporation the need to plan ahead, and I believe that the Board is looking at expansion plans. The Honourable Member is also right that the lead time to acquire new LRVs is about two years and there are plans in hand. In the meantime, certainly, as proposed by the Honourable Member, I will convey to the Chairman of the KCRC the need to provide more bus services to supplement existing LRV services so that the demand in Tin Shui Wai can be met, especially that of the students.

MR MICHAEL HO (in Cantonese): *Mr President, it is pointed out in the second paragraph of the main reply that the KCRC has commissioned two special bus routes to Tuen Mun Ferry Pier, one from Tin Shui and the other from Long Ping. This reflects that the existing LRT services is so seriously inadequate that the KCRC has to provide bus services as a supplement to the LRT services. Why does the Administration allow the KCRC to provide bus services but does not urge it to acquire more LRVs without delay? And has the Administration ever had any discussions with the bus service operators as regards the need to provide bus services? If not, why?*

SECRETARY FOR TRANSPORT: Mr President, I think this problem has to be viewed in perspective. When the LRT first began services in 1988, we introduced the TSA restrictions because of the need to promote and encourage use of the LRT. As I have said just now, overall the LRT is able to meet demand. At peak hours, there is a short waiting-time period, between six and 10 minutes. Now this is not different from other modes of transport in other parts of the territory, especially in the urban areas. If the LRT was to have planned ahead and acquired an excessive number of LRVs, this would have had severe implications on fares and other network operations. But having said that, the KCRC is planning ahead. They have their own fleet of buses and they are prepared to augment their LRV services by bus services in the interim.

PRESIDENT: Yes, the second part of your question?

MR MICHAEL HO (in Cantonese): *Mr President, I would like to follow up my question. If the KCRC has had to provide bus services as a supplement because its LRT services is far from adequate, should the Government be approaching the bus service operators rather than the KCRC?*

SECRETARY FOR TRANSPORT: Mr President, both are being done. The KCRC has its bus services but separately, now that the restrictions in TSA area have been lifted, the Kowloon Motor Bus Company (KMB), for example, has also been approached by the Transport Department to see what additional services can be provided.

MR LEE WING-TAT (in Cantonese): *Mr President, there are two limitations that affect the expansion of the LRT services during rush hours. Firstly, the area of the platforms for waiting passengers are too small; secondly, each LRV has two carriages only. Have the Transport Branch and the KCRC considered the possibility of extending the platforms so that LRV with three carriages can begin operation in the interim or longer term? I would also like to ask the Secretary for Transport a second question: do you think this type of light transport means is not suitable for the life pattern in Hong Kong anymore since during rush hours, there are a large number of passengers using such conveyances? In fact, will you come to a conclusion that the construction of this type of light mass transit system is no longer suitable for Hong Kong?*

PRESIDENT: Perhaps you could answer the first question first, Secretary?

SECRETARY FOR TRANSPORT: Thank you, Mr President. Insofar as the platforms on the system are concerned, there are plans to expand and alter the platform size. In fact several have already been modified and I think some of the platforms along Yuen Long Main Street are now much, much better.

Insofar as the second question is concerned, Mr President, as to whether the LRT or systems of this type suit modern day requirements, my answer to that is: for a localized transport system, that is, between Yuen Long and Tin Shui Wai in particular, it provides an important alternative mode of transport. There are also other transport services available, namely, buses and taxis and public light buses.

DR TANG SIU-TONG (in Cantonese): *Mr President, it is pointed out in the fourth paragraph of the Secretary's reply that since 1 June 1993, franchised bus restrictions within the Transit Service Area (TSA) have been lifted. That is, the LRT precincts have been cancelled. I remember that formerly, due to the introduction of the LRT precincts, the Government has to pay compensation to*

the franchised bus company concerned. In this case, has money been "allowed to run down the drain"? Or does the Government have any other explanations?

PRESIDENT: Sorry, is that a question?

DR TANG SIU-TONG (in Cantonese): *Formerly, the Government has to compensate the franchised bus company concerned because of the setting up of the LRT precincts. However, the LRT precincts were abolished by the Government on 1 July 1993. Has the Government wasted a lot of money on this? Is it possible to recover the money? Or does the Government have any other explanations?*

SECRETARY FOR TRANSPORT: Mr President, when the TSA area was set up, this was provided for by legislation and the legislation also provided for compensation to the KMB because they had to curtail some of the services. To date no money has been paid to the KMB. Now that the TSA has been lifted, we are in negotiation with KMB to see how their claims, if any, can be settled.

Question No. 6 withdrawn

WRITTEN ANSWERS TO QUESTIONS

Advisory Council on AIDS

7. DR CONRAD LAM asked (in Chinese): *In connection with the operation of the Advisory Council on AIDS (ACA), will the Government inform this Council of:*

- (a) *the difficulties encountered by the ACA on its operation;*
- (b) *the number of Government representatives on the ACA and their respective ranks;*
- (c) *the source of the ACA's resources;*
- (d) *the size of the ACA secretariat; and*
- (e) *the target of the work of the ACA in the next five years?*

SECRETARY FOR HEALTH AND WELFARE: Mr President,

- (a) The Advisory Council on AIDS (ACA) advises the Government on effective programmes for prevention of AIDS, support services for HIV infected persons and the development of a comprehensive strategy on AIDS. Committees, subcommittees and working groups have been set up under the Council for the execution of such programmes and activities. So far, no major problems have been experienced in the implementation of these programmes which, in general, have been well received. However, the ACA is still concerned about the relative indifference of the community towards AIDS.
- (b) There are three government representatives and one public officer on the ACA. Their respective ranks are as follows:
- Director of Health (Chairman)
- Consultant (Special Preventive Programme),
Department of Health
- one representative of the Health and Welfare Branch
(currently a Deputy Secretary)
- one representative of the Hospital Authority
(currently a Deputy Director)
- (c) The Department of Health is responsible for the staffing of the ACA secretariat as well as funding various AIDS programmes. In addition, other government departments like the Education Department and the Information Services Department also provide resources for various activities co-ordinated or undertaken by the committees and working groups of the ACA. For certain events, sponsorship is sought from other organizations, such as the AIDS Trust Fund, as well as manpower support from non-governmental organizations.
- (d) The ACA secretariat consists of one senior executive officer, one clerical officer II, and a typist. In addition, secretarial support for the committees, subcommittees and working groups will also be provided by other government departments and non-governmental organizations as necessary.
- (e) The ACA has mapped out the future direction for AIDS programmes in Hong Kong in a strategy document entitled "Strategies for AIDS prevention, care and control in Hong Kong". Through its various committees and subcommittees, the ACA will continue to keep under review trends and developments relating to

AIDS, and to co-ordinate, develop, monitor and evaluate the various AIDS programmes.

Traffic Noise on Route 5

8. MR ALBERT CHAN asked (in Chinese): *The residents of Cheung Shan Estate Tsuen Wan have complained about the serious traffic noise nuisance on Route 5 which can reach a high level of 80 decibels according to the Environmental Protection Department's measurement. However, there is at present no statutory control of traffic noise, and the residents have no way to lodge their complaints. In view of this, will the government inform this Council:*

- (a) *whether consideration will be given to introducing legislation to regulate traffic noise on roads in the vicinity of residential areas so as to lessen the nuisance caused to residents; and*
- (b) *what measures are now in place to reduce traffic noise on Route 5?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) Having regard to the large number of vehicles on roads near to residential areas and other noise sensitive users, it is not practical to introduce statutory limits for overall road traffic noise. The Government is, however, preparing legislation to control the mechanical noise generated by individual vehicles. Noise emission standards will be set and vehicles registered after a certain date will have to comply with these standards. This will help mitigate traffic noise.
- (b) To reduce traffic noise on Route 5, quiet road surfacing has been applied to the section of Cheung Pei Shan Road in front of Cheung Shan Estate, and to the sections of the Shing Mun Tunnel Road on both ends of the tunnel.

Labour Shortage in Hotel Industry

9. DR DAVID LI asked: *The Federation of Hong Kong Hotel Owners has indicated that the hotel industry is suffering from a significant labour shortage and that the root of the problem is that the industry is being allocated quotas of imported workers well below stated requirements. In view of this, will the Government inform this Council:*

- (a) *whether a review on the importation of labour scheme has been conducted to determine its effectiveness in easing the labour shortage in the territory; if so, what the findings are; and*
- (b) *what remedies the Government will make to relieve the labour shortage in the hotel industry in view of its contribution to foreign exchange earnings?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, under the General Labour Importation Scheme, the importation of workers at the technician, supervisor, craftsman and experienced operative levels is allowed up to a quota of 25 000 at any one time. This quota is allocated amongst various industry groups on the basis of four criteria, namely, number of vacancies, wage rate, labour utilization and contribution to the economy. Allocation is made in accordance with an open formula which is applied consistently across all industry groups. In 1994, out of 11 000 quotas that have been reallocated, 152 places have been allocated to the hotel industry, which is equivalent to 1.4% of the total quota allocated. A further allocation of 115 places has recently been approved, in response to requests from certain applicants for a reconsideration of their cases. The hotel industry has therefore been allocated a fair share of the available quotas.

My reply to the two questions is as follows:

- (a) The effectiveness of the scheme has been under regular review. Since its inception in 1989, the ceiling for importation has been raised gradually from the initial 3 000 to 25 000 in January 1992. Although the amount of labour imported is less than 1% of our labour force, it has helped to relieve some of the bottlenecks in the local employment market. Our policy aim has therefore on the whole been achieved. We shall continue to allocate these quotas to industry groups on the basis of relative demand and their ability to make the best use of these quotas in terms of contribution to the economy. We have also undertaken to review the method of quota allocation early next year with a view to ensuring that it will continue to be effective and efficient.
- (b) The importation of labour is not meant to be a means to cater for the hotel industry's long-term manpower needs. Such needs should be catered for through more effective manpower planning policies including recruitment, retention and training. On the Government's part, our emphasis is on the funding of academic, vocational training and retraining courses to provide the trained manpower for the hotel industry. A total of about 3 800 full-time and part-time places are currently available at the Hong Kong Polytechnic University and the Vocational Training Council at the degree, sub-degree and skilled operative levels. The Employees Retraining

Board has, since its inception in 1992, offered 40 retraining courses, and some 600 retrainees have graduated. Some 50 hotels have also participated in the Board's On-the-Job Training Scheme, producing 240 trainee placements in the hotel industry. Our training institutions are in close touch with the hotel industry and are ready to provide more of these courses should the need arise.

Legislative Programme

10. MR MARTIN BARROW asked: *Will the Government inform this Council:*
- (a) *how many items of legislation it plans to bring forward during 1994-95, in addition to the summary of the principal legislative proposals announced in the 1994 policy address;*
 - (b) *whether it will supply a list of the planned legislation;*
 - (c) *what further legislation is in the pipeline for 1995-96 and 1996-97;*
 - (d) *how many pieces of proposed legislation put forward to the Committee on Legislative Priorities have been rejected or deferred by the Committee; and*
 - (e) *how it plans to fit all this new legislation into the legislative timetable, in the light of the need to amend existing legislation to bring it in line with the Special Administrative Region's Basic Law?*

CHIEF SECRETARY: Mr President,

- (a) and (b)

In addition to the major items of legislation already announced in the legislative programme attached to the Governor's policy address, we plan to introduce another 39 items of legislation during the 1994-95 Session. 17 of these have already been introduced into the Council. Details of these are at Annex A, and of the other 22 items at Annex B. It is important to note that the list at Annex B is subject to amendment in the light of changing circumstances.

- (c) The legislative programme for the 1995-96 and the 1996-97 Sessions has yet to be worked out. In order that a realistic programme can be drawn up, Secretariat Branches are invited to make bids for legislative slots about one year in advance. Bids for slots in the first half of the 1995-96 Session are currently being invited from Secretariat Branches, and the provisional programme

for this period will be finalized in April 1995. Bids for slots in the second half of the 1995-96 Session will be invited in June 1995 and the provisional programme will be finalized in October 1995.

- (d) 48 items of proposed legislation were considered by the Committee on Legislative Priorities, but not included in the 1994-95 legislative programme.
- (e) Bills relating to the localization and adaptation of laws are always given priority in the legislative programme. These bills are introduced into the Legislative Council as and when we have been able to reach agreement with the Chinese side on them.

Annex A

Items of legislation introduced into the Legislative Council
during the 1994-95 Session
up to 14 December but not included in the
Legislative Programme released on 6 October 1994

<i>Items/titles</i>	<i>Purpose of the legislation</i>	<i>Responsible officer</i>
Pensions Ordinances (Miscellaneous Amendments) Bill	To make tidying-up amendments in the light of operational experience after the enactment of the Pensions Modification Ordinance and to make other miscellaneous technical amendments for better administration of pension matters.	Secretary for the Civil Service
Animals and Plants (Protection of Endangered Species) (Amendment) Bill	To increase the current penalties especially for unlicensed import, export and possession of endangered species for commercial purpose or involving highly endangered species so as to deter would-be offenders.	Secretary for Economic Services
Merchant Shipping (Seafarers) Bill	To amend the law relating to the registration and employment of seafarers and to introduce new provisions to provide for the health, safety and welfare of seafarers in view of the United Kingdom Merchant Shipping Act 1970.	Secretary for Economic Services
Shipping (Miscellaneous Powers) Bill	To transfer minor administrative or operational powers currently vested in the Governor to either the Secretary for Economic Services or Director of Marine.	Secretary for Economic Services

<i>Items/titles</i>	<i>Purpose of the legislation</i>	<i>Responsible officer</i>
Employees Compensation (Amendment) (No. 2) Bill	To make miscellaneous improvements including provision of employees compensation for injuries while working outside Hong Kong.	Secretary for Education and Manpower
Hong Kong Polytechnic (Amendment) Bill, City Polytechnic of Hong Kong (Amendment) Bill and Hong Kong Baptist College (Amendment) Bill.	To change the titles and internal governance structure of the three institutions. The amendments provide the legal basis for the adoption of the new university titles and revised governance structure for the three tertiary institutions.	Secretary for Education and Manpower
Polytechnics (Consequential Amendments) Bill	To make amendments to a number of Ordinances consequent upon the enactment of three Ordinances to rename and restructure three tertiary institutions as the Hong Kong Polytechnic University, Hong Kong Baptist University and City University of Hong Kong.	Secretary for Education and Manpower
Public Health and Municipal Services (Amendment) (No. 3) Bill	To amend the definition of "stall" to include all vehicles for better enforcement of the Ordinance in connection with unlicensed hawking. The Bill seeks to facilitate more effective control of illegal hawking.	Secretary for Home Affairs
Medical and Related Professional (Registration) (Miscellaneous Amendments) Bill	To amend the legislation relating to the registration and practice of medical, dental, nursing and certain paramedical professionals.	Secretary for Health and Welfare
Buildings (Amendment) (No. 2) Bill	To empower the Building Authority to refuse to approve plans showing the use of hand-dug caisson and to include land situated on the route of proposed sewage tunnels as a Scheduled Area. The Bill seeks to safeguard the safety of construction workers and to protect sewage tunnel areas from ground investigation works.	Secretary for Planning, Environment and Lands

<i>Items/titles</i>	<i>Purpose of the legislation</i>	<i>Responsible officer</i>
Land Titles Bill	To convert the present land registration system to a title registration system. Under the proposed system, registration of a person as owner will confer full and absolute title to the property concerned. The new system therefore provides a higher degree of protection for purchasers of properties and simplifies the establishment of legal title to land.	Secretary for Planning, Environment and Lands
Dumping at Sea Bill	To set up the control of dumping waste materials at sea for Hong Kong in a local ordinance.	Secretary for Planning, Environment and Lands
Timber Stores Bill	To establish a new scheme for licensing timber stores in substitution for the existing provisions contained in the Miscellaneous Licences Ordinance.	Secretary for Security
Internationally Protected Persons and Taking of Hostages Bill	To provide for the continued implementation of both the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons and the International Convention Against the Taking of hostages by localizing the United Kingdom enactments which presently apply to Hong Kong but which cease to apply on 30 June 1997. The Bill seeks to put in place a package of international agreements to ensure the safety of individuals at risk from being taken as hostages.	Secretary for Security
Prisoners' Education Trust Fund Bill	To enact legislation for the establishment of a Prisoners' Education Trust Fund. The Bill seeks to set up a trust fund to provide financial assistance to adult prisoners for educational pursuits, a part of the rehabilitative process for prisoners, so that they can re-establish themselves upon release from prison.	Secretary for Security

<i>Items/titles</i>	<i>Purpose of the legislation</i>	<i>Responsible officer</i>
Industrial Training (Clothing Industry) (Amendment) (No. 2) Bill	To enable Hong Kong to meet certain obligations under the 1990 Istanbul Convention on Temporary Admission by extending the present definition of "A.T.A. Carnet" to cover an A.T.A. Carnet issued in accordance with the Convention, so that clothing items exported under such a Carnet will also be exempted from the Industrial Training (Clothing Industry) Ordinance.	Secretary for Trade and Industry
Rating (Amendment) Bill	To discontinue the grant of half refunds of rates for vacant non-domestic premises and to make miscellaneous amendments relating to the assessment and collection of rates.	Secretary for the Treasury

Annex B

Additional items of legislation for the 1994-95 Session

<i>Title</i>	<i>Purpose of the legislation</i>	<i>Responsible officer</i>
Legal Practitioners (Amendment) Bill	To streamline provisions regarding the appointment system for Notaries Public practising in Hong Kong.	Director of Administration
Costs in Criminal Cases Bill	To consolidate and reform the law relating to the granting of costs in criminal cases. The Bill seeks to ensure that there is a comprehensive system for the award of legal costs in criminal cases.	Attorney General
Administration of Justice (Miscellaneous Amendments) Bill	To effect miscellaneous amendments in a number of areas. The Bill seeks to improve the administration of justice and keep the legal system operating effectively.	Attorney General
Pensions (Special Provisions) (Hong Kong Institute of Education) Bill	To provide for pension safeguard for civil servants transferring to the Hong Kong Institute of Education. The Bill seeks to apply the existing pension legislation to the transferred officers.	Secretary for the Civil Service

<i>Items/titles</i>	<i>Purpose of the legislation</i>	<i>Responsible officer</i>
Cessation of Office of Elected Legislative Council Members	To transfer certain statutory functions relating to the cessation of office of elected Legislative Council (LegCo) Members from the Governor to the President of the LegCo and the Secretary General of the LegCo Secretariat. The Bill is needed following the transfer of the Presidency of the LegCo from the Governor.	Secretary for Constitutional Affairs
Shipping and Port Control (Amendment) Bill	To empower the Director of Marine to give general directions to ships navigating within Hong Kong waters. The Bill seeks to improve harbour management by allowing the Director to direct a large number of ships at one time.	Secretary for Economic Services
Hong Kong Airport (Regulation) (Amendment) Bill	To revise outdated sections of the Ordinance and eliminate ambiguities governing the control of the Kai Tak Airport. The Bill seeks to improve the order and operational efficiency of the Kai Tak Airport by reviewing, as appropriate, the powers of the Director of Civil Aviation.	Secretary for Economic Services
Non-local Higher and Professional Education (Regulation) Bill	To establish a registration system to monitor the provision of courses provided in Hong Kong leading to the award of sub-degrees, degrees, post-graduate and related professional qualifications awarded by non-local institutions of higher education and professional bodies. The Bill seeks to ensure better consumer protection to the public.	Secretary for Education and Manpower
Education (Amendment) Bill	To clarify the definition of school and to increase the powers of school inspectors. The Bill seeks to increase the effectiveness of school inspections and raise the quality of education in schools.	Secretary for Education and Manpower
Employees' Compensation (Amendment) Bill and Motor Vehicles	To make it a mandatory requirement for policy holders to take out a specified minimum cover. The Bill seeks to address the problem	Secretary for Financial Services

<i>Items/titles</i>	<i>Purpose of the legislation</i>	<i>Responsible officer</i>
Insurance (Third Party Risks) (Amendment) Bill	arising from the reinsurers' decision to withdraw unlimited reinsurance cover in respect of motor third party liability and employees compensation insurance.	
Urban Council (Amendment) Bill	To replace the armorial bearing of the Urban Council with a new shield. The Bill seeks to ensure that the new shield of the Urban Council will be given proper statutory protection and not be misused.	Secretary for Home Affairs
Law Amendment and Reform (Consolidation) (Amendment) Bill	To empower the court, in cases other than murder, to modify the effect of the rule that precludes a person who has unlawfully killed another from acquiring a benefit in consequence of the killing (the forfeiture rule) where the justice of the case so requires.	Secretary for Home Affairs
Transfer of Powers (Miscellaneous Amendments) Bill	To transfer minor regulation-making powers from the Executive Council to other authorities in order to streamline the work of the Executive Council.	Secretary for Health and Welfare
Wong Wai Tsak Tong Bill	To regulate the relationship between the Wong Wai Tsak Tong and its sub-lessees in Cheung Chau. The Bill covers the renewal of sub-leases, payment of government rent and redevelopment by sub-lessees. The Bill seeks to minimize the disputes that are likely to arise while preserving the other aspects of the present relationship between the Tong and its sub-lessees as far as possible.	Secretary for Planning, Environment and Lands
Road Traffic (Amendment) Bill	To empower the Commissioner for Transport to refuse the first registration of vehicles which do not comply with the specified noise standards. This Bill seeks to reduce noise pollution due to vehicles.	Secretary for Planning, Environment and Lands

<i>Items/titles</i>	<i>Purpose of the legislation</i>	<i>Responsible officer</i>
Lands Tribunal (Amendment) Bill	To empower the Lands Tribunal to have jurisdiction over "notices of termination" issued by landowners in accordance with the provisions in the Landlord and Tenant (Consolidation) Ordinance. The Bill seeks to ensure that the Lands Tribunal would have proper jurisdiction coverage over matters relating to tenancy agreements.	Secretary for Planning, Environment and Lands
Rehabilitation of Offenders (Amendment) Bill	To expand the scope of the rehabilitation scheme so that more people can benefit from the scheme. With the improved scheme, more people can return to society and turn over a new leaf.	Secretary for Security
Mentally Abnormal Offenders - Insanity and Unfitness to Plead Bill	To enable the courts, in dealing with defendants who are found unfit to plead, to have the discretion in addition to indefinite detention, to dispose of the accused, either under a hospital order, a guardianship order, a supervision and treatment order or an order for absolute discharge. The Bill seeks to safeguard the rights of those defendants who are found mentally unfit to plead.	Secretary for Security
Travel Agents (Amendment) Bill	To transfer the various regulation making powers relating to the licensing of travel agents from the Governor in Council to the Secretary for Trade and Industry. The Bill seeks to streamline some existing routine legislative procedures.	Secretary for Trade and Industry
Road Traffic (Amendment) Bill	To strengthen legislative provisions relating to drink driving, and to make a number of minor amendments to the Ordinance on matters such as the auctioning of vehicle registration numbers and the powers of traffic wardens.	Secretary for Transport

<i>Items/titles</i>	<i>Purpose of the legislation</i>	<i>Responsible officer</i>
Kowloon-Canton Railway Corporation (Amendment) Bill	To provide for additional land to be vested in the KCRC, where this is necessary for the efficient and safe operation of the KCR and the LRT and to delegate powers to make regulations from the Governor in Council to the Secretary for Transport.	Secretary for Transport
Public Bus Services (Amendment) Bill	To make legislative provision to ensure that public bus services are maintained in the event that a franchised bus operator ceases to provide services.	Secretary for Transport

Wong Wai Tsak Tong and Sub-lessees

11. MR TIMOTHY HA asked: *In view of the dispute over land titles between Wong Wai Tsak Tong and a number of Cheung Chau residents, will the Government inform this Council whether it has drawn up any plan to resolve the problem; if so, what the details are; if not, what the reasons are?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the Administration has come to the view that the dispute between Wong Wai Tsak Tong and its sub-lessees can only be resolved by legislation. We therefore propose to introduce legislation to regulate the relationship between the Tong and its sub-lessees by dealing specifically with the issues in dispute. The main proposals are:

(a) Renewal extension of sub-leases

All sub-leases, except those already extended beyond 8 November 1994 by mutual agreement registered in the Land Registry at any time prior to the date of the coming into effect of the legislation, should be renewed from the date they would otherwise have expired until 27 June 2047, that is, three days before the expiry of the Block Crown Lease on 30 June 2047.

(b) Payment of government rent

The government rent will be payable directly by the sub-lessees to the Government. The Tong will only be entitled to collect from the sub-lessees the amount of rent specified in the sub-leases and no other charges and fees. Starting from 1 July 1997, the amount of

government rent payable by the sub-lessees to the Government will be an amount equivalent to 3% of the rateable value of the land.

(c) Consents to modifications and exchanges of sub-leased land

The Tong should be deemed to have agreed to be a party and shall be obliged to execute the necessary documentation for modifications or exchanges unless it can satisfy the Government that it has reasonable grounds for objecting to the modifications or exchanges.

The Tong should be allowed to charge sub-lessees no more than an amount equivalent to 10% of the premium charged by the Government for such modifications and exchanges in recognition of the Tong being the lessee under the Block Crown Lease and the fact that, but for the legislation, the Tong would not have been obliged to agree to enter into any modifications or exchanges of land sub-leased.

The aim will be to achieve through the legislation a fair and objective solution which recognizes as far as possible the legitimate interests of both the Tong and its sub-lessees. We hope to introduce the legislation into the Council in April 1995.

Transfer of Immigration Department Functions to the Chinese Government

12. MISS EMILY LAU asked (in Chinese): *will the Government inform this Council:*

- (a) *whether it has any plans to phase out or transfer certain functions which are now the responsibility of the Immigration Department to the Central Government after 1997; and*
- (b) *if the answer to (a) is in the affirmative, whether it has considered the staff implication arising from such a change; if so, what is the outcome?*

SECRETARY FOR SECURITY: Mr President, we do not envisage that any functions of the Immigration Department will be transferred to the Chinese Government after 1997.

Control of Franchized Businesses

13. DR HUANG CHEN-YA asked (in Chinese): *In view of the growing trend of conducting business by way of a "franchise", will the Government inform this Council whether consideration will be given to enacting legislation to step up control on such a mode of business operation; and if not, what plans does the Government have to safeguard the interests of investors?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, the word "franchise", in the context of modern commerce, has no legal definition and can apply to a variable range of business arrangements. Nevertheless, the term generally refers to all of those types of arrangement whereby a person who has the exclusive right to conduct a certain type of business authorizes another person to conduct that business within certain limitation. Normally, this involves the payment of a premium by the latter to the former.

Without referring to particulars of the structure of franchise arrangements, which can vary greatly, it is noted that franchises generally involve the kind of arm's length negotiation between two parties that the Government has traditionally not interfered with. In the absence of fraud, the relationship between franchisers and franchisees would be subject to the rights and remedies which exist under contract law. The Administration sees no evidence that franchisees require legal protection in addition to that afforded generally to other contractors. Where fraud is involved in relation to a particular type of franchise, attention could be given to those types of franchises in the light of existing criminal or regulatory laws.

In the light of the foregoing, the Administration has no plan to introduce specific legislation to govern or regulate the "franchise" mode of doing business.

Operation of the Royal Hong Kong Jockey Club

14. MR CHEUNG MAN-KWONG asked (in Chinese): *Regarding the Royal Hong Kong Jockey Club (RHKJC)'s privilege to operate gambling business in the territory, will the Government inform this Council whether:*

- (a) *it is aware of (i) the RHKJC's organizational structure, (ii) the electoral arrangements for its Board of Stewards, (iii) the distribution of its financial income, and (iv) the allocation of its revenue for public and charity purposes; if so, what the details are in respect of (iii) and (iv) for the past three years; and*
- (b) *the Government will consider monitoring the RHKJC's election arrangements for its Board of Stewards as well as its policy on*

revenue allocation, so as to ensure that its decisions are in keeping with the interest and expectation of the public?

SECRETARY FOR HOME AFFAIRS: Mr President, the Royal Hong Kong Jockey Club (RHKJC) is a limited company incorporated under the Companies Ordinance. Its Memorandum and Articles of Association prescribes (i) its organizational structure and (ii) the electoral arrangements for its Board of Stewards. The RHKJC publishes annual reports and accounts which reveal (iii) the distribution of its financial income and (iv) the allocation of its revenue for public and charity purposes. In the light of the above, my reply to (a) is yes. Regarding the details in respect of (iii) and (iv) for the past three years, Honourable Members may refer to the annual reports and accounts published by the RHKJC.

Regarding (b), as mentioned in (a) above, the RHKJC is a limited company incorporated under the Companies Ordinance. The Government will not consider monitoring the RHKJC's election arrangements for its Board of Stewards. As regards its policy on revenue allocation, there have been and will continue to be consultations between the RHKJC and the Government on the former's allocation of funds for charitable and community projects to ensure that its decisions are in keeping with the interest and expectation of the public.

Charges of EMSD Services to the Hospital Authority

15. DR LAM KUI-CHUN asked: *It is reported that the Electrical and Mechanical Services Department (EMSD) will start charging the Hospital Authority (HA) for maintenance work undertaken on ex-government hospitals. Will the Government inform this Council:*

- (a) *whether contractors in the private sector will be allowed to submit bids for such maintenance work in competition with EMSD; if not, how the Government can justify to the public that the EMSD's services are the most cost-effective;*
- (b) *whether the costs of all non-medical services of the HA, including the maintenance of buildings, will eventually be charged to the HA;*
- (c) *if the answer to (b) is in the negative, what are the non-medical services the cost of which will be charged to the HA and what are the reasons for such an arrangement; and*
- (d) *what is the estimated annual expenditure on maintenance work in respect of non-medical services referred to in (c) above, and how will such expenditure be met by the HA?*

SECRETARY FOR THE TREASURY: Mr President, in principle, the Government will charge for all the services it provides to the Hospital Authority (HA). This will give a more accurate picture of the full costs of the services provided by the HA. However, for practical reasons, we introduce the charges by stages. We are already charging the HA, for example, for laboratory services provided by the Government Laboratory, financial audit services provided by the Audit Department and vehicle maintenance services provided by the Electrical and Mechanical Services Department. We intend to introduce charges for printing services and building management services next year. We shall continue to introduce charges in stages for the other services, including maintenance of buildings and electrical and mechanical systems and equipment. We have however yet to draw up specific plans for these items.

Where we decide to charge for a service, we shall include in the annual grant to the HA adequate additional provision to cover the charge. It will be for the HA to consider whether to continue to buy that service from the Government, to run the service with its in-house staff or to buy the service from the private sector taking into account the cost-effectiveness and reliability of the alternatives. The HA has agreed that if it decides to terminate a service provided by the Government, it will give at least two years' advance notice so that the government department concerned can make necessary arrangements including redeployment of the staff involved to other duties.

Dampening Rentals of Office Premises

16. MR HOWARD YOUNG asked: *With regard to the escalating rental levels of office premises, will the Government inform this Council whether it plans to take measures similar to those for residential premises to dampen office prices and thereby rentals?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, according to government statistics, between the second quarter of 1991 and the second quarter of 1994, office rentals increased by an average of 12.8% per annum.

The present outlook for the office rental market appears healthy. While supply may be tight in the short term, there will be steady additional supply in the medium term to meet increasing demand. The forecast additional supply in 1994, 1995 and 1996 is 420 400, 537 800 and 570 000 sq m respectively. Most of this will be in Sheung Wan, Tsim Sha Tsui, Causeway Bay and Quarry Bay. Supply will increase significantly after 1996, mainly from development along the Airport Railway and on the Central and Wan Chai Reclamations. Development of I/O buildings will also help increase overall supply of office accommodation and provide flexibility in the response to market demand in terms of type and location.

Since offices, and high quality offices in particular, are predominantly offered for rent the scope for speculation is limited. Furthermore, it is difficult to distinguish clearly between investors and speculators in the office market, since buyers are generally looking for an investment return either through resale or leasing.

We do not therefore see the need for any administrative measures, either to improve supply or to dampen speculation, at this time.

Public Light Bus Services

17. MR LEE WING-TAT asked (in Chinese): *In order to increase the passenger volume of public transport facilities, will the Government inform this Council:*

- (a) *of the percentage of the passenger volume of public light buses (i.e. red minibuses and green minibuses) out of the overall road public transport passenger volume in each of the past five years;*
- (b) *whether it will review the existing restrictions prohibiting red minibuses from running in public housing estates and on new highways; and*
- (c) *whether it will consider increasing the passenger capacity of public light buses from 16 seats to 18 seats?*

SECRETARY FOR TRANSPORT: Mr President, the statistics sought by the Honourable LEE Wing-tat on the number of passengers carried by public light buses (PLBs) are annexed.

The Government's policy towards PLBs is one of containment. The policy is to limit their numbers as well as their areas of operation. Red Minibuses (RMBs) are allowed to continue to operate in areas where their services have long been established. However, they are excluded from new housing estates and new expressways. As a complementary measure, it is the Government's policy to convert RMBs into Green Minibuses (GMBs) so as to channel RMBs away from busy traffic corridors into feeder routes and rural and suburban areas which are more suitable for their operation.

The seating capacity of PLBs was increased from 14 to 16 in 1988. The primary objective then was to encourage replacement of vehicles. PLBs play a supplementary role to franchised bus operations. Having recently reviewed the position and, taking into account various views that have been expressed including feedback and diverse comments from public light bus operators, we consider that, overall, the present arrangements work well in meeting public

transport requirements. At this point in time, the Administration has no plans to increase the seating capacity of PLBs.

Annex

Year	Average Daily Passenger Volume (in millions)				All public Transport mode	Percentage
	GMBs	RMBs	All PLBs (GMB+RMBs)			
1990	0.68	+ 1.06	= 1.74		9.80	7.7%
1991	0.68	+ 1.04	= 1.72		9.87	17.5%
1992	0.71	+ 1.02	= 1.73		10.00	17.3%
1993	0.73	+ 1.01	= 1.74		10.13	17.1%
1994*	0.75	+ 0.99	= 1.74		10.34	16.9%

*Projected Figures

Labour Disputes Involving Foreign Domestic Helpers

18. MR TAM YIU-CHUNG asked (in Chinese): *Regarding labour disputes between Philippine domestic helpers and their employers, will the Government inform this Council:*

- (a) *of the total number of such disputes in the past three years;*
- (b) *how many of these disputes have been dealt with by the Labour Tribunal; and*
- (c) *whether there have been cases in which Philippine domestic helpers have to draw public assistance payment while awaiting the adjudication of the Labour Tribunal; if so, what is the total number of such cases and what is the total amount involved?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) From January 1991 to October 1994, the Labour Department recorded a total of 6 744 cases of labour disputes between foreign domestic helpers and their employers. These involved foreign domestic helpers from the Philippines, Thailand, Indonesia and other countries. There is no statistical breakdown on the nationality of the individuals involved.
- (b) Of the 6 744 cases of dispute recorded by the Labour Department, 2 153 cases were referred to the Labour Tribunal for adjudication at the request of the parties concerned, while the number of cases which had actually been dealt with by the Labour Tribunal

amounted to 2 850. The difference between the two figures represents cases which were filed direct with the Labour Tribunal by the parties concerned.

- (c) According to the Director of Social Welfare, there has so far not been a case involving domestic helpers from the Philippines drawing Comprehensive Social Security Assistance (formerly known as public assistance) while awaiting adjudication of the Labour Tribunal.

Solvent Abuse Among Teenagers

19. MR FUNG CHI-WOOD asked (in Chinese): *It is reported that thinner sniffing among teenagers has become a serious problem in recent years. In this connection, will the Government inform this Council:*

- (a) *whether the problem of thinner sniffing among teenagers in Tai Po has deteriorated; if so, what are the causes leading to such a situation;*
- (b) *what measures will be taken by various government departments, including the Police, the Education Department and the Social Welfare Department, to tackle the situation; and*
- (c) *whether the Government will consider deploying one additional outreaching social work team to serve in the Tai Po district to help resolve this difficult problem?*

SECRETARY FOR SECURITY: Mr President,

- (a) No cases related to thinner sniffing among teenagers have been reported to the police in Tai Po Police. We are aware that some social workers in Tai Po have come across individual cases of thinner sniffing, but information on the extent and trend of the problem in Tai Po is limited. Reports to the Central Registry of Drug Abuse indicate that the number of young people involved in solvent abuse remains small in Hong Kong. In 1992 there were 27 reports throughout Hong Kong involving people under 21; in 1993 there were 20, and in the first half of 1994 there were 15. As for the causes of drug abuse by young persons, surveys have shown that curiosity and peer pressure are the two major factors.
- (b) The principal measure to reduce solvent abuse is publicity and preventive education directed against substance abuse in general. Solvents are covered in the regular talks given by the Narcotics

Division to secondary school students and featured in their educational booklet, leaflet and poster.

The police pay close attention to the involvement of young people in substance abuse, and encourage information and reports on the problem from residents in Tai Po. The police are available to the community to discuss juvenile drug abuse; last November, the police addressed the Tai Po District Fight Crime Committee and 27 local headmasters on the problem of juvenile drug abuse in Tai Po and the territory as a whole.

The Education Department issued "Guidelines on the Handling of Drug Abuse in Secondary Schools" to all secondary schools in June this year. The guidelines cover signs which indicate drug addiction, preventive measures and ways to deal with the problem on school premises, and resources/support to which schools could turn for expert advice. Schools are advised to implement drug education for their students through the teaching of various school subjects such as Social Studies, Economic and Public Affairs, Religious Studies, Human Biology, Chemistry and Liberal Studies at the secondary level and Health Education at the primary level. Relevant topics will also be included in the syllabus of General Studies, a subject to be implemented in primary schools by 1996. The Department has organized training courses for secondary school teachers and discipline teachers to equip them with the knowledge, teaching skills and strategies essential for the implementation of drug education at school. Pamphlets are also produced for parents of all school-aged children to promote good parenting and communication between parents and their children.

The Social Welfare Department undertakes a number of measures to address the problem: to arouse parents' attention and seek their support in the prevention of drug abuse among young people by widening the circulation of the parent's guide and other promotional leaflets and producing a video film on "Parental Support in Handling Drug Problems"; to strengthen contacts at the local level between the District Fight Crime Committee, schools, children and youth centres, and outreaching social work teams to combat the problem; and to organize in-depth training programmes for frontline social workers.

- (c) An outreaching social work team was set up in the Tai Po District in June 1993. The target provision of a total of 30 outreaching social work teams as set out in the Social Welfare White Paper 1991 has been achieved. The need for further expansion of the service is being examined by a steering group.

PRESIDENT: The Secretary for Transport has a statement to make.

STATEMENT

Railway Development Strategy

SECRETARY FOR TRANSPORT: Mr President, over the past several months considerable interest has been expressed both within and outside this Council regarding the proposed railway in the Northwest New Territories and other rail projects. I am pleased to announce the publication of the Railway Development Strategy today. Copies of the Strategy document have already been distributed to Honourable Members.

The Strategy provides a blueprint for the future development of the railway system in Hong Kong. In essence, it identifies three priorities:

- (a) first, the Western Corridor Railway. This will be a new rail corridor through the northwestern part of the territory. It will accommodate three services largely sharing the same tracks, namely, a freight line from Lo Wu to the Kwai Chung Container Port; a cross-border passenger service from Lo Wu, and possibly Lok Ma Chau, to a new terminus on the West Kowloon Reclamation; and a domestic passenger service from Tuen Mun North via Tin Shui Wai and Yuen Long to the same terminus in West Kowloon;
- (b) second, an extension of the Mass Transit Railway (MTR) system from Lam Tin to Tseung Kwan O to meet the population build-up of 250 000 by the end of the decade. Its construction will help stimulate land development within the new town and will greatly improve transport services for residents; and
- (c) third, a new rail-link from Ma On Shan to Tai Wai to join the existing Kowloon-Canton Railway (KCR) system and with an extension of the KCR line underground from Hung Hom to Tsim Sha Tsui. This is, comparatively, a new proposal and, as such, will require further in-depth investigations and a decision on which agency should be invited to construct this line.

The Administration will invite the KCRC and the MTRC to submit proposals to build the Western Corridor Railway and the MTR Tseung Kwan O Extension respectively. New railway systems inevitably require a long lead time for implementation. In-depth engineering and financial studies have to be undertaken and the actual alignments firmed up before construction can start. The target completion date for all three of these priority projects is 2001.

At this juncture may I make some observations:

- (a) The Administration has very carefully considered the suggestion that the proposed Northwestern Line be extended to Tuen Mun Town Centre. This in our view is not feasible at the present time because of the substantial additional costs (estimated at between \$3 billion to \$4 billion at 1994 prices) and also because of the current land and environmental constraints.
- (b) In recent weeks there has been considerable press speculation that our Western Corridor Railway proposals do not match railway plans on the Chinese side of the border. Such comment is misplaced. Our proposals envisage that Lo Wu will remain the main crossing point for both passengers and freight. The proposed loop to Lok Ma Chau would simply lead to an alternative terminal for passengers only. But clearly, discussion with the Chinese side is essential to reach mutual understanding and agreement on crossing points. This is precisely the kind of detail that will need to be discussed, and views exchanged, at the newly established Infrastructure Co-ordinating Committee.

The Strategy also identifies a number of other railways in the longer term, the timing for which will be dependent on future land reclamation and development plans. For example, on Hong Kong Island the Strategy encompasses a number of schemes including an eastwest rail link on the future Central and Wan Chai Reclamation from Central to Tin Hau, and an MTR extension from Sheung Wan to Green Island. And finally, the Strategy also envisages much longer-term options such as an "Outer" Western Corridor linking Green Island, Lantau and Tuen Mun, and a freight rail-link to the Lantau Container Port.

The implementation of the three priority railway systems identified in the Strategy will straddle 1997 and most of the expenditure will be incurred thereafter. We have therefore briefed the Chinese side of the Joint Liaison Group.

Mr President, it is my belief that our Railway Development Strategy will contribute greatly towards improving our overall transportation network, relieving road congestion, supporting further development of land in the New Territories and assisting in Hong Kong's further economic growth. Thank you, Mr President.

PRESIDENT: At my discretion, short questions may be put for the purpose of elucidating the statement.

MR LEE WING TAT (in Cantonese): *Mr President, when explaining the Railway Development Strategy, the Secretary for Transport mentioned that the Northwest Railway would not be extended to terminate in Tuen Mun Town Centre on the grounds that the construction cost of \$3 billion to \$4 billion for this section was too high. Would the Secretary please clarify the percentage of costs for this extension against the overall construction costs of the Northwest Railway? At the same time, is the Government under severe financial constraint such that no funding is available for the construction of this extension?*

SECRETARY FOR TRANSPORT: Mr President, the MOD costs for the Western Corridor are given in Table 1 of the document and it is estimated to be in the region of between \$45 billion and \$53 billion. So in terms of the additional extension, if one is provided to Tuen Mun Town Centre, the order of costs would be about 10% or thereabouts. It is not a question of whether or not money is available now, in itself, because certainly our intention is, as I have said, to invite the KCRC to build this Corridor, therefore no government money is anticipated at this stage per se.

Having said that, there are also, as I have said, environmental and land constraints. A suitable site is simply not readily available in Tuen Mun Town Centre at this point in time. It should also be remembered, Mr President, that this does not mean that there will be no connection to Tuen Mun Town Centre. The Light Rail Transit will provide a connection and even with this, we anticipate that the journey time from Tuen Mun town centre to Tsim Sha Tsui would be about 50 minutes and I do not think that is unreasonable.

PRESIDENT: Mrs Miriam LAU, short questions.

MRS MIRIAM LAU asked (in Cantonese): *Mr President, as the Secretary for Transport has just mentioned, railway construction would take time. As the costs of the project will largely be paid after 1997, the Chinese side has to be consulted through the Sino-British Joint Liaison Group. It is estimated that the three projects, if given priority in handling now, will be completed by the year 2001. On the basis of this schedule, by what time should the Sino-British Joint Liaison Group make a "kick off" in order that the three projects can progress according to this schedule?*

SECRETARY FOR TRANSPORT: Mr President, we have kept the Chinese side informed throughout our development of the Strategy. In the days of the Study we provided the documentation to the Chinese side, and now that we have got the Strategy document this has also been provided. The Strategy is a planning document — it is a strategy. Until such time as we have firmed up the actual costs and the implementation details, we will not need to consult the Chinese side further.

MR TIK CHI YUEN (in Cantonese): *The Secretary for Transport has mentioned that the MTRC and KCRC will be invited to participate in three of the priority projects. I believe these railway corporations will also be responsible for the bulk of the construction costs. May I ask if these two corporations will transfer their construction costs to the existing fares? In other words, will the existing passengers be required to contribute towards some of the construction costs?*

SECRETARY FOR TRANSPORT: Mr President, we will have to await the actual proposals from the two railway corporations, but I certainly do not expect existing passengers on the existing lines to have to contribute towards the cost of these new projects. For example, the Airport Railway is being funded separately — the existing commuters on the MTR system do not have to contribute towards that system and the same approach will be adopted.

MR WONG WAI-YIN asked (in Cantonese): *Mr President, the Secretary for Transport has just mentioned that the Government sees the need for the construction of a passenger line close to the rural area in northwestern New Territories extending the Northwest Railway from the north of Tuen Mun to the Tuen Mun Town Centre. However, it would not be economically feasible to carry out the construction now as the Government would have to fork out an extra \$3 billion to \$4 billion to build this extension. Would the Secretary clarify here whether the cost of \$3 billion to \$4 billion is still based on the method of calculation originally adopted by the Government on the assumption that this section would be built by way of tunnelling? If our proposal is adopted, that is, if a cover is laid on top of the section of the Tuen Mun River next to Siu Hong Court in northern Tuen Mun to route the railway straight to the Tuen Mun Town Centre, then the tunnelling problem can be solved and the distance can be shortened as well. Would the Secretary say that if the calculation was based on this method the cost would be substantially reduced? This would be cost-effective and it would be possible to extend the line to the Tuen Mun Town Centre.*

SECRETARY FOR TRANSPORT: Mr President, I must stress that it is not simply a question of cost. To answer the Honourable Member's question, if there is to be a connection and if it is to be overland, then the estimate could well be slightly lower, in the region of \$2 billion. If there has to be tunnelling it would be in the region of \$3 billion to \$4 billion. But having said that, I stress that there are environmental and land considerations. At present, the site simply is not there. There is no convenient site.

PRESIDENT: I will permit two more questions.

MR FREDERICK FUNG (in Cantonese): *Mr President, I still want to raise a question concerning the North-west Railway. I remember that during the consultation period, it was suggested that if the passed through Tuen Mun town Centre, or even extended to the Butterfly Beach, it could ease the traffic of those Tuen Mun residents travelling to and from Central and possibly, if the Tuen Mun Zhuhai Bridge really came into being, it could serve as a traffic link between China and Hong Kong. May I ask if the Secretary for Transport has considered these merits when he made the decision, and if not, why did he not accept these suggestions?*

SECRETARY FOR TRANSPORT: Mr President, I have explained the Administration's position as to why we do not propose to provide a connection to Tuen Mun Town Centre immediately. But in the Strategy document, the possibility of providing such a connection has been mentioned and has been included and it will be the subject of further studies in the coming years; we will continue to review the position.

DR YEUNG SUM (in Cantonese): *Mr President, I am glad to learn from this document that a railway will finally be constructed in Island West. The Mass Transit Railway (MTR) will extend from Sheung Wan to Kennedy Town or even westward to Green Island. This is the first time I have learnt about this programme despite our repeated requests. However, the programme is in Group B which means that there is no urgency of implementing the same. Will the Secretary for Transport inform this Council the approximate time for the MTR western extension programme to commence? It is because since there is no commitment, it seems that the programme will be left to the indefinite future.*

SECRETARY FOR TRANSPORT: Mr President, there is no timeframe as yet. The provision of such a line would depend on a number of factors including the reclamation of the sites, but I am afraid there is simply no timeframe. The Honourable Member is right, it is in Group B and this is a possible extension that we will examine and review periodically.

MOTION

RADIATION ORDINANCE

THE SECRETARY FOR HEALTH AND WELFARE moved the following motion:

"That the following Regulations, made by the Radiation Board on 24 August 1994, be approved -

- (a) Radiation (Control of Radioactive Substances) (Amendment) Regulation 1994; and
- (b) Radiation (Control of Irradiating Apparatus) (Amendment) Regulation 1994."

She said: Mr President, I move that the Radiation (Control of Radioactive Substances) (Amendment) Regulation 1994 and the Radiation (Control of Irradiating Apparatus) (Amendment) Regulation 1994 as set out under my name in the paper circulated to Members be approved.

Various fees for licences and certificates are prescribed in Regulations made under the Radiation Ordinance.

It is government policy that fees should in general be set at levels sufficient to recover the full costs of providing the services. The fees described above were last set in 1989. To take into account the increase in costs and inflation since then, the fees should now be increased.

The Radiation (Control of Radioactive Substances) (Amendment) Regulation 1994 seeks to increase the fee payable in respect of the grant or renewal of a licence for any radioactive substance and the fee payable for the issue of a certified copy of a certificate of medical examination enabling one to handle or transport unsealed radioactive substances. The Radiation (Control of Irradiating Apparatus) (Amendment) Regulation 1994 seeks to increase the fees payable for a certified copy of a certificate of medical examination for proof of fitness to engage in radiation work and on the grant or renewal of licences for an irradiating apparatus.

The revised fees represent an insignificant percentage of the total operating costs of the trade. The impact of the fee revision on consumers should be negligible. The Radiation Board, the licensing authority in respect of radioactive substances and irradiating apparatus set up under section 3 of the Radiation Ordinance, have been consulted and support the Amendment Regulations.

A subcommittee set up under the chairmanship of Dr the Honourable LEONG Che-hung has scrutinized the Amendment Regulations and I am grateful for Members' various comments. I am particularly grateful for the Chairman's suggestion that the charging system in respect of irradiating apparatus should reflect the number of pieces of equipment within each premises inspected. I can assure you that the Director of Health will recommend to the Radiation Board that it adopts a charging system in the next costing exercise based on the principle of equity, taking into consideration the number of pieces of equipment involved and the time taken to inspect them.

With these remarks, I move the motion.

Question on the motion proposed.

DR LEONG CHE-HUNG: Thank you, Mr President. I rise to speak on the Radiation (Control of Irradiating Apparatus) (Amendment) Regulation 1994 under the Radiation Ordinance as moved by the Secretary for Health and Welfare.

The motion, which seeks to increase the various fees relating to the grant or renewal of the licences for an irradiating apparatus and for a certified copy of a certificate of medical examination, has been examined by a subcommittee of this Council.

The subcommittee is particularly concerned with the licence fee charging system for the possession of an irradiating apparatus. Under the existing system, the same fee is levied for the possession of irradiating apparatus irrespective of the number of radiation machines within the premises. The subcommittee considers this to be at variance with the cost-recovery principle adopted by the Government. As the amount of inspection time should be directly linked to the number of machines under inspection, the subcommittee feels that the level of licensing fee should be pegged to the number of machines.

The particular concern has been brought to the attention of the Administration in 1992. Whilst the Administration then acknowledged this irregularity and promised to take this into consideration when the next costing exercise was conducted, regrettably there was no evidence that the above concern was taken into account in the motion put forward to this Council today.

Figures from the Administration have shown that 93.2% of the total of 1 210 irradiating apparatus licences are issued to premises with only one to two apparatuses, while the remaining 6.8% of the licences for 513 pieces of apparatus are issued mainly to industrial premises, dental clinics and private hospitals. But this 6.8% of the licences are for 513 pieces of apparatus which, we believe, make up a significant portion of the total machines. The subcommittee considers that the fee charging arrangement is thus unfair to the great majority of owners and operators of the irradiating apparatus. The subcommittee therefore requests the Administration to revise the charging system on the basis of equity. The Administration has finally agreed and has undertaken to adopt a charging system, in its next costing exercise, according to the principle of equity. This move though late, that is, licence holders will still have to face the problem of inequality for a few more years, is considered by the subcommittee a reasonable compromise.

The Administration has further clarified that under the new licensing policy adopted by the Radiation Board since August 1994, an owner-cum-

operator of an irradiating apparatus is required to hold only one licence for possessing and operating the apparatus.

The subcommittee has also questioned that need for a licence to possess irradiating apparatus pending consideration of an application for a licence to operate such apparatus. The Administration has explained that a licence to possess is issued on a provisional basis to cover the period from when the apparatus is required to the time when a full licence might be issued. This is necessary on the grounds of radiation safety since a leakage of radiation might occur during installation or prior to the acceptance test.

I would like to take this opportunity to thank my honourable colleagues, Mr Michael HO and Dr LAM Kui-chun, for their time and effort and the Administration for its co-operation in the deliberation of this motion.

With the firm commitment from the Administration, Mr President, I support the motion.

Question on the motion put and agreed to.

BILLS

First Reading of Bills

INTERNATIONALLY PROTECTED PERSONS AND TAKING OF HOSTAGES BILL

INDUSTRIAL TRAINING (CLOTHING INDUSTRY) (AMENDMENT) (NO. 2) BILL 1994

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

Second Reading of Bills

INTERNATIONALLY PROTECTED PERSONS AND TAKING OF HOSTAGES BILL

THE SECRETARY FOR SECURITY moved the Second Reading of: "A Bill to provide for the implementation of both the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents and the International Convention against the Taking of Hostages; and for related matters."

He said: Mr President, I move that the Internationally Protected Persons and Taking of Hostages Bill be read a Second time. This Bill seeks to localize two United Kingdom Orders in Council which now apply to Hong Kong, and which implement provisions of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents and the International Convention Against the Taking of Hostages. The enactment of this Bill will enable Hong Kong to continue to implement after 30 June 1997 these important measures against terrorism. The continued application of the Conventions after the transfer of sovereignty, and the introduction of the legislation, have been agreed in the Joint Liaison Group. Thank you, Mr President.

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

INDUSTRIAL TRAINING (CLOTHING INDUSTRY) (AMENDMENT) (NO. 2) BILL 1994

THE SECRETARY FOR TRADE AND INDUSTRY moved the Second Reading of: "A Bill to amend the Industrial Training (Clothing Industry) Ordinance."

She said: Mr President, I move that the Industrial Training (Clothing Industry) (Amendment) (No. 2) Bill be read the Second time.

The purpose of this Bill is to enable Hong Kong to seek accession in its own right to the Convention on Temporary Admission agreed at Istanbul in 1990, which is commonly known as "the Istanbul Convention".

The Istanbul Convention is a customs convention adopted by the Customs Co-operation Council. It aims to facilitate the temporary admission of goods by exempting them from import taxes and duties. It also provides for the use of international customs papers called carnets as substitutes for official customs papers issued by individual contracting parties to the Convention.

The Istanbul Convention seeks to consolidate a number of pre-existing customs conventions on the temporary admission of goods, some of which are currently applicable to Hong Kong. It is important for Hong Kong to seek accession to the Istanbul Convention in order to enable Hong Kong to continue to participate actively in the deliberations of the Customs Co-operation Council in harmonizing and developing customs procedures and fostering co-operation among customs territories.

The Bill contains only two clauses.

The first clause provides that the Bill should come into operation on a day to be appointed by the Secretary for Trade and Industry. The commencement date will be synchronized with Hong Kong's accession to the Convention.

The second clause seeks to exempt clothing items exported with a carnet issued under the Istanbul Convention from the payment of training levy required under the Industrial Training (Clothing Industry) Ordinance. At present, clothing items exported with carnets issued under the Customs Convention on the ATA Carnet for the Temporary Admission of Goods are already exempted from such training levies. Since the Convention is one of the customs conventions currently applicable to Hong Kong and which the Istanbul Convention seeks to consolidate, it is important to ensure that equal treatment be given to goods for temporary admission under either Convention.

Thank you, Mr President.

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

EMPLOYMENT (AMENDMENT) BILL 1994

Resumption of debate on Second Reading which was moved on 23 November 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).

EMPLOYEES RETRAINING (AMENDMENT) BILL 1994

Resumption of debate on Second Reading which was moved on 23 November 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).

CORRUPT AND ILLEGAL PRACTICES (AMENDMENT) (NO. 2) BILL 1994

Resumption of debate on Second Reading which was moved on 16 November 1994

Question on Second Reading proposed.

MR RONALD ARCULLI: Mr President, the Corrupt and Illegal Practices Ordinance aims at preventing such practices at elections. This Bill now seeks to extend the Ordinance to elections to the Executive Committee and the office of Chairman and Vice-Chairman of Rural Committees.

In studying this Bill, Members have expressed concern that it has not made provisions to regulate the concepts of election agents or for a mechanism for election petitions.

On the question of election agent, the Bills Committee has noted the Administration's explanation that the definition of "election agent" is applicable exclusively to elections to district boards, Municipal Councils and the Legislative Council, which are regulated by their respective statute. Because Rural Committee elections are not covered by statute, it is technically difficult to provide for election agent in any existing law. Moreover, existing provisions in the Ordinance already enable persons acting on behalf of Rural Committee election candidates to be dealt with where misuse of donation or false claim of support for candidates are alleged.

As regards making provisions for "election petition", Members consider that this is part and parcel of a fair and proper election mechanism. Although Rural Committees may provide for election appeal or review in their internal rules or constitutions, these are less formal and may not offer the same kind of remedies as in election petitions. For instance, if an unsuccessful candidate finds that he has lost in the election by unfair means as opposed to corrupt or illegal means, whether he could take the matter to court by way of "election petition" is doubtful.

We are, however, receptive to the Administration's views that this exercise should not seek now to provide for election petitions because —

- (i) the mechanism for election petition exists only in Ordinances governing elections to the formal three-tier public elections;
- (ii) the size of the Rural Committee electorate is extremely small (13 out of the 27 Rural Committees have a membership of under 25 and only six have more than 50 members);
- (iii) depending on the particular circumstances in each case, remedies are available at Common Law or by way of judicial review for persons who feel aggrieved;
- (iv) the absence of provisions for election petitions for the time being should not compromise the principle of fair and open Rural Committee elections; and

- (v) the Administration has undertaken to actively consult the Heung Yee Kuk and the Rural Committees with a view to establishing in time, a statutory framework of election petition for Rural Committee elections.

Turning now, Mr President, to the draft Maximum Scale of Election Expenses (Rural Committees) Order 1994 which accompanies this Bill and which the Governor in Council has approved in principle, the Bills Committee unanimously considers that the proposed ceiling of \$10,000 should be increased to \$30,000 to keep it in proportion to those for other public body elections. Moreover, the opportunity should also be taken to appropriately adjust the level in respect of the Heung Yee Kuk election which is also subject to the ceiling of \$10,000

I am pleased to say that the Administration is prepared to accept our suggestion and is seeking the views of the Heung Yee Kuk. Subject to the Kuk's advice, action will be taken to adjust the election expenses ceiling accordingly.

Members of the Bills Committee generally accept that the Bill represents a step forward in improving the mechanism for Rural Committee elections. As the legal and drafting aspects of the Bill are in order, the Bills Committee supports it intact.

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

DR YEUNG SUM (in Cantonese): The Government has all along considered rural elections under the Heung Yee Kuk as private business and has not intervened with them. Now that the Government has introduced the Corrupt and Illegal Practice (Amendment) Bill, we shall give the Bill our full support. However, since the legislation shall apply to Rural Committee elections, will the Government discuss with the Heung Yee Kuk so that the system of one man, one vote can be adopted in the election of village chiefs of all villages as soon as possible? Although I know that some villages have already adopted this system.

SECRETARY FOR HOME AFFAIRS: Mr President, I would like to thank Mr ARCULLI, the Convenor of the Bills Committee which studied the Corrupt and Illegal Practices (Amendment) (No. 2) Bill 1994, and other Members of the Committee for their careful scrutiny and support of the proposed legislation. As I said, when introducing the Bill to this Council a month ago, the main objective of the Bill is to extend the provisions of the Corrupt and Illegal Practices Ordinance to Rural Committee elections. Members generally agreed that the Bill is a step forward in ensuring that Rural Committee elections, which have indirect constitutional links with the three tiers of representative government, are fair and open.

In supporting the Bill, Members have raised two specific points. The first point concerns the need to devise an election petition mechanism similar to that currently in place for popular elections for Rural Committee elections. The second point relates to a suggestion to raise the maximum scale of election expenses for Rural Committee elections from the originally proposed \$10,000 to \$30,000.

On the first point, I agree with Honourable Members that the provision for election petition is desirable for Rural Committee elections. We have not proposed to introduce the mechanism at this stage because election petition is provided for elsewhere in our electoral legislation. It is not a concept created by the Corrupt and Illegal Practices Ordinance but one to which the Ordinance refers and utilizes. It is a special judicial process whereby the validity of an election may be questioned. The existing election petition jurisdiction of the courts applies only to elections for the three-tier representative government structure. It involves an elaborate process of petitioning to the High Court by 10 or more electors entitled to vote at the election, or by a person claiming to have been a candidate in the election. The grounds upon which a challenge may be mounted are statutorily defined. It would be disproportionate and inappropriate to employ the same election petition mechanism for Rural Committee elections where the size of the electorate is extremely small.

However, in response to an Honourable Member's request, we will examine the provision of a statutory framework of election petition mechanism suitable to the special circumstances of Rural Committee elections as soon as possible in consultation with the Heung Yee Kuk and the Rural Committees. In the meantime, I wish to reassure Honourable Members that despite the absence of a statutory election petition mechanism, remedies do exist under the general law which would enable irregularities in the context of Rural Committee elections to be challenged by legal action. The role of the returning officer, who will be a public officer, is subject to judicial review. The conduct of Rural Committees may also be susceptible to control by the courts. In any event, members of these bodies can enforce a rule of their own associations as matters of contract law. Furthermore, under the Bill, all the general offence provision of bribery, cheating, election publicity and offences in relation to nomination and ballot paper will be extended to Rural Committee elections. Offences under these provisions are subject to prosecution by the Independent Commission Against Corruption or the police.

As regards the second point which relates to the Maximum Scale of Election Expenses (Rural Committees) Order 1994, we have no objection to Honourable Members' views that the ceiling should be raised to \$30,000. The Heung Yee Kuk has been consulted on the revised ceiling and has given its support. Therefore the revised ceiling of \$30,000 will be proposed when the Election Expenses Order is referred back to the Executive Council.

Mr President, 25 Rural Committees will be conducting their elections early next year. With the passage of the Bill today, I am pleased to say that all these elections, the first of which will be held in early January 1995, will be covered by the Corrupt and Illegal Practices Ordinance. This is a move welcomed by both the rural sector and the community at large.

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

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

Bill read the Second time.

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

SEWAGE SERVICES BILL

Resumption of debate on Second Reading which was moved on 6 July 1994

Question on Second Reading proposed.

MR RONALD ARCULLI: Mr President, the Sewage Services Bill seeks to create a legal framework for the imposition of sewage charges and trade effluent surcharges on the sewage services users. At present, the Government is bearing the full cost of sewage services, including both capital cost and operational cost. In order to tackle the problem of sewage and industrial waste water, the Government has embarked on a comprehensive sewage treatment programme. The charging proposals to be made under the Bill are to recover from public users the operating costs of sewage services and in this regard the Government will continue to meet the capital costs in full.

The Bill was introduced into this Council on 6 July 1994. A Bills Committee of 12 members was formed and commenced scrutiny of the Bill on 15 July this year. The Committee met seven times including six meetings with the Administration. The Committee scrutinized also the draft regulations to be made under the Bill and the draft technical memorandum, and considered a proposal from the Democratic Party and the contents of the Hong Kong Environmental Law Association.

The Bills Committee supported the "polluter pays" principle on which the charging schemes had been drawn up. The Committee noted that the Administration had consulted the trade and industry organizations on the charging proposals and had gained their support in this regard. As far as the operating costs of the sewage programme were concerned, the Committee noted that the Administration would keep them to a minimum. Members of the Bills

Committee, however, had raised several questions with the Administration during the course of the scrutiny of the Bill.

Firstly some Members questioned the proposal to start charging before the commissioning of the High Priority Programme. The Administration explained that the sewage charges would recover only operating costs of on-going services. The capital costs of the new programmes, including the High Priority Programme, would be fully funded by the Government. The Administration also explained that other than the High Priority Programme, there were many other sewage projects being built under the Public Works Programme which would also bring about improvement in water quality. These new facilities are being commissioned in phases. Nevertheless, the Bills Committee had an assurance from the Administration that it would not commence the Bill if the High Priority Programme did not proceed. My understanding is that the Secretary for Planning, Environment and Lands will confirm such an undertaking later when he speaks.

Secondly, Members of the Bills Committee were not satisfied with the original proposed charging formula because it was estimated that about 14% of households would be paying sewage charges higher than their water bills. The formula consisted of a fixed charge and a variable cost of 70 cents per cu m of potable water supplied, with exemption for the low-user households using 13 cu m of potable water or less in a four month billing period.

Members opined that in order to promote the objective of conservation of water, the proportion of fixed charge in relation to variable charge should be reduced. The Administration then worked out several revised charging schemes for the Bills Committee to consider. After studying the various revised proposals, the majority of Members of the Bills Committee were inclined to feel that the complete variable charging scheme would represent an equitable and a viable option. This revised scheme proposed a uniform rate of \$1.20 per cu m of potable water supplied for all users category, with exemptions being allowed for all households in respect of the first 13 cu m of potable water supplied over a four-month billing period. The Administration was agreeable to its implementation. It will move amendments to clause 3(1) to remove the fixed charge component in the Committee stage later. The Administration also gave an assurance that the Legislative Council would be consulted on any future charge increase before this was ordered by the Governor in Council. My understanding is that the Secretary for Planning, Environment and Lands will confirm such an undertaking later when he speaks.

The Democratic Party, on the other hand, had a different view on the charging proposals for households. It submitted, amongst other things, that the exemption threshold for households should be set at the estimated average amount of water consumed by a household. The Democratic Party opined that this would enable the public to accept the scheme more willingly, as it would be the first scheme introduced to Hong Kong in respect of which the Government was charging people on the basis of "polluter pays" principle. The Party will

move Committee stage amendments accordingly to recommend that households which consume less than the average amount of water consumed per household in Hong Kong, will be exempted from sewage charges.

The third issue, Mr President, discussed with the Administration was the depreciation rate of new operational assets in this sewerage infrastructure. The Administration has undertaken a review on the subject and agreed that only those new assets which had a finite life and needed replacement would be subject to depreciation at a weighted average rate of 2% per annum. Members of the Bills Committee noted that as a result of this change in policy by the Administration the recurrent depreciation charge would be substantially reduced.

To address the fourth concern of the Bills Committee, the Administration accepted that the rates of the Comprehensive Social Security Assistance Scheme should be suitably adjusted to cover sewage charge in order that needy families would not face financial difficulties. The Secretary for Planning, Environment and Lands will speak about this later.

The other issues which the Bills Committee discussed with the Administration included (a) a separate means to measure and charge flushing water to be worked out by the Administration in future; and (b) the Administration to move a Committee stage amendment to require the Drainage Authority to seek the consent of the occupier before entering domestic premises.

Lastly, the Bills Committee agreed to the moving of some consequential textual and technical amendments by the Administration.

Mr President, with these remarks and subject to the Committee stage amendments, I commend the Sewage Services Bill to Honourable Members.

MR PETER WONG: Mr President, the Honourable Ronald ARCULLI has given a fair report on the deliberations of the Bills Committee which studied the Sewage Services Bill, and the Liberal Party subscribes to the majority opinion that the "polluter pays" principle is the right way forward to deal with Hong Kong's environmental pollution.

Our support of the method of sewage charging is not unqualified. It has been difficult to accept that we have to start paying sewage charges when Phase I of the Strategic Sewage Disposal Scheme has barely started, and secondary treatment is only available in a few places which do not include the Victoria Harbour. However, we support the Bill mainly because the High Priority Programme, which updated the drains around the harbour and re-directed the previous faulty connections of discharges into stormwater drains back into the foul water sewers, are beginning to have a beneficial effect.

Of greater concern is the reluctance of the Environmental Protection Department to admit that the long oceanic outfall is outdated and is a most unfriendly process of dumping waste into our neighbour's backyard. This bigotry has escalated into the present arguments over whether Phase I is compatible with Phase II, and promises to produce protracted arguments in the Joint Liaison Group. We have been told by at least one world-renowned engineering concern that we can have biological sewage treatment facilities at about the same capital cost as the chemical treatment method, although the operating costs will be higher. I put it strongly that, for the good of future generations, it is a price that we cannot afford not to pay.

Let me now turn to the charging scheme. The Government has at last agreed to a charging scheme that is entirely proportional to the usage of water and the amount of waste water discharged that has to be treated. I urge that the Administration give recognition to modern industrial technology in the sewage charges levied on those industrialists who can show that their effluent is consistently below domestic sewage strength and reduce their charges so there is incentive to keep the higher standard treatment works going. Further, our domestic waste is actually higher since salt and fresh water for flushing is not charged because there is a lack of metering. We have been promised by the Branch that as and when this shortcoming is remedied, they will consider charges for flushing water based on the amount of pollution that we produce.

Mr President, of course nobody likes to pay for new services, especially when we thought we were already getting the service free. The Government has to make up for past neglect and explain to Hong Kong people why each of us must pay for properly treating our own sewage. It would appear that the Democratic Party has either given up trying to explain what is right or, for obvious political reasons, is proposing to hand to their party faithfuls, coming from the low water usage group, a free ride. I am indeed surprised how professed environmentalists can come up with such a proposal that blatantly violates the "polluter pays" principle.

Mr President, it is only right that everyone who can afford to do so should pay their share to solve our pollution problems. In a survey conducted by Green Power early in November, 85% of the respondents who supported the biological treatment method agreed to pay between \$10 to \$30 for sewage disposal, which is in line with the proposed charges. I supported the original principle of exempting those who used less than 13 cu m per quarter, since these people were the least well off and already had their water charges exempted. I have more trouble accepting the generosity of exempting the first 13 cu m for all households, but saw the practical need for it since we do have the problem of how to charge the marginal users just above 13 cu m. But to exempt all water users of below average consumption is only a gesture, handy to shift the burden of paying to the rich and to the business. But it is totally devoid of logic and goes outright against the "polluter pays" principle. I would urge all right-thinking colleagues to look through the Democratic Party's amendments and reject them.

Mr President, I support the Government's Committee stage amendments and that the Sewage Services Bill be read the Second time.

REV FUNG CHI-WOOD (in Cantonese): Mr President, in the *White Paper: Pollution in Hong Kong — A time to act* published by the Government in 1989, it was stated that the Government would implement the Strategic Sewage Disposal Scheme (SSDS) for the treatment of sewage in Hong Kong. There was no plan then to raise funds from the public to build the project, nor was there a proposal to impose sewage charges. However, in 1991, the Government revealed to the Environmental Affairs Committee that the capital costs had to be met by funds raised from the public, and it was estimated that each household would have to pay approximately \$40 per month. Subsequently, as it was anticipated that this would be strongly opposed by the public, the charging proposal was revised so that only the operating costs of the sewage disposal scheme would be recovered, and the capital costs was to be fully borne by the Government.

The present charging proposal of the Government is such that 100% operating costs will be recovered from the public and the industrial sector. It is in keeping with the polluter pays principle. This is because, if we are to recover the full operating costs, people will have to pay the full expenses of the service. Since the industrial sector consists of profit-making organizations, it is only right that they should pay the full expenses, otherwise, both the Government and the taxpayers would have to subsidize their profit-making activities. However, in respect of the public, the Government has the obligation to provide them with services concerning basic necessities, and the public may not be required to pay the full costs of such services. For example, it is not necessary for the public to pay the full costs of medical and educational services. It follows that the public may not be required to pay the full costs in respect of sewage services. The Democratic Party is concerned about the reaction of the public to the Government's charging proposal and it is feared that the proposal would lead to public resistance. For this reason, we are of the view that, at the initial stage, charging should be modest, taking into consideration, of course, whether it would be financially viable for the Government.

The Democratic Party is proposing a couple of amendments to the Government's charging scheme. Firstly, the fixed charge of \$7 per month for each household is to be removed; secondly, the exemption threshold of 13 cu m of potable water supplied to each household over a four-month period be raised to the current average consumption of each household, which is about 36 cu m over a four-month period. The reason for the first amendment is that if a fixed charge of \$7 per month is to be levied on each household, each household will have to pay \$7 per month, or \$28 over four months. Then when we calculate the charges on the basis of water consumption, some households simply would not have consumed water amounting to a charge of \$28 over four months. For this reason, it could result in a large number of households having to pay sewage charges higher than the water charges they would have to pay originally.

According to the Government's data, over 200 000 households as cited in the Government's proposal are in such a situation. It would of course be hardly acceptable. In the committee meetings to scrutinize this Bill, I asked the Government to remove the fixed charge. Some other Members also agreed to this. As a result, the Government compromised and removed the fixed charge, though with reluctance. But the Government did not want to have less revenue as a result of it. So it raised the rate for of sewage charge from the original \$0.7 for each cu m of potable water supplied to \$1.2. The Democratic Party is of the view that the rate should be maintained at \$0.7. When the Sewage Services Regulations is submitted to this Council in due course, the Democratic Party will propose an amendment in respect to this.

The second amendment is that the exemption threshold of 13 cu m of water supplied to a household over four months is to be increased to the average water consumption per household, which is approximately 36 cu m. As I have said just now, pollution inevitably arises from the basic living activities of the public. The public could well be asked to pay a treatment charge higher than what the pollution arising from their basic living activities would have warranted. But it would be difficult to quantify the amount of sewage which basic living generates. Therefore, a simple method would be to take the average sewage discharge of the public. In this way, we can exempt some households from paying the sewage charge for the first 36 cu m of water they consume, as this can be seen as their basic necessities. If the water consumption of some households is higher than the average, then they can be regarded as producing more pollution than the average and will therefore be required to pay sewage charges.

It has been pointed out that this proposal would benefit well-off families. Unfortunately, the Government does not have any statistics to support the assertion that the average number of persons per household for well-off families is less. If we refer to the census statistics of 1991, we can see that, as far as small-sized families are concerned, the number of well-off ones is more or less the same as the poorer ones. As far as larger families are concerned, for example, a six-person family, the figures show that higher income earning ones and lower income earning ones are also more or less the same in number. On the other hand, I believe that the water consumption per head for the better-off is higher than the average citizen. Therefore, if the number of household members is the same, the better-off households would consume more water than the poorer ones. Besides, both the better-off and the worse-off would benefit from the exemption threshold of 36 cu m in respect of sewage charges. If the benefit is the same, the worse-off would find it relatively more helpful to them. What we ought to note is that there is an aspect of similarity between sewage charges and indirect tax, which is that the same amount of charges is applicable to people irrespective of whether they are better-off or worse-off, or whether their incomes are high or low. Therefore, the financial pressure for the lower classes would be greater if a higher sewage charge is to be imposed. So during the Committee Stage later on, the Democratic Party will propose an amendment

to this Bill to replace the amount of water consumption for the purpose of exemption from sewage charges with the average amount of consumption.

On the other hand, the Government always says that the sewage charges are not high since at present half the number of the households are only required to pay \$8 a month. However, what the Government has failed to mention is that by 1998, that is to say in three years' time, sewage charges will be sharply increased by 50%, which means that \$2.1 will be charged for every cu m of water. It is because the SSDS Phase I will have been completed and commissioned, which will result in a sharp increase in the operating costs. By that time, the sewage charges will be as much as half the amount of the water charges. However, the level of water charges will not stop there. If, according to the Government's polluter pays principle, 100% of operating costs is to be recovered, then the sewage charges will be increased step by step when Phases II, III and IV of the Scheme are completed one by one. My rough estimation is that sewage charges will be equal to water charges or even higher by that time. In other words, the public will have to pay twice the amount of water charges they are paying today. I am sure such a level of sewage charges can never be acceptable to many people. It will certainly be a heavy financial burden on people of the lower classes.

Another point is that some are worried that exemption from sewage charges will affect the revenue of the Government. In fact, if we look more closely at it, we will find that one of the components of the sewage charges to be imposed by the Government is very unreasonable, namely, an annual \$600 million to be paid by way of expenditure on sewage services. Actually, this item of expenditure has already been included in the Government's annual recurrent expenditure. If this \$600 million is to be paid from the sewage charges instead, the Government will have saved \$600 million, and it will be \$6 billion in 10 years. This amount should be enough for the completion of the SSDS Phase I. The Government has made a commitment that it will foot the bill for the capital costs and the public will be paying the operating costs. The understanding then was that the public's contribution was meant for the new SSDS and not for the old sewage services. However, the Government is now asking the public to pay operating costs for sewage services as well, which means an extra \$600 million. This arrangement cannot be appropriate. It smacks of trickery, too. Can the Government give a proper answer to this Council how it is going to make use of the \$600 million thus saved, in what areas it is going to spend the money; and why it has to save the expenditure of \$600 million? May I hazard a guess. The Government will save up the \$600 million to contribute towards the capital costs for Phases II, III and IV of the SSDS. In this way, the Government is resorting to trickery because it has made a commitment to bear the capital costs. The Democratic Party asks the Government not to draw the \$600 million from the trading fund of the sewage services to pay for the operating costs but instead to continue to pay for the same out of the Government's recurrent expenditure.

Mr President, sewage treatment has always been a service provided by the Government. So we would like the Government to properly explain why it has "completely" shirked this responsibility — I repeat, it has "completely" shirked the responsibility — and why it has not made any significant commitment? Can the Government tell us whether its intention is to reserve funds to pay for the capital costs of Phases II, III and IV of the SSDS?

Some have criticized the sewage charge exemption threshold of 36 cu m of water as being out of keeping with the polluter pays principle. But I must point out that the public's being in support of the polluter pays principle does not mean that they are in support of the Government's charging proposal. Not to support the Government's proposal is not the same thing as not to support the polluter pays principle. The Democratic Party supports the polluter pays principle, which is why it does not oppose the idea of having the public pay sewage charges. But the question is how the charges are going to be levied; what is the amount to be paid for a start; under what circumstances must it be increased. There can be quite a number of different schemes. When we do not support the Government's scheme, it does not mean that we do not support the polluter pays principle. The Democratic Party has the misgiving that if the initial charges were too high, it would arouse strong resistance from the public. We mean to ask the public to support environmental protection, but now it looks as if the sewage question is going to have precisely the opposite effect. Why do we not impose a relatively modest level of charges at the initial stage? It may well be the case that the public will be agreeing to higher charges in the future. It is pointed out that the Democratic Party's proposal will mean that households in general will not have to pay sewage charges. And this will mean that not every polluter has to pay, and, in the event, this will be against the polluter pays principle. However, the Government's scheme also allows for a sewage charges exemption threshold of 13 cu m of water over a four-month billing period so that 17% of the households will not be required to pay, which will mean that nearly 20% of the people will be exempted from charges. But this will also mean that not every polluter has to pay. Then, what explanation would be offered?

Mr President, the Government will recover 100% of the operating costs right at the start of the sewage services. But this is not the case with the treatment of other kinds of wastes. For example, in dealing with chemical wastes and landfills, it did not seek to recover 100% of the costs. These policies are not consistent with each other. I would like to have a proper explanation from the Government. I am of course aware of the fact that it would practically be difficult for 100% of the costs to be recovered in respect of the above-mentioned two items of charges. But why did the Government not apply the same reasoning with regard to sewage services? Why did the Government not consider dropping the idea of recovering 100% of the operating costs at the very start as there would be difficulties if the public did not accept it? It is our anticipation that a large number of people will have complaints to make regarding the Government's charging scheme, namely, sewage charges to be about one third of the water charges.

Sewage charges is the first item of environmental protection charges arising from pollution. We hope that members of the public in general will be happy to accept such charges as a way of giving support to environmental protection. We would not wish to see the public being averse to environmental protection because of the sewage charges.

The Democratic Party's amendment will be put forward later, and I hope that Members will support it.

MR FREDERICK FUNG (in Cantonese): Mr President, the revised Sewage Services Bill presented by the Government to this Council today contains a number of revisions to the original proposal. These include the remission of the fixed charge of \$7 to be levied on all households and the exemption from sewage charges for all households in respect of the initial 13 cu m water consumed. Yet I am still disagreeing with the Government's revised Bill.

As environmental protection is now the order of the day, it would be difficult for us to take issue with the general "polluter pays" principle. However, given this principle, I wonder if it is necessary to include households as the targets for sewage charges to be levied on. This is because industrial effluent and domestic effluent are different in nature. The former is a pollutant resulting from profit-making activities, and it is therefore justifiable for additional charges to be levied to finance the sewage disposal scheme. But for members of the public, effluent arises from their physical or living needs. It is totally unreasonable that the public should be made to economize on the use of water by a punitive means instead of an educational means.

Whilst the Government has emphasized time and again that there is no question of having households subsidizing the industrial sector, I doubt whether it is really so. It is true that the Government has disclosed the proportion of sewage charges levied on households and the industrial sector, but there is no explanation as to the basis on which this proportion was arrived at. For example, what is the reason that the sewage charges for households should be 30% whereas those for the industrial sector be 60%? Does this mean that the effluent discharged by the industrial sector pollutes 60% of the sea? The proportion of charges to meet the cost of the actual sewage disposal operation varies according to the source of pollution. Since the Government has failed to provide information as regards the proportion of wear and tear of the whole disposal system attributable to domestic and non-domestic users, nor has it explained the justification for sewage charges to be levied on households, I can never agree to it that sewage charges should be levied on households.

Furthermore, the purpose of the Government's sewage charges levy is to support and enhance the trading fund for the Strategic Sewage Disposal Scheme (SSDS) of Hong Kong. To my understanding, the current disposal scheme proposed by the Government is to adopt a certain chemical process for the treatment of sewage, which is to add lime to the sewage. However, such

treatment is only for the reduction of toxic metals in the sewage, and such toxic metals come precisely from industrial effluent. Since it is industrial effluent that the Government's scheme is dealing with, it is not justifiable for the Government to levy sewage charges on the general public. The Government should not hold back the facts from the public by citing the "polluter pays" principle. What they are required to pay will in fact be insufficient to cover the costs of improving the quality of sewage discharged by them or of alleviating the extent of pollution.

To sum up the various factors, I do not agree with the Government that sewage charges be levied on households at this stage. The Government should make a thorough study on the extent of pollution caused by domestic and industrial units according to the varied sources of pollution and publish the findings. Otherwise, the public will not be convinced into paying the charges. It is also my opinion that should the public be required by the Government to pay any charges when they have no idea of what they are, it would fail to educate the public and fail to achieve the objective of promoting environmental protection. Therefore, I ask the Government once again to review the levying of sewage charges on households and the sewage disposal scheme in general, which should include whether Phases I and II of the SSDS are cost-effective and in keeping with environmental protection principles, in order to ensure that the charges paid either by commercial, industrial or domestic units are justified.

These are my remarks.

MR TAM YIU-CHUNG (in Cantonese): Mr President, the Democratic Alliance for the Betterment of Hong Kong (DAB) has always opposed the Government for applying the "user pays" principle to sewage charges because this will be unfair to the general users. We hold that the Government should only apply the "polluter pays" principle to those users who discharge bulk volumes of sewage. On this ground, I will not lend support to this Bill.

The DAB Hong Kong Island West Office conducted an opinion poll on nearly 400 residents in the district early this month. We found that over half of the respondents opposed the application of the "user pays" principle to sewage charging while over 70% of the respondents held the view that it would be excessive to pay, say, an additional sewage charge of \$40 on top of the water charges of \$130 in a four-month billing period. Along the same line, over 70% of the respondents held that the exemption threshold was too low in that user households using 13 cubic metres of potable water or less in a four-month billing period would be exempt from sewage charges. They argued that the exemption threshold should be fixed at 40 cubic metres, which was the average volume of water consumption for a general household within a four-month period.

Mr President, we may conditionally accept the introduction of sewage charges but the Government will have to elevate the exemption threshold to 40 cubic metres, so that a majority of user households can be exempt from sewage

charges. Although I have some reservations toward the Rev FUNG Chi-wood's proposal, to be put forward later on, of raising the exemption threshold to 36 cubic metres, I will nevertheless support his proposal.

I so submit.

MISS CHRISTINE LOH: Mr President, the Sewage Services Bill I believe, correctly links water consumption to simple and fair sewage charges. 50% of households will pay less than \$8 a month, and 85% of the households will pay less than \$18 a month. The logic of this Bill is that the polluter pays. In other words, if you pollute less, you pay less.

Rev FUNG Chi-wood's amendment distorts this logic and offers no coherent alternative. He is asking this Council to vote today to provide, in effect, a pollution subsidy to half of all households, regardless of their economic position. If his intention is to give assistance to those least able to pay these charges, then I think his amendment has failed. There is no provision to assure us that the poor will benefit most. Those receiving sewage subsidy are just as likely to be a couple living on the Peak as small families living in a public housing estate. And even worse, those that will pay for this subsidy are just as likely to be large, less well-off families, who use more than the average household water consumption than, say, a better-off family. It is this point that I believe Rev FUNG Chi-wood has to better explain. Who exactly will pay for this pollution subsidy and why should they pay it? Either half of all households will be forced to bear the cost of treating everyone else's sewage or else taxpayers, regardless of how much they themselves pollute, will have to pay. Neither of these proposals is, I believe, fair or acceptable.

If Rev FUNG Chi-wood truly wants to link a pollution subsidy to those who are most economically in need, then his subsidy should be linked to perhaps those who receive welfare payments. Without such a provision his amendment is, at best, misguided and, at worst, distorts the issue with an unworkable proposal.

The Government and this Council have worked for over a year now to hammer out this Bill. The Government has compromised to the demands and concerns expressed by Members of this Council and members of the public. The Government agreed, for example, to pay the entire capital cost of building a territory-wide sewerage system. The Government agrees not to charge depreciation cost of these assets. The Government agrees to scrap the fixed sewage charges in order to make the charging scheme more straightforward for the public and to lower administrative costs. And finally, the Government agreed to keep the same exemptions as currently allowed under the water tariff system.

Trade and industry have agreed to pay to treat their sewage. Households are, after all, responsible for 60% of all organic pollution and must do the same

to bear their share of the pollution. The average monthly household charge equals what we have to pay today in the market for a bowl of congee. These charges are, I believe, very reasonable. An amendment to set up an arbitrary pollution subsidy is not. Therefore I will not be supporting Rev FUNG Chi-wood's amendment.

Having said that, the Government should be installing the most up-to-date water-efficient technologies in public housing estates. Highly efficient shower heads and faucets deliver the same comfort as regular fixtures but use 30% to 70% less water. Widespread use of these technologies would not only decrease our dependence on water from China, which is at the moment growing at about 5% a year, but it will save the public money. For example, sewage charges are expected to cost 20% of water charges. Overseas experience has shown that households can easily decrease their water consumption by the same amount, using water-efficient technologies. Perhaps the Administration could tell us one day in the not too distant future why the Water Supplies Department, with a budget of over \$3 billion a year, still has not made a commitment to bring water-efficient technologies into Hong Kong.

Having said that, I believe that is a discussion we should have with the Administration in the future, but for today I would urge my fellow Councillors to support the Bill and vote against the amendment.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Thank you, Mr President, I am most grateful to the Honourable Ronald ARCULLI, Chairman of the Bills Committee to study the Sewage Services Bill, and to Members of the Bills Committee for their very careful consideration of this important Bill, and for their general support for the proposals in it. The constructive suggestions made by the Bills Committee are reflected in the few amendments which I will propose at the Committee stage.

Mr President, I will begin by reminding Members of the important debate on sewage charges in this Chamber just one year ago. Yes, it does take a long time. In that debate I began by saying:

"..... today should be a landmark day in Hong Kong's environmental history. It should be the day Members seize the opportunity to show their unequivocal support for the polluter pays principle, reinforcing the general support indicated in the adjournment debate two years ago. This is not just a matter of community leadership but it would also be a message to the world that we are taking our responsibilities seriously."

In the debate a year ago this Council endorsed the polluter pays principle, a principle now enshrined in the Sewage Services Bill, which will introduce sewage charges, and which is now ready for Members' final approval.

Before I turn to the conclusions of the Bills Committee, let us refresh our memories on the polluter pays principle and the state of water pollution in Hong Kong. First, and obviously, water pollution in Hong Kong is at a critical state. This is evident to the eyes and nose and from the occurrence of cholera this summer, and in the rising trend of criticism, both here and abroad, that a territory of our first-world resources tolerates such third-world pollution. And tolerates it right at the heart of our community, in our harbour, the focus of so much attention internationally.

Second, to tackle this problem, we propose a cost-effective sewerage programme for the territory including an \$8 billion High Priority Programme to provide urgent relief to the serious pollution in the harbour. We are committed to abate that pollution and no responsible Administration would, I suggest, do anything less. We are therefore committed to building the High Priority Programme, the entire capital costs of which will be met by the Government.

Third, we have been saying for some time that it is only right for the community to contribute to the costs in these essential services, as residents in many cities elsewhere do. But we have also promised that such contributions would be modest, that they would be fair, and that they would be affordable. And so it transpires. In line with the polluter pays principle, the charging scheme this Bill introduces establishes a direct link between the extent to which sewage services are used and the amount of charges which will be paid. Moreover, by funding in full the capital costs, and by allowing a nil return on capital investments and a nil depreciation on existing sewerage assets, sewage charges are significantly reduced. The Government has therefore fulfilled its commitment to keep charges modest.

The Bills Committee has, however, made several suggestions to improve the charging scheme and I am happy to report that these proposals have been accepted by the Administration. We have, for example, agreed with the Bills Committee to do away with fixed charges and to base sewage charges for all consumers on a uniform volumetric charge only. This is a welcome simplification to the charging scheme. We have agreed to model the exemption arrangement for households on the existing water tariff. We have agreed with the Bills Committee to further refine the charging arrangements for trade and industry. We have accepted the Bills Committee's suggestion that, to protect the privacy of households, the Drainage Authority would first need to obtain the consent of the occupier before entering into domestic premises for purposes under the Bill. Mr President, the Administration is grateful for these suggestions and I will therefore move amendments to the Sewage Services Bill at the Committee stage to effect them.

Finally, I should refer to two other issues which concerned the Bills Committee. First, some Members were concerned that sewage charges may impose financial hardship on some households — in fact given the arrangements we propose, I cannot honestly envisage this. Nevertheless, to clear away any

residual concern, I can assure Members that upon the introduction of the sewage charging scheme, the rates of water allowance under the Comprehensive Social Security Assistance Scheme will be reviewed accordingly to ensure that the modest sewage charges will not cause any additional financial burden to be placed on the families who are recipients of public assistance. Second, the Bills Committee took the view that the introduction of sewage charges should be contingent upon the timely implementation of the High Priority Programme. Although the charging scheme and the construction programme are not directly related, as the capital costs of the priority sewerage programme will be funded by the Government and not by charges, I confirm, yet again, that the High Priority Programme will be completed in early 1997. Indeed, as I have explained, we have a responsibility to build this urgently required programme and to abate without delay the harbour pollution we have tolerated for too long.

What are the results of the charging arrangements we now propose? In short, they will mean that 17% of households will be exempt from sewage charges, that 50% of households will pay less than \$8 a month, and that 85% of households will pay less than \$18 a month. This is, Mr President, a very modest charging scheme by any measure. It is, we believe, acceptable to a large majority of the community, an acceptance reflected in a recent public opinion survey. This survey found that a majority of the 500 respondents supported the polluter pays principle and expressed a willingness to pay sewage charges of up to \$30 a month. This is substantially more than we now propose for 85% of households. I therefore believe, and I invite this Council to accept, that the time has come for the community to meet its responsibility under the polluter pays principle, and the sewage charges now proposed, particularly as these charges are fair, modest and affordable. It cannot, I suggest, be reasonable to claim otherwise.

In concluding my remarks on the deliberations of the Bills Committee, I would like to report, Mr President, that a number of issues not directly related to the provisions of the Bill were also considered by the Committee. These included a recommendation that we embark on a publicity programme on the charging scheme, and that we consider long-term measures to encourage conservation of water. These matters will be taken up further with the Legislative Council Panel on Environmental Affairs.

With these remarks, Mr President, I commend the Sewage Services Bill to Members. Thank you.

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

Bill read the Second time.

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

CARRIAGE OF GOODS BY SEA BILL**Resumption of debate on Second Reading which was moved on 6 July 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).

Committee Stage of Bills

Council went into Committee.

EMPLOYMENT (AMENDMENT) BILL 1994

Clauses 1 to 5 and 8 to 11 were agreed to.

Clauses 6 and 7

MR LAU CHIN SHEK (in Cantonese): Mr Chairman, I move that clause 6 be amended as set out under my name in the paper circulated to Members. My amendment goes with another amendment to clause 7 which together seek to increase from \$180,000 to \$230,000 the maximum amount of severance payment and long service payments.

Mr Chairman, how many 24 years are there in one's life? How many people are so loyal as to work for the same employer for more than 24 years? But why is it the case that under Hong Kong's legislation the severance payment and long service payment which these loyal employees of such rarity deserve to get have to be cut? We always criticize young people for being unstable and changing jobs as they please. But at the same time those employees who work loyally for their employers are being treated this way. What is the reason for this? As far as the employers are concerned, these payments are payable only to those employees who earn less than \$15,000 per month. So it is really unnecessary to have these additional restrictions on maximum payment and years of service. Therefore I am against any kind of maximum payment and years of service restrictions. I am against any kind of unfair treatment to those long-serving loyal employees. Unfortunately, my proposed amendment to the Bill to do away with these restrictions was defeated last time during the Third Reading. Nevertheless, it does force the Government to put forward an amended Bill which is an improvement on the previous one. As regards the years of service restriction, the original 18 years has been extended to 24 years, but the maximum amount of payment is still maintained at \$180,000. I think the

maximum amount of payment being maintained at \$180,000 as proposed in the Government's amended Bill will affect the entitlement of those employees whose salaries are slightly over \$11,000, and will particularly be unfair to long-serving employees, although this proposal is slightly better than the original one.

Even though in principle I argue for the rescission of all kind of restrictions, the amendment I put forward today is very mild indeed, that it to say, the maximum amount of payment be increased from \$180,000 to \$230,000. I keep insisting on revising the guaranteed amount of severance payment and long service payment because I want to try my best to rectify the current system under which those long-serving employees are being treated unfairly. There will certainly be employers who think that enhancing the benefits of the employees will increase costs and expenditures, but severance payment and long service payment in fact represent only a small fraction of the overall expenditure wages. Besides, the number of long-serving staff is not that large. Those employers who have long-serving employees have actually received considerable profit returns as Hong Kong's economy flourished over the past one or two decades. So those who work for the employers should rightly get a more reasonable compensation when their employment is terminated, when they are laid-off or when they retire.

The existing ceiling of severance payment and long service payment at \$180,000 was set in 1990. More than four years have elapsed, and the cumulative growth in inflation and wages has been well in excess of 40%. My proposal is to increase the maximum amounts from \$180,000 to \$230,000, or an increase of 28%. This is a very modest increase indeed. Some will say that the increase is good only to a handful of employees, and its significance is rather limited. However, I would also like to point out here that for those loyal employees who deserve to get a greater amount of severance and long service compensation payments the difference between \$180,000 to \$230,000 is not that insignificant at all. True, the number of these employees is small, but does it mean that simply because of their small number we can turn away from them and totally disregard their loyalty? At a time when they are in the predicament of termination of employment or being laid-off, do we have to give them one more kick and throw stones at those who have fallen into a well? I believe that any Member who has some sense of sympathy will agree to improve the unfair aspects of the existing legislation. So I urge Members to support my amendments, and be more generous to those loyal employees.

These are my remarks.

Proposed amendments

Clause 6

That clause 6 be amended, by deleting paragraph (a) and substituting —

- "(a) in subsection (1), by repealing everything after "exceeding" and substituting "\$230,000.";"

Clause 7

That clause 7 be amended, by deleting paragraph (a) and substituting —

- "(a) in subsection (1), by repealing everything after "exceeding" and substituting "\$230,000.";"

Question on the amendments proposed.

MR TAM YIU CHUNG (in Cantonese): Mr Chairman, Members may recall that Mr LAU Chin-shek's proposed amendment, which sought complete rescission of the payment ceiling of \$180,000 for severance payment and long service payment and of the restriction on the maximum years of service for the purpose of calculation of entitlement as contained in the Government's Bill, was defeated by this Council by a margin of one vote on the 6th of July. As a result, neither was the original amendment proposed by the Government able to be carried, and improvement of employees' pay and conditions of service had to be postponed for virtually half an year. Therefore, I hope that Members will cease to indulge in side issues today, and act seriously in a pragmatic manner in support of the amended proposal as agreed by the Labour Advisory Board this August, that is to say, to rescind the section under the existing Employment Ordinance which stipulates that in calculating severance payment and long service payment the maximum payment shall not exceed the equivalent of 12 months' wages, and that two years service be counted as one for those years of service beyond 24 years.

As a matter of fact, long before the Labour Advisory Board reached an agreement on this amendment Bill, I had considered amending the existing Employment Ordinance by means of a Private Member's Bill to rescind the section which provides that the maximum payment of severance payment and long service payment shall not exceed the equivalent of one year's wages, in order to enable those employees with years of service exceeding 18 years to receive long service payment and severance payment in full. But then the employers' representatives on the Labour Advisory Board agreed to the present concession. Therefore, to pay due respect to the spirit of employer/employee consultation in the Labour Advisory Board, I have agreed that improvements be made in phases. This is why I will abstain from Mr LAU Chin-shek's proposed amendment. Nevertheless, I believe that after the Bill is passed into law reviews and amendments would be sought as soon as possible in order to repeal the section which provides that years of service beyond 24 years be counted as half so that the method of calculating severance payment and long service payment can be improved as soon as possible.

Mr Chairman, with these remarks, I support the Second Reading of the Amendment Bill.

MR PANG CHUN-HOI (in Cantonese): Mr Chairman, when the Second Reading of this Bill was resumed on 6 July this year, the amendment motion of the Honourable LAU Chin-shek was carried, but it was negatived in the Third Reading together with the original amendments introduced by the Government. As a result, employees, especially those whose salaries are low, cannot receive reasonable compensation when their employment is terminated or when they are laid off.

Over these few months, representatives of the Labour Advisory Board from both the employees and the employers went through consultation. And both sides agreed in the meetings held by the Labour Department that the years of reckonable service of a worker's entitlement would be raised from 18 years to 24 years, and that, for an employee who has served for over 24 years one half of his service over and above 24 years would be reckonable. The Honourable TAM Yiu-chung and I, after discussion with the six representatives of the employees' side, have decided to support the Bill proposed by the Government.

Today, the Second Reading is being resumed. The amendment proposed by the Honourable LAU Chin-shek just now seeks to raise the long service payment ceiling from \$180,000 to \$230,000. This amendment would of course benefit employees and, as a Member from the labour sector, I certainly will support it. However, judging from the present situation, I am afraid the amendment might not succeed. Therefore, I call on Members who intend to vote against it to take part in the voting right away and not to do it just like last time when it was negatived in the Third Reading, for this would consequently undermine the benefits of the working people.

Furthermore, as a result of the Government's failure to figure out things clearly when enacting the legislation, contract employees are having an advantage over those who are employed on month-to-month terms as regards entitlement to long service payment. I hope that the Government will try its best to balance the benefits between employees on month-to-month terms and contract employees so as to avoid any unfairness that may arise.

Thank you, Mr Chairman.

MR JAMES TIEN (in Cantonese): Mr Chairman, for years, the relationship between employers and employees in Hong Kong has remained satisfactory. I think there are two main reasons. First, the economic climate at present is good. Employment opportunities in Hong Kong have greatly increased for the last 10 to 20 years and unemployment rate has maintained at less than 3% for the last 10 years or so. Under such circumstances, it is often more difficult for

employers to recruit staff than potential employees to find jobs. Hence, employees have indirectly obtained many more advantages under the terms and conditions of their contracts of employment. In terms of the spirit of the law, is that reasonable enough? Perhaps it is already reasonable from the employer's point of view, but employees might well think it is still not yet reasonable enough.

Another factor which accounts for the good employer-employee relationship in Hong Kong is the operation of the Labour Advisory Board under the Labour Department of the Government. The operation of the Labour Advisory Board is different from that of other advisory boards. Members of many advisory boards are individually appointed by the Government, but we may perhaps doubt whether their consensus represents the consensus of the public. Mr Chairman, all of the six members of the Labour Advisory board who represent the employees are, however, elected. Among the representatives of the employers, five are elected, one is appointed by the Government and two are elected from the Government and two from the Federation of Hong Kong Industries and the Hong Kong General Chamber of Commerce. The Labour Advisory Board has, for many years, helped to solve labour disputes in a gradual and measured manner, to reach compromise by applying the doctrine of the golden mean and to improve workers' welfare step by step.

Mr Chairman, the legislation concerning severance pay was enacted in 1974. As I returned from abroad to work in Hong Kong in 1971, I remember at that time our economy was not as good as it is now. Very often, workers could not find a new job immediately after the closedown of their factories. Hence, on the proposal of the Labour Advisory Board, the provisions of severance pay were enacted at that time. Under the provisions, if an employer has to dismiss a worker, whether because of business failure or other reasons, he will have to pay compensation calculated by applying a ratio multiplying the number of years that the worker has served. In this way, the worker would not be thrown into a plight in the first few months after the severance of his employment before new employment is obtained. That was the original intent of the legislation. In 1986, the Government introduced the provision of long service payment; the difference lies in that the companies were not closed down or reduced in size, but that some employers wished to replace workers who have served the company for a long time with new employees. However, some members of the labour sector sometimes used terms like "reasonable compensation" during the discussion of this piece of legislation, as if severance pay and long service payment were something workers should receive as of right, like bonus. Here, I do not wish to engage in argument as to whether such sums are compensation or bonus; or whether workers are entitled to them or not.

Some Members who had earlier on spoken have mentioned the Government's withdrawal of the Bill after its introduction in this Council in July. Certainly, the Bill had to be discussed again in the Labour Advisory Board. I have said earlier that I have maintained close contacts with the

employers' representatives of the Labour Advisory Board and have had numerous discussions with them on the matter. I have strongly encouraged them to reach a consensus in the Labour Advisory Board and should not, as on the last occasion, have voted on the matter only after submitting it for debate in the Legislative Council.

In the course of discussion with them, I had the impression it was generally hoped that employers could make further concessions whereas employers' representatives thought that they would like to give bigger concession to the low-income group. Hence, it can now be seen that they have agreed to increase the number of years of reckonable service for the purpose of compensation can be based from 18 years to 24 years. However, the existing ceiling of \$180,000 will remain unchanged.

Mr Chairman, I would like to give a very simple example. A worker is now earning \$8,000 a month which is already a rather high income. If we multiply his income by 30 (years), we get \$240,000; multiplied by 8 (months) and then divided by 12, we would arrive at \$160,000 which is still below the ceiling of \$180,000. The majority of the low-paid workers working in factory districts hope that the limit stipulated in the Bill will be increased from 18 years to 24 years so that they would actually receive a greater sum. However, raising the ceiling from \$180,000 to \$230,000 may not necessarily enable these workers to obtain a greater sum.

On the other hand, if we take the same example in the case of the middle class such as professionals who are earning \$15,000 a month, and multiply their salary by 20 (years), we would get \$300,000. If we then multiply this amount by 8 (months) and divide by 12, we would arrive at \$200,000. In that case, according to Mr LAU Chin-shek's amendment, the entitlement will be raised by \$20,000 from the original \$180,000. However, according to the employers' representatives of the Labour Advisory Board, there have been further negotiations and a further forward step has been taken because it is hoped that the low-paid workers can obtain a bigger sum when their employment is terminated upon severance.

Mr Chairman, I think the consensus reached by the Labour Advisory Board is very important. The Labour Advisory Board has hitherto played a very important role in maintaining a generally good relationship between the employers and the employees. I do not object to the proposal made by some Members to have the matter reviewed and to take a further step forward in the near future. However, at the present stage, if we negated the consensus reached by the Labour Advisory Board again, I wondered how the employers' representatives of the Board could still co-operate with the employees' representatives again in all frankness and sincerity in the future.

Mr Chairman, finally, I would like to discuss the role played by the employees' representatives of the Labour Advisory Board. Many of my colleagues might not know that many existing employees' representatives of the

Labour Advisory Board come from various labour unions which in fact have contacts with Mr TAM Yiu-chung and Mr PANG Chun-hoi, though none coming from Mr LAU Chi-shek's side. Hence, the contents of the discussions between employers and employees during meetings of the Labour Advisory Board might often be communicated to some Members of this Council but not all. Hence, I hope the Government will review the composition of employee representatives in the Labour Advisory Board for improvement to be made.

Mr Chairman, with these remarks, I support the gradual and moderate proposal submitted by the Government and the Labour Advisory Board today.

SECRETARY FOR EDUCATION AND MANPOWER: Thank you, Mr Chairman. I shall explain here why the Administration feels unable to support the Committee stage amendments moved by Mr LAU. Firstly, Members should recall that this is the second time that the present Bill is debated in this Council, following its defeat in July this year. Members should also be aware that this Bill is already a substantial improvement over the previous Bill, in that we now propose to recognize one half of an employee's service over and above 24 years accrued before the amendment Bill comes into operation in the calculation of severance and long service payments, as compared with the reckoning of one half of an employee's service beyond 18 years in our previous proposal.

The possible financial impacts on the employers as a result of this improvement in retrospective reckoning of an employee's service, and that caused by the removal of the 12 months' wage ceiling for severance and long service payments have been taken into account in formulating our proposals in the present Bill. It is out of this consideration that we now decide to maintain the existing ceiling of severance and long service payments at \$180,000 at this stage.

Secondly, for the majority of workers who are receiving a median monthly wage at \$8,000, the existing ceiling of \$180,000 for severance and long service payments is, in fact, sufficient to cover up to 43 and a half years of reckonable service. Moreover, we will review this ceiling regularly to make sure that it is in keeping with inflation and wage level. We, therefore, consider it not necessary to increase it further at this point in time.

Thirdly, all of our proposals in the present Bill have been fully considered and have the full support of the Labour Advisory Board which, as Members know, comprises a balanced representation from both the employers and employees. The proposal to increase the ceiling to \$230,000 has not been discussed in the Labour Advisory Board, nor has the public been given the chance to express their views on it. So as not to delay the passage of this Bill, we should therefore proceed with our proposals which have the broad consensus of the Labour Advisory Board members, rather than holding it up, pending another round of discussion and consultation on Mr LAU's amendments.

For these reasons, Mr Chairman, the Administration is unable to support the proposed amendments by Mr LAU. Regrettably we will have no choice but to withdraw this Bill if the amendments were carried.

CHAIRMAN: Order!

MR LAU CHIN-SHEK (in Cantonese): Mr Chairman, I will not repeat the points which I raised earlier.

The Administration and some individual Members made reference to the consensus of the Labour Advisory Board (LAB). But I would like to point out that the LAB has not conducted any discussion on whether or not the ceiling of severance and long service payment should be maintained at \$180,000 at all, not to mention reaching a consensus.

The Administration has promised this Council that it would present to the LAB the opinions of this Council expressed last July in respect of the Employment (Amendment) Bill for LAB's discussion. However, in its document submitted to the LAB in August, the Administration, at the very outset, spelt out its opposition to raising the existing ceiling of severance and long service payments, thereby limiting the dimensions for discussion by the LAB. It is thus evident that the Administration has all along been opposed to the raising of the ceiling, and has failed to take a serious look at the existing unfairness in the legislation which is against the employees.

Many of my colleagues in this Council have addressed the interests of the employees during the debates on a diverse range of subjects. Some of them have always been arguing for stronger safeguard be provided to the employees. I believe that some down-to-earth, concrete improvements to legislation could offer more substantial help to the employees than just keep debating over employees' interests. The case before us is a specific example.

Mr Michael LEUNG has just said that he would withdraw the Bill if the amendments were carried. If the Government repeats its tactics of withdrawing the Bill so that the Third Reading of the Bill could not proceed, or if the Bill has been negatived during its Third Reading, rendering it impossible to improve the severance and long service payments, I am willing to take up the responsibility and tender my resignation immediately.

Mr Chairman, I so submit.

Question on Mr LAU Chin-shek's amendments to clause 6 and 7 put.

Voice vote taken.

THE CHAIRMAN said he thought the "Noes" had it.

Mr LAU Chin-shek claimed a division.

CHAIRMAN: Council will proceed to a division.

MR MARTIN LEE: Mr Chairman, can I seek a direction? Is the Chief Secretary who is Acting Governor entitled to vote?

CHAIRMAN: We will wait for the completion of the division time.

CHAIRMAN: I think the point has been raised before, Mr Martin LEE. The Chief Secretary is here in her capacity as Chief Secretary although she is also Deputy to the Governor. On the basis of the advice given before, I rule she is entitled to vote.

CHAIRMAN: Would Members please proceed to vote?

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

Mr HUI Yin-fat, Mr Martin LEE, Dr David LI, Mr PANG Chun-hoi, Mr SZETO Wah, Mr Andrew WONG, Dr LEONG Che-hung, Mr Jimmy McGREGOR, Mrs Elsie TU, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Mr LEE Wing-tat, Mr Fred LI, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH and Ms Anna WU voted for the amendments.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Peter WONG, Mr Moses CHENG, Mr Marvin CHEUNG, Mr CHIM Pui-chung, Mr Timothy HA, Dr LAM Kui-chun, Mr Eric LI, Mr Steven POON, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Dr TANG Siu-tong and Mr James TIEN voted against the amendments.

Mr TAM Yiu-chung and Mr Vincent CHENG abstained.

THE CHAIRMAN announced that there were 25 votes in favour of the amendments and 24 votes against them. He therefore declared that the amendments were carried.

EMPLOYEES RETRAINING (AMENDMENT) BILL 1994

Clauses 1 to 20 were agreed to.

Schedule was agreed to.

CORRUPT AND ILLEGAL PRACTICES (AMENDMENT) (NO. 2) BILL 1994

Clauses 1 to 10 were agreed to.

SEWAGE SERVICES BILL

Clauses 1, 5, 6, 11, 13, 14 and 15 were agreed to.

Clauses 2 and 3

CHAIRMAN: Rev FUNG Chi-wood has given notice to move amendments to clauses 2 and 3. I have given permission exceptionally for Rev FUNG to revise those amendments. These revisions raise no point of principle or substance but are necessary to put the amendments in order. Members have been advised of his revised amendments by circular this morning and copies of the revised amendments have also been placed before Members. I now call upon Rev FUNG Chi-wood to move his amendments to both clauses 2 and 3 in accordance with Standing Order 46(2) as they are interdependent.

REV FUNG CHI-WOOD (in Cantonese): Mr Chairman, I move that clauses 2 and 3 be amended as set out under my name in the paper circulated to Members.

I am grateful to you, Mr President, for granting me leave to revise the amendments I have proposed. It was my original intention only to move amendments in respect of the volume of water consumption that will constitute the threshold of exemption from sewage charges. But due to problems in technicality, I have to make two additional points to be incorporated into my agreed amendments. The first point relates to exemption from fixed charges; the second point relates to discount for certain non-domestic usage of water.

Mr Chairman, I would like to respond to an argument. It has been pointed out by a Member that, if households were exempted from paying sewage charges for an average consumption of water, it will give rise to "cross

subsidy". In fact, it is something which has already existed in the present charging arrangement of the Government, because those who use more water will have to pay more sewage charges. However, high consumption does not necessarily mean high average consumption by each individual. It could be high domestic consumption instead. My amendment now is to exempt each household from the sewage charges for the first 36 units of water consumption. As each household can enjoy this benefit at the same time, I therefore do not exclude the possibility that some payers will be subsidizing those non-payers. In this regard, those who pay more will be subsidizing those who pay less.

Finally, I hope the Government will respond to the few points I have made earlier on. Firstly, will charges for sewage disposal still be levied at 100% of the operational costs after the completion of Phases II, III and IV of the Scheme? If so, the sewage charges then will be very high. Secondly, has the Government reserved funds for the construction of sewage treatment facilities for Phases II, III and IV? Thirdly, how will the \$600 million saved annually be used?

Thank you, Mr Chairman.

Proposed amendments

Clause 2

That clause 2 be amended, by adding —

"'billing period" (結帳期) means the period of time referred to in Schedule 1, Part III, item 1(b) of the Waterworks Regulations (Cap. 102 sub. leg.);

"domestic account" (住宅帳戶) means an account with the Water Authority for the payment of water supplied for domestic purposes, as defined in the Waterworks Ordinance (Cap. 102);"

Clause 3

That clause 3 be amended —

(a) by deleting subclauses (1) and (2) and substituting -

"(1) A consumer whose premises are connected, whether directly or indirectly, to a communal drain or a communal sewer which is vested in and maintained by the Government, for the purpose of removing wastewater therefrom shall pay, or if there is a communal service, the agent shall pay, to the Government -

- (a) in the case of an account with the Water Authority that is not a domestic account, a sewage charge at a prescribed rate based on the volume of water supplied to the premises by the Water Authority, other than water supplied specifically for flushing purposes;
 - (b) in the case of an account with the Water Authority that is a domestic account, a sewage charge at a prescribed rate based on the volume of water supplied to the premises by the Water Authority over and above the average volume of water consumed per domestic account as computed in section 3(2), other than water supplied specifically for flushing purposes.
- (2)
- (a) Notwithstanding subsection (1), where the Water Authority supplies water for domestic purposes under the Waterworks Ordinance (Cap. 102) but the quantity consumed is less than the average amount of water consumed per domestic account, no sewage charge shall be paid for it.
 - (b) The Water Authority shall announce on or before 1 July of each year, or such later date as the Water Authority may determine, and publish in the Gazette the amount of water that is equal to the average amount of water consumed per domestic account for the most recently completed financial year.
 - (c) For the purposes of paragraphs (a) and (b), the average amount of water consumed per domestic account shall be an amount, calculated to one decimal place, equal to-
 - (i) the total volume of water consumed by all domestic accounts over the most recently completed financial year, as measured by the Water Authority, divided by
 - (ii) the number of billing periods per year, divided by
 - (iii) the total number of domestic accounts on record with the Water Authority on the last day of the most recently completed financial year.
- (2A) Notwithstanding subsection (1), a regulation may provide that, where premises are used for a prescribed trade, business or manufacture, the charge under subsection (1) shall be based on a prescribed percentage of the volume of water supplied to the premises by the Water Authority, other than water supplied specifically for flushing purposes."

- (b) by deleting subclauses (5) and (6).

Question on the amendments proposed.

CHAIRMAN: The Secretary for Planning, Environment and Lands has also given notice to move amendments to clause 3. I now call upon the Secretary to speak on the amendments proposed by Rev FUNG as well as his own amendments. Whether the Secretary will be called upon to move his amendments to clause 3 will depend on the Committee's decision on Rev FUNG's amendments to clause 3.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, notwithstanding the public support for the polluter pays principle, the Honourable Rev FUNG Chi-wood proposes to exempt from sewage charges the average water consumption by households. By definition, therefore, 50% of households, or some 800 000 domestic users would not pay for the sewage services they use. What does this actually mean and what are the consequences?

First, such wide exemptions clearly breach the polluter pays principle which found favour with this Council during the motion debate on sewage charges last year. Second, it ignores the fact that households as a whole contribute to over 60% of the organic pollution in Hong Kong, and that as they too contribute to pollution, they too should contribute to its solution, albeit in a very modest way. Third, the consequence of exempting so many households would be that the non-exempt service users, mainly trade and industry, would be required to make up for the revenue forgone. Fourth, it ignores the fact that the public have by and large accepted that they should help pay for sewage services. Fifth, by altering the charging structure to calculate exemptions on the basis of the average water consumption by households, the charging scheme would become unnecessarily complex, as each time the average consumption level was adjusted, or each time a household fluctuated between payment and exemption — and this would occur frequently — the Trading Fund and the householder would be uncertain as to cash flow and charges respectively.

Nor would such an exemption arrangement encourage water conservation as has been suggested. It would, however, cause confusion among the public and significant administrative problems to the charging authority, merely to avoid an \$8 per month payment, say the cost of a cup of coffee in a fast food shop. If these issues were the only reasons against Rev FUNG's proposal, I am sure that Members would reject it. But, there are further difficulties.

There are, for example, unacceptable implications for the Trading Fund Ordinance. Members will recall that in March this year, and with a view to enabling sewage services to be funded by charges, they approved the establishment of the Sewage Services Trading Fund under the Trading Fund Ordinance. This Ordinance requires the Trading Fund to fund itself through

charges, a requirement accepted by Members. However, to make up for the revenue forgone from the large number of households that it seeks to exempt from our modest charging proposal, Rev FUNG proposes that recurrent subsidies be credited to the Trading Fund by taxpayers. Such subsidies are outside the framework of the Sewage Services Trading Fund and would clearly conflict with the provisions of the Trading Fund Ordinance. To meet the objectives of the Trading Fund Ordinance, it would therefore be necessary to recover the charges forgone from the exempt accounts by increasing the charges on the other service users. This is not equitable, could not be justified to those who would pay, and would, furthermore, deviate so much from the polluter pays principle as to negate it.

Rev FUNG's alternative charging scheme therefore deviates so significantly from the polluter pays principle, is so discriminatory between different groups of service users and is so unnecessarily complex that it breaches the objective of a fair but easy to administer charging scheme, that I am confident his proposals will not find favour with this Council.

I can therefore only commend to Members the Committee stage amendments which arise through the thorough discussions in six sessions of the Bills Committee and which I will be moving later on. The charging scheme we propose is in line with the polluter pays principle, simple to administer and very modest by any measure — 17% of households would be exempt from sewage charges, 50% would pay less than \$8 a month and 85% less than \$18 a month. These levels are, I am sure, acceptable to this Council and to the community as a whole.

Thank you, Mr Chairman.

CHAIRMAN: Members may now debate the amendments proposed by Rev FUNG Chi-wood as well as the Secretary for Planning, Environment and Lands. I would remind Members not to engage in repetition of points already made in speeches.

REV FUNG CHI-WOOD (in Cantonese): Mr Chairman, the Administration has not yet responded to the point I just raised, namely, 17% of households still will not have to pay the water bills according to the Administration's proposal. I understand the rationale of this arrangement. At present 17% of households do not have to pay for the water consumed and thus, purely for the sake of administrative convenience, the Administration exempts these households from sewage charges. From the perspective of environmental protection, it is very obvious that this arrangement is entirely arbitrary and based on no standard whatever.

The Administration has remarked that my amendment deviates significantly from the "polluter pays" principle. But following the Administration's logic, I cannot see how its proposal can comply with that principle. I shall reiterate that the "polluter pays" principle should have educational significance and should mean to gain public support for environmental protection. However, if the sewage charges arouse resentment from the public such that they will resist rather than support environmental protection, the originally well-intentioned proposal will become a vicious thing.

Besides, the Secretary for Planning, Environment and Lands has just mentioned that the Sewage Services Trading Fund should be contributed by sewage charges. In fact there is a simpler arrangement, that is, if the current expenditure of \$600 million on sewage services is not debited against the Trading Fund, it will thus be unnecessary for the Administration to inject money into the Trading Fund.

Mr Chairman, as a matter of fact, the current practice in Hong Kong is that expenditure on a number of services is being borne by taxpayers. If the Administration is going to follow this logic in future that the taxpayers should not pay, then it will be necessary for every individual to pay for the public services. This will become another kind of indirect tax and may bring major changes to our entire economy. Therefore, I hope that Members will consider this and support my amendment.

Question on Rev FUNG Chi-wood's amendments put.

Voice vote taken.

THE CHAIRMAN said he thought the "Noes" had it.

Mr Fred LI claimed a division.

CHAIRMAN: Council will proceed to a division.

CHAIRMAN: Would Members please proceed to vote?

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

Mr Martin LEE, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Mr LEE Wing-tat, Mr Fred LI, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin and Dr TANG Siu-tong voted for the amendments.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr NGAI Shiu-kit, Mr PANG Chun-hoi, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Dr LEONG Che-hung, Mr Jimmy McGREGOR, Mrs Elsie TU, Mr Peter WONG, Mr Vincent CHENG, Mr Moses CHENG, Mr Frederick FUNG, Mr Timothy HA, Mr Simon IP, Dr LAM Kui-chun, Mr Eric LI, Mr Steven POON, Dr Philip WONG, Mr Howard YOUNG, Miss Christine LOH, Mr Roger LUK and Mr James TIEN voted against the amendments.

Mr CHIM Pui-chung abstained.

THE CHAIRMAN announced that there were 17 votes in favour of the amendments and 32 votes against them. He therefore declared that the amendments were negatived.

CHAIRMAN: Secretary for Planning, Environment and Lands, you would be moving that clause 3 be amended as set out in your name in the paper circulated to Members.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Yes, Mr Chairman, I move that clause 3 be amended as set out under my name in the papers circulated to Members. Clauses 3(1), 3(2), 3(5) and 3(6) are amended to reflect the simple charging structure which is to base sewage charges only on the volume of water supplied and to model the exemption arrangements for households on the existing water tariff. For specified trades which discharge less water than they consume, sewage charges would be based on a prescribed percentage of the volume of water supplied to the premises. Thank you, Mr Chairman.

Proposed amendment

Clause 3

That clause 3 be amended —

- (a) by deleting subclauses (1) and (2) and substituting -

"(1) A consumer whose premises are connected, whether directly or indirectly, to a communal drain or a communal sewer which is vested in and maintained by the Government, for the purpose of removing wastewater there from shall pay, or if there is a communal service, the agent shall pay, to the Government a sewage charge at a prescribed rate based on the volume of water supplied to the premises by the Water Authority, other than water supplied specifically for flushing purposes.

(2) Notwithstanding subsection (1), where the Waterworks Regulations (Cap. 102 sub. leg.) provide that there shall be no charge in respect of a prescribed volume of water supplied for domestic purposes, no sewage charge shall be payable in respect of such water provided for such purpose.

(2A) Notwithstanding subsection (1), a regulation may provide that, where premises are used for a prescribed trade, business or manufacture, the charge under subsection (1) shall be based on a prescribed percentage of the volume of water supplied to the premises by the Water Authority, other than water supplied specifically for flushing purposes."

(b) by deleting subclause (5) and (6).

Question on the amendment proposed, put and agreed to.

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

Clause 2 was agreed to.

Clauses 4, 7 to 10 and 12

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, I move that the clauses specified be amended as set out under my name in the Paper circulated to Members. Amendments to clauses 4(9), 7(b), 9(1)(a), 9(1)(c), 9(2), 10(1), 10(3), 12(1)(a) and 12(2) are either necessary consequential amendments or technical refinements to facilitate the administrative efficiency of the charging scheme. The Chinese text of clauses 8(1)(a), 8(2)(b) and 8(3) is amended to achieve consistency with other Ordinances. Clause 9(1)(d) is amended and two subclauses, 12(1)(b)(a) and 12(1)(b)(b), are added to provide the powers required for the Drainage Authority to base charges for specified trades on a prescribed percentage of the volume of water supplied to the premises, and to allow reduction of charges if a consumer can prove that his discharge is not more than a prescribed percentage

of the volume of water on which his sewage charge or trade effluent surcharge is based. A new subclause 9(3) is added to provide the power for the Drainage Authority to adjust the sewage charge and trade effluent surcharge based on the volume of water as determined by the Water Authority. A new subclause 10(1)(a) is added to the effect that the Drainage Authority cannot enter domestic premises unless the occupier of the premises gives his consent.

Thank you, Mr Chairman.

Proposed amendments

Clause 4

That clause 4(9) be amended, by deleting "of \$100,000" and substituting "at level 6".

Clause 7

That clause 7(b) be amended, by deleting "3(5) or".

Clause 8

That clause 8(1)(a) be amended, by adding "或名稱" after "姓名".

That clause 8(2)(b) be amended, by deleting "證明" and substituting "證據".

That clause 8(3) be amended, by deleting "內容" and substituting "標的".

Clause 9

That clause 9(1)(a) be amended, by deleting "the category of use or".

That clause 9(1)(c) be amended, by deleting "or meter size".

That clause 9(1)(d) be amended, by deleting "such that a substantial portion of the water supplied to the premises is not discharged into a communal drain or sewer" and substituting —

"and the consumer has demonstrated to the Drainage Authority's satisfaction that the volume of wastewater discharged into a communal drain or communal sewer is not more than a prescribed percentage of the volume of water on which the sewage charge or trade effluent surcharge, as the case may be, is based".

That clause 9(2) be amended, by deleting "on the demand note" and substituting "of issue of the demand note".

That clause 9 be amended, by adding —

"(3) Where the Water Authority exercises his authority under section 22 of the Waterworks Ordinance (Cap. 102) and reduces, waives or refunds, in whole or in part, a charge for water, other than water specifically supplied for flushing purposes, the Drainage Authority shall, without an application by the consumer or agent, reduce, waive or refund the sewage charge and trade effluent surcharge, if any, so that such charges are based on the volume of water for which a charge was actually levied by the Water Authority."

Clause 10

That clause 10(1) be amended, by deleting "The" and substituting "Subject to subsection (1A), the".

That clause 10 be amended, by adding —

"(1A) No domestic premises shall be entered by the Drainage Authority unless the occupier of the premises gives his consent."

That clause 10(3) be amended, by deleting "of \$10,000" and substituting "at level 3".

Clause 12

That clause 12 be amended —

(a) by deleting subclause (1)(a) and substituting -

"(a) prescribing the rate to be used for sewage charges;"

(b) in subclause (1) by adding -

"(ba) providing that, where premises are used for a prescribed trade, business or manufacture, the trade effluent surcharge shall be based on a prescribed percentage of the volume of water supplied to the premises by the Water Authority, other than water supplied specifically for flushing purposes;

- (bb) prescribing the percentage of the volume of water on which the sewage charge or trade effluent surcharge is based for the purposes of section 9(1)(d);".
- (c) by deleting subclause (2) substituting -

"(2) A regulation made under subsection (1)(e) may provide that a person who fails to furnish the information or furnishes false information commits an offence and is liable to a fine not exceeding level 6."

Question on the amendments proposed, put and agreed to.

Question on clauses 4, 7 to 10 and 12, as amended, proposed, put and agreed to.

CARRIAGE OF GOODS BY SEA BILL

Clauses 1, 3 to 8 were agreed to.

Clause 2

SECRETARY FOR ECONOMIC SERVICES: Mr Chairman, I move that clause 2 be amended under my name in the paper circulated to Members.

Members may recall that the purpose of the Bill is to implement in Hong Kong by domestic law an international convention and two protocols which are currently implemented in Hong Kong by United Kingdom enactments.

The liability in respect of the carriage of goods by sea provided for by the Bill covers all aspects of shipping activities. The term "trading" in clause 2 relates more generally to travelling between ports. The proposed amendment to the Chinese text will reflect more accurately this intention.

Mr Chairman, I beg to move.

Proposed amendment

Clause 2

That clause 2 be amended, in the definition of "船舶", by deleting "作貿易活動之用的或航行之用" and substituting "用於作業或航行".

Question on the amendment proposed, put and agreed to.

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

Schedule

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

The proposed amendments to paragraph (d) in Article I, paragraphs 3(a), 6 and 7 in Article III and paragraph 4 in Article IV of the Schedule are stylistic changes to the Chinese text.

Paragraph 8 of Article III serves to nullify any provision in a contract of carriage which relieves the carrier or the ship from certain liability or reduce their liability. The proposed amendment removes any possible discrepancy in meaning between the English text and the Chinese text.

The proposed amendment to the Chinese translation of the term "servant" in Article IV is to adopt the latest drafting style.

Mr Chairman, I beg to move.

Proposed amendment

Schedule, Article I

That Schedule, Article I be amended, in subparagraph (d), by deleting "卸下船舶" and substituting "從船舶卸下".

Schedule, Article II

That Schedule, Article II be amended —

- (a) in paragraph 3(a) -
 - (i) by deleting "開始將貨物" and substituting "貨物開始";
 - (ii) by deleting "顯著" and substituting "主要".
- (b) in paragraph 6, by deleting "聯合調查" and substituting "共同檢查".
- (c) in paragraph 7, by deleting "交回" and substituting "交出".
- (d) in paragraph 8, by deleting -

“或與此有關的法律責任的，或並非按本規則的規定減輕該等法律責任的，均屬無效”

and substituting -

“，或造成與該等貨物有關的滅失或損壞而須承擔的法律責任的，或並非按本規則的規定減輕該等法律責任的，均屬無效及不具任何作用”。

Schedule, Article IV

That Schedule, Article IV be amended —

- (a) by deleting "僱員" wherever it occurs and substituting "傭工".
- (b) in paragraph 4, by deleting "侵犯" and substituting "違犯".

Schedule, Article IV BIS

That Schedule, Article IV BIS be amended, by deleting "僱員" wherever it occurs and substituting "傭工".

Schedule, Article VI

That Schedule, Article IV be amended, by deleting "僱員" and substituting "傭工".

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: Mr President, the Employment (Amendment) Bill 1994 has passed through Committee with amendments. However, as my colleague, the Secretary for Education and Manpower, indicated earlier on when the Council is in Committee, it is his intention to withdraw the Bill, with your leave, Mr President, I will now defer to my colleague, the Secretary for Education and Manpower.

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, a very important principle is at stake here. Mr LAU Chin-shek's amendment ignored a conscious decision by the Labour Advisory Board (LAB) to keep the \$180,000 ceiling as part of an agreed package to improve long-service payment and severance payment.

The LAB is the Government's main advisory body on labour issues. It is a body where employers and employees elect their own representatives to deliberate on issues concerning labour policy and legislative proposals. The

LAB has an excellent record and has made significant improvements over the years to labour welfare at a pace and in a manner acceptable to both employers and employees. Every set of LAB's proposal represents the outcome of patient understanding and careful deliberations. We must not seek, therefore, to overturn these proposals lightly and abruptly. To do so would put our labour relations at risk and would damage the LAB's credibility as a successful mechanism for striking a reasonable balance between employers' and employees' interests, a system which has served Hong Kong so well over the years.

Mr President, because of this fundamental principle I withdraw the Bill.

THE ATTORNEY GENERAL report that the

SEWAGE SERVICES BILL and

CARRIAGE OF GOODS BY SEA BILL

had passed through Committee with amendments and the

EMPLOYEES RETRAINING (AMENDMENT) BILL 1994 and

CORRUPT AND ILLEGAL PRACTICES (AMENDMENT) (NO. 2) BILL 1994

had passed through Committee without 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.

PRIVATE MEMBER'S MOTIONS

PRESIDENT: I have accepted the recommendation of the House Committee as to time limits on speeches for debating the motions moved by Members and Members were informed by circular on 9 December. The movers of the motions under the Interpretation and General Clauses Ordinance will have five minutes for their speeches including their replies; other Members will also have five minutes for their speeches. Movers of the last two motions, that is, the motions on "Preliminary Working Committee and Provisional Legislature" and "Comprehensive Social Security Assistance for the Elderly", will have 15 minutes for their speeches including their replies and another five minutes to reply to proposed amendments. Other Members, including movers of amendments, will have seven minutes for their speeches. Under Standing Order

27A, I am required to direct any Member speaking in excess of the specified time to discontinue his speech.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR TAM YIU-CHUNG moved the following motion:

"That in relation to the Boundary and Election Commission (Registration of Electors) (Functional Constituencies and Election Committee Constituency) Regulation published as Legal Notice No. 585 of 1994 and laid on the table of the Legislative Council on 16 November 1994, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance for amending subsidiary legislation be extended under section 34(4) of that Ordinance until 11 January 1995."

MR TAM YIU-CHUNG (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper.

The Subcommittee to study the Boundary and Election Commission (Registration of Electors) (Functional Constituencies and Election Committee Constituency) Regulation has identified a number of provisions which are not entirely satisfactory. Following discussion with the Administration, agreement has been reached that the Administration will move the necessary amendments. To allow time for the drafting of the amendments and for Members to consider the proposed amendments, it is necessary to extend the time allowed for making amendment to the subsidiary legislation until 11 January 1995.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR TAM YIU-CHUNG moved the following motion:

"That in relation to the Boundary and Election Commission (Registration of Electors) (Geographical Constituencies) (Amendment) (No. 2) Regulation 1994 published as Legal Notice No. 586 of 1994 and laid on the table of the Legislative Council on 16 November 1994, the period referred to in section 34(20) of the Interpretation and General Clauses Ordinance for amending subsidiary legislation be extended under section 34(4) of that Ordinance until 11 January 1995."

MR TAM YIU-CHUNG (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper.

The Subcommittee to study the Boundary and Election Commission (Registration of Electors) (Geographical Constituencies) (Amendment) (No. 2) Regulation 1994 has identified a number of provisions which are not entirely satisfactory. Following discussion with the Administration, agreement has been reached that the Administration will move the necessary amendments. To allow time for the drafting of the amendments and for Member to consider the proposed amendments, it is necessary to extend the time allowed for making amendment to the subsidiary legislation until 11 January 1995.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR STEVEN POON moved the following motion:

"That the Commodities Trading Ordinance (Amendment of Schedule 1) Order 1994, published as Legal Notice No. 564 of 1994 and laid on the table of the Legislative Council on 9 November 1994, be repealed."

MR STEVEN POON: Mr President, I rise to move the motion standing in my name in the Order Paper. The Commodities Trading Ordinance (Amendment of Schedule 1) Order 1994 seeks to provide the Securities and Futures Commission (SFC) with statutory backing to impose criminal penalties sanctions on malpractice in trading of stock futures contracts.

A subcommittee was formed to scrutinize the Order with myself elected as Chairman. On the recommendation of the Members of the subcommittee, I signed a Notice of Motion to repeal the Order. At the last meeting of the subcommittee, some Members were still not satisfied with the explanations given by the Administration. I am therefore duty bound to leave the Notice of Motion to repeal in today's proceedings. This will enable the full Council to have the opportunity to debate the matter. The decision not to withdraw the Notice of Motion is regardless of my personal view on the merits of the Order. I am given to understand that I am not bound to speak or vote in support of the motion.

Mr President, what we are dealing with today is derivative contracts, a financial product whose implications are extremely complicated and least understood. We know from recent reports that there are massive losses in derivative transactions by users in the United States. Highly leveraged derivative products relying on small margins present risks that even the most experienced financial managers could not fully understand.

Whether stock futures would cause volatility in the stock market is a very controversial issue. The Administration, through these copies of articles, is in support of the view that derivatives would not pose adverse effect on the stock market. There are, however, no shortage of articles and opinion in Hong Kong putting forward practical examples to demonstrate that it would adversely affect the stock market. Indeed, enough has been said about the volatility that Hang Seng Index futures have created in the stock market and some are of the opinion that the recent rapid slide in the Hong Kong stock market was partly attributed to the trading of the Hang Seng Index futures.

In the United States, there are a number of derivative bills being considered by the Congress. It has been reported that these bills address derivatives as if they were the financial equivalent of nuclear energy, to be handled with extreme care in order to prevent a general melt-down in the financial system.

Against this background, I fail to understand why the SFC approved the Futures Exchange's application without a comprehensive consultation exercise being first conducted. The stock futures proposal was secretly developed and the SFC quickly approved it at a time when the new Council of the Stock Exchange was being formed and when the Chairman and the senior executive of the SFC were to leave the Commission shortly. Why is there so much urgency in such an extremely complicated financial topic? Why is there so much secrecy? Why must this far-reaching matter be decided at a time when there are significant changes in the leadership of both the Stock Exchange and the SFC?

For such a complicated and difficult financial product, I feel justified to urge the SFC and the Administration to think carefully over the issues involved before launching, taking into account the results of the consultation which is yet to be completed. I further urge the Administration to delay the launching of the product until the new leadership of both the SFC and the Stock Exchange have sufficient time to consider the matter thoroughly with the Futures Exchange.

Mr President, notwithstanding these comments, I do not feel I should object to the subsidiary legislation in question. My worries on the stock futures do not result in my concluding that the SFC should not have this statutory power to regulate this financial instrument. Quite on the contrary, strong regulation of this highly risky product is of absolute necessity. The Liberal Party will, therefore, vote against the motion.

Mr President, I beg to move.

Question on the motion proposed.

MR CHIM PUI CHUNG (in Cantonese): Mr President, the meaning and significance of the subsidiary legislation before us today is to vest the Securities and Futures Commission (SFC) with the power to supervise traders who will

engage in the trading of stock futures. Mr LAU Chin-shek has just said that if the Government dare to oppose his proposal again he will submit his resignation; these are words that I will not say after his fashion. I firmly believe that even if Members of this Council vote against this legislation, the SFC may not dare to implement it immediately. Stock futures has aroused much controversy in Hong Kong lately. I personally have much sympathy for the Secretary for Financial Services, particularly because, this case having landed on her lap, she has to give answers here today, and also, because she herself is being led by the nose by the SFC. She is only defining and defending this particular product here at the request of other departments. In fact, I also dare to query the Financial Secretary on the issue of stock futures. The Financial Secretary had better formally defend his financial policy for Hong Kong a while later. That would provide a sounder and more authoritative basis for the Government's case.

We understand that after the Hang Seng Index Futures has been vigorously promoted, and under the lead of the recent futures activities in the spot market for stocks most of the global funds and large brokerages are doing whatever they want in Hong Kong. Such being the case, Hong Kong, as a financial centre, is being impacted upon and challenged. With the 1997 issue looming ahead, Hong Kong people need a stable and less volatile market. However, as far as derivative products are concerned, even a market as large as the United State market is trouble-ridden lately, not to mention Hong Kong. Although I dare not say that stock futures definitely should not be introduced in the future, I believe that under current circumstances, it is not necessary to introduce stock futures.

In fact, part of the success of Hong Kong's stock market is visible and patent to all. Then why did the Government make its unpredictable assessment simply disregard this visible success? As a government, its head, namely, the Chief Secretary in the capacity as Acting Governor, should summon a meeting to discuss this issue and to examine the issue in detail if it is being politicized.

I am definitely not elevating financial issues to the political level. But the fact is that Hong Kong, as a financial centre, will inevitably bear on the realm of economics. We must come to the understanding that the chances are fairly remote for Hong Kong to develop along a political track, but economics and finance, being inseparable, will surely be leading the tide of development in Hong Kong in the future. There are essentially some vices in introducing stock futures. Some days ago, that is, on the 30th, I severely criticized the Government. That was tantamount to a reprimand. When so many strident, opposing voices are heard with regard to an issue which has a vital bearing on the stability of Hong Kong, a major capital market, the Government is obliged to study and assess the issue in greater detail.

We understand that should stock futures be introduced, that would indeed be a very dangerous product as far as individual investors are concerned. In a gambling house there is a saying "Be you clever or dumb, we do not care as

protect participants from irregularities that would victimize them. Although there is supervision and a risk fund, small investors are simply vulnerable. Small investors can lose all their properties virtually overnight through manipulations by massive funds and big brokerages.

Mr President, I believe that this subsidiary legislation will very probably be passed in a moment, but I hope the general public will listen clearly to this: that they had better think twice before jumping on the bandwagon. Their best bet is not to engage in any such activity at all, otherwise big market players will want to use Hong Kong as their base and do whatever they want to do. We certainly hope that a working group be set up by the Government to examine this product in greater detail.

Mr President, with these remarks, I raise my objection.

DR HUANG CHEN-YA (in Cantonese): Mr President, as regards the launching of stock futures by the Futures Exchange, the Democratic Party has major concern in the following two aspects: (1) the impact on Hong Kong's economy; (2) the protection of investors.

- (1) Let me speak on the first point first. At present, what most people are concerned about is the impact of stock futures trading on the securities market. Some would argue that the low cost entailed in the trading of stock futures would lead to the relative diminution the appeal of spot trading and would thus affect the stock market's function as a funding pool. In fact, this process of deduction is rather misleading and gives people the feeling that it is "presenting part of the picture in the guise of the whole".

First, different investors have different investment strategies and different capabilities of absorbing risks. The more adventurous investors, in choosing between Hang Seng index futures and warrants, may settle instead for stock futures. As for the more conservative ones, they may still choose stocks or take futures as the "hedging" tool to reduce the risks of spot goods. In fact, when investing in derivative products, fund managers are also subject to certain constraints, and high quality stocks are still their choice in building their investment portfolios.

Secondly, many studies have shown that the market for derivative products, whether it be for options, futures or warrants, still increases the turnover of the spot market and thus increases the latter's appeal.

Thirdly, the appeal of stock futures is largely dependent on the volatility of the regular stocks. In the event that the securities market becomes as inactive as stagnant matter, stock futures will also have difficulty in surviving. Therefore, the inference that investors would go unreservedly

for the stock futures market and forsake the securities market would be hard to sustain.

In any event, stock futures is conceptually a new product. In terms of name, it is a new product to Hong Kong and even to the whole world. The concern throughout the industry is understandable. Therefore, the Securities and Futures Commission (SFC) and Futures Exchange must listen to the views of those in the industry before launching the stock futures of the Hong Kong Bank and Hongkong Telecom. Besides, the SFC must review their impacts on the risk management system and the spot market six months after the launch of the stock futures and report the findings to the public. At the same time, as an international financial centre, Hong Kong other than attracting overseas securities brokerages, also needs which is, to take care of the interests of the local securities brokerages. If the launch of the stock futures should promote the turnover of the spot market, it would certainly bring more business to the securities brokerages. However, there is one point which we need to take note, which is, at present, of all the members of the Stock Exchange, only 20% are members of the Futures Exchange. As a result, many securities brokers will not be able to participate in the market. Therefore, the Futures Exchange must address the problem of membership supply. Moreover, upon the launching of a new product, the two Exchanges are obliged to provide technical support to the securities brokers so as to enable them to fully master the risks and functions of the new product.

- (2) With respect to the protection of investors, participation by small investors is what the Democratic Party is most concerned about. In fact, in all sorts of leveraged trading, the investors have to be extremely careful. Many investors have suffered tremendous loss in warrants recently. The risks inherent in options are high and this is also the case with futures. With regard to these high-risk derivative products, we believe that the declaration of risks disclosed by the Futures Exchange at present is indeed inadequate. It should lay more emphasis on risk warning in this respect and advise the investors to go about it according to their means. Of course, education is fundamental work. In addition, it should let the investors know that if the broker gives wrong investment guidance or rip them off, the investors can take legal action to claim damages or complain to the SFC.

The Democratic Party believes that a lesson is to be learnt from the Futures Exchange's failure to consult the industry or discuss the proposed launch with the Stock Exchange. Upon launching any derivative products in the future, the two Exchanges will have to consult the public because these matters involve the direction of economic development of the entire territory.

The Democratic Party considers the launch of stock futures acceptable. Even though there is still room for improvement at the moment with respect to the risk management and investment protection system, it is still acceptable. However, we think that in terms of consultation within the industry and the investor protection system, there is an imperative need for improvement. Therefore, in the amendment to the subsidiary legislation today, we aim at strengthening the protection of investors

The digital timer showed 0500

PRESIDENT: You have to stop, Dr HUANG, Does any other Member wish to speak?

MR ROGER LUK (in Cantonese): Mr President, the two main functions for the futures market are: one, price probing and two, risk shifting. Through the futures market, both the producers and the users will negotiate a forward price for the commodity based on the current information so that both parties can ascertain respectively the cost and the profit. As the forward price of the commodity may fluctuate due to the influence of objective factors, speculators may be tempted to invest so as to get a windfall out of it. They will thus become intermediaries between the producers and the users, taking the risk of price fluctuation and in a way safeguarding the profits of the above two parties.

It is indeed unfortunate that the two kinds of stock futures proposed by the Hong Kong Futures Exchange Limited have evoked extensive controversy. It is even more puzzling that the proposal should be linked to political conspiracy. As a matter of fact, the success of otherwise of stock futures has yet to be determined by the market. Nevertheless, the main argument behind the voices of opposition is still open to question.

Some politico-economic commentators think that after the introduction of stock futures, the incentive of holding stocks will decrease, thus posing a negative impact on the fund-raising function of the stock market. It is because the objective of investing in stocks is not for the meagre dividends but for capital gain. After the introduction of stock futures, investors can liquidate their stocks, deposit most of their capital into the bank to earn interest and then put the rest of the capital down as margin against trading the related stock futures of equal value. In this way, no matter how the stock market will fluctuate in the future, their returns will have already been safeguarded. This infers a tendency that the investors will become speculators in stock futures and will lose their interest in spot commodities. As a result, the volume of transaction on the kind of stocks where there is futures trading will shrink and their fund-raising capacity in the market will be further weakened. On the face of it, this argument seems valid. But the question is: Since it needs both sellers and buyers in the market to make transactions possible, if everyone sells stocks and holds futures, who is going to buy the unwanted stocks?

After all, futures is nothing but a contract. Of course there are a lot of people who only trade in futures instead of stocks. But to take it as a major investment trend will be unimaginably weird. The fund managers from Europe, America and Japan are all astute people in money affairs. If they deposit the fund into the bank to earn interest on one hand and trade in index futures on the other, then will it not be more direct and less brain raking?

Some commentators think that since the stock market in Hong Kong has always been artificially manipulated, the introduction of stock futures will thus provide an opportunity for the big foreign investors to speculate and to manipulate the market, who, after making a windfall out of it, will leave for good. However, the claim that the big investors make waves and manipulate the stock market to their advantage is only hearsay with no evidence to substantiate it. As a matter of fact, before the introduction of stock index futures, the Securities and Futures Commission (SFC) had also shown its concern by setting up a task force to study the issue, whose members include practitioners within the securities industry. The conclusion drawn by the task force is that there is no substantial evidence to support the claim that the phenomenon of artificial manipulation of stock indexes exists. The academic studies of earlier years have in fact proved that the Hong Kong's stock market was efficient. We have no reason to believe that the stock market's efficiency will be dropping down instead of going up when information technology is so highly developed nowadays. In an efficient stock market, artificial manipulation can hardly be achieved.

Commodity futures provides the users with a mechanism for hedging. In the course of buying and selling, the futures contract will go through a number of speculators. This, however, will not affect the value of the commodity per se. If the emergence of gold futures adversely affect the value of the commodity per se. If the emergence of gold futures adversely affects the market price of gold, I believe that it will not be possible for gold futures to exist any longer. The same principle applies here. The value of stock futures contracts will constantly be based on the price of the cash market.

Futures of course smacks strongly of speculation. But in face of the recent downward plunge of the stock market, will it be regarded as speculation when small investors buy stocks on the spot market, cherishing a wish to gain profits when prices rebound? When there are stocks in hand, selling futures short is a way to guard against investment risks; when there are no stocks in hand, buying futures is a way of speculation for profits. But in any futures market, if there are no speculators, the whole market will be lopsided and will lose the mechanism for hedging against risks. In fact, a market must have the participation of investors as well as speculators in order to be vibrant and efficient. Based on this understanding, it is indeed unnecessary for us to regard stock future as great scourges. The American stock market allows selling short and, together with active trading in options, it has an adequate mechanism for hedging against risk. Therefore it does not really matter even if there are no stock futures.

Dealers in securities still have lingering fears of the aftermath of the 1987 stock market crash when there were settlement difficulties in the futures market, and eventually the losses incurred had to be shared by the stock market participants. Nevertheless, if one can still remember, the root cause of that disaster is the suspension of the stock market for four days.

Mr President, any investment tool will have different advantages and disadvantages to different people. The stock futures proposed by the Hong Kong Futures Exchange Limited may have some imperfections as far as the process of introduction is concerned, but this is not at all a "secretive operation". Besides, after months of discussion, the community at large should have a better understanding towards the operation of stock futures. Therefore, there are no sufficient grounds to support this motion today. As a matter of fact, the crux of the question lies in whether the monitoring system and risk management will be sound enough. And the answer to this should be in the affirmative.

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

MR LAU WAH-SUM (in Cantonese): Mr President, originally I had no intention to speak, but since Mr POON is proposing to repeal this subsidiary legislation today, I have to voice my objection. It is because the subsidiary legislation does no more than seeking to vest the Securities and Futures Commission with the power to supervise and regulate the trading in futures of individual stocks. As everybody is talking about individual stock futures, I would like to make a couple of remarks, too.

This derivative product will continue to exist in Hong Kong and elsewhere in the world. We are just at the starting stage. If Hong Kong aspires to becoming an international financial market, it will have to start developing this product. As to how to develop it, whether consultation is needed or whether the investors should be protected, such are the questions which we can discuss later. Therefore, in my view, we cannot afford to overlook this derivative product of stocks if Hong Kong is to be a finance-led economy and aspires to becoming an international financial market.

I so submit.

SECRETARY FOR FINANCIAL SERVICES: Mr President, I am grateful to Members of the subcommittee under the chairmanship of the Honourable Steven POON for their efforts in examining the Commodities Trading Ordinance (Amendment of Schedule 1) Order 1994. Since the subcommittee was set up in late November it has met three times within a very short span of time. The Administration together with the Securities and Futures Commission have tried to address Members' concerns about the plan of the Hong Kong Futures Exchange to introduce the trading of stock futures contracts. I regret that we

have not been able to persuade all Members, all Honourable Members to accept our arguments.

The Honourable Steven POON has just raised four points. First, he has emphasized the need for consultation. He has questioned the secretive manner in which this product has been introduced. He has questioned whether there is a need to introduce the product urgently and he has also made reference to heavy losses incurred by some professional investors to highlight the fact that this product is a highly risky product.

For the first three points, the Administration had already fully addressed them both in the subcommittee as well as during the motion debate in this Council two weeks ago, and I do not seek time to go all over the arguments. Responding to the last point made by the Honourable Steven POON, I must say that this does not detract from and does not contradict with the Administration's view that derivative products are highly specialized products and basically these products are for sophisticated investors. They are not intended for small investors. We have taken note of the subcommittee's suggestion that small investors in particular should be issued with a health warning. Indeed, this is already the responsibility of brokers to draw the attention of investors to this question in the form of a risk disclosure statement, and we have also conveyed the suggestion to the Futures Exchange on whether the disclosure statement for stock futures could be more strongly worded to advise small investors away from the product.

I have taken note of the Honourable CHIM Pui-chung's suggestion that there are political motives behind the product. I must say this is an unfounded allegation.

Let me turn to two important suggestions by the subcommittee. Some Honourable Members have repeatedly asked for an undertaking from the Administration that other sectors of our financial markets will not be required to bale out the Futures Exchange should the introduction of stock futures lead to a crash similar to the one in 1987. Our view remains that we do not believe the 1987 experience will repeat itself in future, whether as a result of the trading of stock futures or otherwise. The risk management system of the Futures Exchange has been completely overhauled since 1987. The system in place nowadays is effective and regarded as one of the most conservative risk management arrangements in the world. It can withstand even the impact of very taxing circumstances with the settlement of transactions guaranteed by a substantial reserve fund. This, in a way, is already a guarantee by itself that the Futures Exchange will be able to absorb financial losses to the market at times of highly exceptional volatility.

Should there be circumstances under which even such a conservative risk management system failed to function properly, the case would be so disastrous that it would affect other sectors of the financial system, or even the economy generally. No responsible government can give any blanket assurance on how

to tackle such a situation. Furthermore, any rescue operation in such cases would most likely need the backing of law, and the Administration has no intention to usurp the authority of this Council in giving an undertaking now on how best to handle any unforeseen crisis which may happen in future.

That said, we agree fully with the suggestion of some Honourable Members that the 1987 rescue package should not be used as a precedent for imposing similar levy on investors in the stock market in future. Indeed, each case has to be assessed on its own merits, in the interest of the public, and in accordance with the circumstances prevailing at the time.

Some Honourable Members have also requested that a review on the impact of stock futures on the cash market should be undertaken after the new product has been launched for some time. The Securities and Futures Commission has agreed to conduct such a review six to nine months after the commencement of trading of the product. I should, nevertheless, reiterate that the Futures Exchange and the Regulator will keep a close watch on the situation. Should any problem be detected at any point in time, it is their duty to take prompt action to address the situation rather than to wait for the review.

As Honourable Members who have spoken indicated, the Order is made for a genuine and simple purpose of better protecting our investors. It represents the Regulator's view on the desirable level of regulation attached to the trading of stock futures. I cannot see any grounds for Members to reject this objective.

Mr President, against this background, I urge Honourable Members not to repeal the Order, and to join the ex officio Members to vote against the motion.

PRESIDENT: Mr Steven POON, do you wish to reply? You have only 30 seconds out of your original five minutes.

MR STEVEN POON: Mr President, I was unable to see the clock when I was speaking but I do not wish to say any more. Thank you.

Question on the motion put.

Voice vote taken.

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

Mr CHIM Pui-chung claimed a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Would Members please proceed to vote?

PRESIDENT: We seem to be one short of the head count. Are there any queries? If not, the result will now be displayed.

Mr PANG Chun-hoi, Mr TAM Yiu-chung, Mr LAU Wong-fat, Mrs Peggy LAM, Mr CHIM Pui-chung, Dr Philip WONG and Dr TANG Siu-tong voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr Martin LEE, Mr SZETO Wah, Mr Andrew WONG, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr LAU Wah-sum, Dr LEONG Che-hung, Mr Jimmy MCGREGOR, Mr Albert CHAN, Mr Vincent CHENG, Mr Moses CHENG, 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 LEE Wing-tat, Mr Eric LI, Mr MAN Sai-cheong, Mr Steven POON, Mr TIK Chi-yuen, Mr James TO, Dr Samuel WONG, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Miss Christine LOH, Mr Roger LUK, Ms Anna WU, Mr James TIEN and Mr Alfred TSO voted against the motion.

Mrs Elsie TU abstained.

THE PRESIDENT announced that there were seven votes in favour of the motion and 42 votes against it. He therefore declared that the motion was negatived.

PRESIDENT: Mr Steven POON and Dr YEUNG Sum have given separate notices to move motions under the Interpretation and General Clauses Ordinance to amend the Maximum Scale of Election Expenses (Municipal Councils) Order 1994. The two motions have been printed in the Order Paper. As the two motions are related, I intend to have them debated together unless there is a dissenting voice.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR STEVEN POON moved the following motion:

"That the Maximum Scale of Election Expenses (Municipal Councils) Order 1994, published as Legal Notice No. 581 of 1994 and laid on the table of the Legislative Council on 16 November 1994, be amended in section 2 by repealing "\$100,000, plus a further \$20,000 for the replacement of damaged or stolen publicity materials" and substituting "\$120,000"."

MR STEVEN POON: Mr President, I rise to move the amendment standing in my name in the Order Paper. The effect of my amendment is to amalgamate the proposed maximum election expenses of \$100,000 plus a further \$20,000 contingent allocation for damaged or stolen election materials, to a single figure of \$120,000 for next year's Municipal Council elections.

The Liberal Party believes this is a better approach for essentially two reasons. First, after some discussion by the subcommittee formed to examine this matter, Members were essentially of one mind, that the practical difficulties of implementing and enforcing the contingent \$20,000 outweighed whatever advantage there might be in such an allocation.

The Liberal Party believes that there could be abuse and too much effort being required, both by the candidate and by the Registration and Election Officer to ensure compliance. Second, the Liberal Party proposes amalgamating the \$100,000 with the \$20,000 rather than deleting the \$20,000 because we believe to stage a reasonable campaign the maximum election expenses should be set at \$120,000.

A comparison with the district board's maximum scale of election expenses of \$50,000 will put this into perspective. First the population size for an Urban Council or a Regional Council seat is six times larger than a district board seat and hence a similar difference in voter population. Secondly, district board constituencies are more homogeneous than the Urban Council or Regional Council constituencies. To accommodate the substantial difference in electorate size and sectoral interests, the maximum of \$120,000 is reasonable. Indeed, as Members are aware, candidates always spend less than the maximum in order to ensure a safety margin in case of emergency, or indeed miscalculations.

With these comments, Mr President, I move this motion.

Question on Mr Steven POON's motion proposed.

PRESIDENT: As the Council has agreed that Mr Steven POON's motion be debated together with Dr YEUNG Sum's motion, Members can now speak on either or both motions. At the end of the debate, we will vote on Mr Steven Poon's motion first. Whether Dr YEUNG Sum will be called on to move his motion would depend on the Council's decision on Mr Steven POON's motion. If Mr Steven POON's motion has been agreed, that will by implication mean that Dr YEUNG Sum's motion has been disapproved. If, on the other hand, Mr POON's motion is not carried, Dr YEUNG Sum will be called upon to move his motion, but the question on Dr YEUNG's motion will be put without further debate.

DR YEUNG SUM (in Cantonese): Mr President, concerning the election expenses in respect of the Municipal Councils, the Administration has proposed two points. First, to increase the expenses from \$70,000 to \$100,000, plus the second point of a further \$20,000 allowance for damaged publicity materials. That will mean a total of \$120,000 election expenses for the candidate.

In fact, both the Democratic Party and the Liberal Party share similar views concerning the \$20,000 publicity expenditure. This amount of \$20,000 will be drawn upon when the publicity materials are damaged. Both parties share the view that there can be abuse of this additional expenditure and some candidates may even send people to destroy their own publicity materials to claim this \$20,000 publicity allowance. In addition, this will entail considerable administrative expenses. We therefore consider that it is not necessary to allow a further \$20,000 by way of publicity expenses to candidates.

We find it hard to accept the Liberal Party's proposal to increase the election expenses to \$120,000. So I put forward this amendment. The main reason is that the election expenses in respect of the last Municipal Council elections were \$70,000 and they are already being increased to \$100,000 this time. This is acceptable because the constituencies of the Municipal Council elections this time are slightly smaller than last time. If it is being argued that increase of election expenses should follow the inflation rate, it will still be acceptable to increase the expenses from \$70,000 to \$100,000. If the amount is increased to \$120,000, the increase will be too steep to be acceptable.

As I have just said, the constituencies this time are already smaller than last time. It will not be fair to those candidates with limited financial means if we increase the election expenses to \$120,000. We hope that the Administration will scrap this additional allowance of \$20,000 for the candidate. I propose that the election expenses be increased to \$100,000. And I hope Members can support it.

Thank you, Mr President.

MRS ELSIE TU: Mr President, the resolution concerns the majority of Members of the Urban Council, and as its representative I wish to state the Council's view on election expenses.

At a meeting on 6 December, Members of the Urban Council expressed no strong views on the issue. Although a small minority considered that election expenses should be limited to \$100,000, the Council finally agreed unanimously that the maximum should be \$120,000, since no candidate need feel obliged to spend the full amount.

Those who intend to stand for election might be prudent to retain \$20,000 in case any posters need replacement. In fact, there is no strong principle at stake, but as we have to make a choice, I represent my constituency in supporting Mr POON's amendment.

MR TAM YIU-CHUNG (in Cantonese): Ever since the introduction of elections at the district level, there have been complaints from the candidates about their publicity materials allegedly being maliciously damaged by their opponents or other people. This phenomenon is not exclusive to elections in Hong Kong. There are also similar situations in other countries where democratic elections take place. During the District Board elections that were just past, candidates from the Democratic Alliance for the Betterment of Hong Kong (DAB) to which I belong have also been the main victims.

In the case of elections in Hong Kong, the restriction on the election expenses of candidates is fairly strict. But whenever any publicity materials are damaged, it is necessary to reproduce and replace them. As a result, election expenses may exceed the limit and that will be unfair to the candidates. Therefore, the representatives of DAB met Mr Justice WOO Kwok-hing, Chairman of the Boundary and Election Commission, in August 1994. They put forward the proposal and hoped that the Commission would consider amending the existing legislation to allow the candidates an additional expenditure limit for the replacement of the damaged publicity material. The present subsidiary legislation proposes that in the Municipal Council Elections in March 1995, on top of the \$100,000 election expenses, the candidate can claim from the additional expenditure limit of \$20,000 an amount required for the replacement of the damaged publicity materials upon application to the Registration and Electoral Office. This, in effect, means that the proposal of DAB has been accepted, thus I will support the subsidiary legislation.

Meanwhile, the Democratic Party believes that the level of \$100,000 election expenses plus an additional expenditure limit of \$20,000 provided under the subsidiary legislation is too high. I think that Members of the Democratic Party have overlooked a point. In the District Board elections in September, the population of each constituency is approximately 17 000 people, among whom about one third or 6 000 people are registered voters, while the maximum scale of election expenses is \$45,000. However, in regard to the

Municipal Council elections in 1995, the Hong Kong Government estimates that there will be at least 40 000 voters in each constituency, six times that of the District Board elections, while the election expenses are only slightly more than twice the District Board elections'. Even with an additional expenditure limit of \$20,000, the maximum scale of election expenses is still less than three times the District Board elections' limit. Therefore, the expenditure limit in regard to the Municipal Council elections is definitely not on the high side. On the contrary, it is on the low side when compared with the District Board elections' limit. If a contingent allocation is provided for the replacement only after the publicity materials have been damaged, that will not be very realistic in my opinion.

Mr President, all along I have been quite envious of the candidates from some other political parties who, on one hand, are able to keep their election expenses low, while on the other hand are able to widely display their publicity materials with comparatively lesser cases of damage. Thus it is understandable why they will oppose the new proposal put forward by the Administration as regards election expenses. I will support the Administration's proposal of \$100,000 plus \$20,000 in the subsidiary legislation as well as the Liberal Party's amendment to the effect that the maximum scale of election expenses be set at \$120,000 by the amalgamation of the \$100,000 with the \$20,000, and I will not support the Democratic Party's amendment.

These are my remarks.

MR MARTIN LEE (in Cantonese): Mr President, it is not my original intention to speak. But Mr TAM Yiu-chung's remarks just now seem to imply that our Party had more publicity boards than they had whilst we had less cases of boards being damaged. In fact, this is totally contrary to the facts. My experience is that in the direct election held in September 1991, when I was standing for election together with Mr MAN Sai-cheong in Island East, the publicity boards we had were five times less than those of the candidates of the Democratic Alliance for the Betterment of Hong Kong.

PRESIDENT: You can only speak once, Mr TAM.

MR TAM YIU-CHUNG (in Cantonese): I would like to clarify that, just now, I have not specified any candidate from the Democratic Party or any other parties. I have only expressed my feelings, my envy. Thank you, Mr President.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, the basic principle of determining the maximum scale of election expenses has been accepted over the years. It is to strike a balance; it should not be so low as to hamper candidates from conducting effective campaigns, nor so high as to deter those who are financially less well-off from contesting the elections.

In accordance with this basic principle, the Administration has determined that the maximum scale of election expenses, last determined at \$70,000 for the 1991 Municipal Council elections, should be revised to \$100,000 for 1995. This takes into account the common range of items of election expenses such as the printing of publicity material, and the production of banners, placards and posters. It has regard to the fact that inflation in these items has gone up by about 40% over the years, as well as the increasing sophistication of campaigning, and the size of the Municipal Council constituencies in 1995. It is a reasonable figure.

But this time round, we have proposed a new element, that is, on top of the normal level of election expenses, we consider that an additional limit of \$20,000 should be permitted for expenditure on replacing damaged or stolen publicity material such as banners, placards and posters. This takes into account comments by candidates at the last round of district board elections. Hitherto, the cost of replacing these materials had to be included as part of the normal limit on election expenses. It has been argued that this is unfair, since it is usually not the candidates' fault that their publicity material are damaged. Indeed, it may sometimes be due to inclement weather. We believe that there is force in their arguments; hence our proposal.

In order to deter abuse of the additional expenditure limit of \$20,000, the independent Boundary and Election Commission has suggested that any candidate who wishes to make use of it must first make a report of damage or theft, as the case may be, to the police. It is a suggestion, not, I repeat "not", a decision. I know that some Members of this Council consider that this is cumbersome; if they have other better ideas, I am sure the Boundary and Election Commission would be happy to consider them. But we do not believe that this question of implementation is insoluble; it certainly does not obviate the case for the additional expenditure limit itself. So both the Honourable Steven POON's motion, as well as a subsequent motion by Dr the Honourable YEUNG Sum on the same subject, do seem to us rather like throwing the baby out with the bath-water, except they do so in different directions.

Mr President, *ex officio* Members of this Council will vote against both the Honourable Steven POON's motion, as well as against Dr the Honourable YEUNG Sum's subsequent motion. Thank you, Mr President.

PRESIDENT: Mr Steven POON, do you wish to reply? You have two minutes 35 seconds out of your original five minutes.

MR STEVEN POON: No, Mr President.

Question on the motion put.

Voice vote taken.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Would Members please proceed to vote?

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

Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr NGAI Shiu-kit, Mr PANG Chun-hoi, Mr TAM Yiu-chung, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Jimmy McGREGOR, Mrs Elsie TU, Mr Moses CHENG, Dr LAM Kui-chun, Mr Steven POON, Dr Philip WONG, Mr Howard YOUNG, Dr TANG Siu-tong, Mr James TIEN and Mr Alfred TSO voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Martin LEE, Mr SZETO Wah, Mr Andrew WONG, Dr LEONG Che-hung, Mr Albert CHAN, 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 Conrad LAM, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr Samuel WONG, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH and Ms Anna WU voted against the motion.

THE PRESIDENT announced that there were 22 votes in favour of the motion and 27 votes against it. He therefore declared that the motion was negated.

DR YEUNG SUM moved the following motion:

"That the Maximum Scale of Election Expenses (Municipal Councils) Order 1994, published as Legal Notice No. 581 of 1994 and laid on the table of the Legislative Council on 16 November 1994, be amended in section 2 by repealing", plus a further \$20,000 for the replacement of damaged or stolen publicity materials".

DR YEUNG SUM (in Cantonese): Mr President, I move the resolution standing in my name on the Order Paper.

Question on the motion proposed, put and agreed to.

PRELIMINARY WORKING COMMITTEE AND PROVISIONAL LEGISLATURE

MR SZETO WAH (in Cantonese): Mr President, I have given notice for the motion proposed by me to be withdrawn, and thank you for giving me an opportunity for a brief remark despite of it.

The withdrawal of the Employment (Amendment) Bill during the third reading demonstrates that the Government "holds only the cards in its favour". The Government is, in fact, trampling the constitutional system, disparaging this Council, insulting all Members of this Council, and deceiving the voters who cared to vote. Therefore, after the delivery of my remarks, all Members of the Democratic Party will walk out in protest. Mr Fred LI will also withdraw his proposed amendment to the second motion. I owe my apology to the President and other colleagues.

PRESIDENT: Mr Frederick FUNG, are you trying to catch my eye?

MR FREDERICK FUNG (in Cantonese): Mr President, originally I have an opportunity to amend Mr SZETO Wah's motion. But because of what happens today, a certain behaviour of the Government has caused great discontent among us. So I am walking out in protest too.

PRESIDENT: I was minded to suspend the sitting to enable Members to get ready for the second motion debate but I see the mover is here, the Secretary for Health and Welfare is here, I will therefore call on Dr LAM Kui-chun.

COMPREHENSIVE SOCIAL SECURITY ASSISTANCE FOR THE ELDERLY

DR LAM KUI-CHUN moved the following motion:

"That this Council urges the Government to raise with immediate effect the monthly standard rate of payment for single elderly persons under the Comprehensive Social Security Assistance Scheme to \$2,300 per month, and increase correspondingly the standard rates for other categories of elderly people under the Scheme."

DR LAM KUI-CHUN (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper.

Mr President, there are different stages in our life. When we are small, we are taken care of by our parents. When we reach our youth, we rely on ourselves. Even as adolescents or adults, we take care of one another. And

when we grow old, we depend on our children as a matter of tradition. In recent decades, the traditional concept of respecting the elderly has been declining. Moreover, the emergence of nuclear families has resulted in the phenomenon that many elderly people are not fully taken care of by their children. Consequently, quite a number of old people who do not have substantial savings have to live on the shamefully meagre dole out of Comprehensive Social Security Assistance (CSSA) despite their old age. This is a social tragedy, as well as an irony *vis-a-vis* the prosperity of Hong Kong.

Mr President, money is not omnipotent, but we cannot do without it., and life will be difficult for a man who has insufficient money to see himself through. The Governor in this very Council Chamber has said on behalf of the elderly that \$2,300 a month is a reasonable level. For those elderly people not in need, the Government tries hard to "play generous", seeking to levy tax from the whole working population in order to pay the elderly people regardless of whether they need it or not. However, for those genuinely in need, despite their financial hardship which has caused them to fall into the safety net, the Government basically pays only \$1,670 a month, which works out to an average of only \$56 a day. Although there are special allowances, all basic necessities of life including food, clothing, shelter and transportation have to be paid out of this small amount. Beside, the amount of \$1,670 is only a maximum rate. For those who have other sources of income, the sum of their income will be deducted from the \$1,670 before the Government pays out the money. I believe that the fact that there are not too many old people suffering from hunger or dying of cold out on the street is just because they are "tough".

Mr President, the Liberal Party cannot allow the situation to go on like this, especially when the cold winter is approaching. We should act now without delay to provide a reasonable level of assistance acceptable to all parties for over 60 000 elderly people on CSSA. Of these people, over 90% are single and helpless. Nobody else except the Government can really take care of them. In fact, how much do we consider to be a reasonable CSSA rate? Although there used to be a lot of controversy, now society has more or less reached a consensus. Last year, this Council passed a motion to increase the amount of CSSA to \$2,300 a month. This year, Dr MacPHERSON of the City Polytechnic of Hong Kong says in his report that CSSA at the level of \$2,300 a month is reasonable. These two figures tally with the amount of old age pension proposed by the Governor. Even the CSSA recipients generally accept that this is the objective they are striving after.

Regrettably, however, the Government recently rejected categorically the demand for \$2,300 per month to be paid to all recipients of CSSA. These reasons were given: firstly and most importantly, the annual total expenditure on CSSA is estimated to increase by \$9 billion to \$25 billion if this requirement is to be met. Unless there is a drastic increase in tax, this is more than what the Government can afford now. Secondly, substantial increase in welfare will encourage low income earners to give up their salary in favour of welfare, thereby eroding Hong Kong's labour productivity. Thirdly, since the basic rate

of CSSA plus special allowance exceeds the average amount of \$2,400 per month per person, which is more than the \$2,300 as demanded at present, there is no need to increase the basic rate.

In response to these three reasons, I am of the view that, firstly, if the increase in CSSA is applied only to the elderly, even where there is an increase in the number of elderly people claiming CSSA, the Government's additional financial burden is estimated to be no more than \$1.85 billion per year. We do have a basis for putting forward this calculation. Mr Moses CHENG will elaborate on it in detail. Based on this figure, there is no need for the Government to increase tax. The Government is fully capable of shouldering this burden in the present financial situation. Secondly, if the increase in the rate of CSSA is only limited to the elderly, the labour productivity of the young people in Hong Kong will not be reduced. Thirdly, judging from its past performance, the Government obviously lacks confidence as to whether or not the CSSA rate of \$1,670 per month is sufficient. Two years ago, at a meeting of the Panel on Welfare Services, I suggested conducting a special survey to ascertain whether or not the amount of public assistance was sufficient but the suggestion was turned down by the Government. The reason was that once it was discovered that public assistance was insufficient, it would arouse discontent of and demands from various sectors. We can see that the Government does not have any information to show if the CSSA rate is sufficient. This ostrich policy is challenged by Dr MacPHERSON's report issued this year. Now the Government has no alternative but to conduct a survey on the sufficiency of the existing CSSA rate. Obviously, the Government blatantly overrules, without setting out any grounds, the basic rate of \$2,300 per month which has been agreed by various sectors and endorsed by the Governor. The political reality now is that the Government puts forward a "play generous" type of proposal to give every elderly person \$2,300. However, it has been rejected by the Legislative Council last month. Meanwhile, the proposal of increasing the CSSA payment to \$2,300 for all recipients has also been rejected by the Government. Therefore, my proposal of increasing the CSSA rate to \$2,300, which is to be limited to the elderly, is a pragmatic and short-term compromise acceptable to all parties.

In order to be practical and to facilitate the Government in making an appropriate increase in CSSA to benefit the poor elderly people, I am not making any excessive demand, nor am I forcing the Government to grant all recipients of CSSA an amount of \$2,300 or above per month irrespective of their age. At the same time, I still endorse the cost-effective concept. Those elderly people living with their family incur less expenditure than the single elderly persons. That is why, in my motion, I urge that the monthly standard rate for single elderly persons under the CSSA Scheme be increased to \$2,300 per month, whilst the standard rate for elderly people of other categories be increased just correspondingly. I would also like to take this opportunity to stress that, apart from the CSSA Scheme, there should be a provident fund system for the entire working population. This is the only long-term solution to the problem concerning the elderly.

In moving this motion debate, I am not donning the hat of the political party of which I am a member, instead I am maintaining a neutral stand. But during the period when we were asking the Government to conduct a survey on providing instant CSSA to the poor elderly people, the Liberal Party searched for relevant information to build our case on. In the following debate, Mr Moses CHENG will elaborate on the details of the Liberal Party's proposal to increase the CSSA rate for the elderly; Mr James TIEN will talk about the industrial and commercial sector's views on taking care of the elderly; and Mrs Selina CHOW will analyse various problems faced by the elderly currently on CSSA.

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

Question on the motion proposed.

PRESIDENT: Mr Fred LI had given notice to move an amendment to this motion but has withdrawn that proposed amendment.

MRS ELSIE TU: Mr President, I regret that our colleagues have walked out from this particular motion because it seems to me far more important that we should care for the elderly rather than show anger over the less important political issues behind the walkout. When this Council debated the Old Age Pension Scheme (OPS) last month, we were told by the Administration that our proposal was a backward step in that some elderly people were already able to receive \$2,400 in assistance. That is a typical example of the way in which the Government covers its shortcomings. They quote an exceptional case instead of the norm to mislead the uninformed about the truth. I am sure that no one in this Council would want to reduce the assistance given to exceptional cases of need. I am equally sure that when we ask for an increase to \$2,300, we are talking about the ordinary elderly person who receives no family support and is unable to support him/herself on the present allowance of \$1,670.

I imagine that most Members of this Council share my feelings that the government OPS is a non-starter into which very little thought was put as to its consequences. The Scheme receives very little support from this Council. It is definitely unpopular with workers who are in essence being called upon to pay an extra 1.5% income tax on a welfare scheme that clearly lies in the domain of the general tax system. The taxpayers, by and large, do not support the Scheme because it means that public revenue will be allocated to a fund from which the well-off as well as the needy will receive a payout. Chinese Government spokesmen also appear not to support the Scheme so it is unlikely to survive 1997, which is exactly when it is supposed to come into operation.

Nor would the elderly themselves be likely to support the OPS if they had been told the facts, that they would still have to wait two years for it, and that in a few years' time when the money run out they would be sharing the crumbs of cake that remained with people well enough off not to need the crumbs.

Moreover, some economists took the trouble to get together and spend their own money to show that the Scheme would hit financial trouble in a very short time, as indeed has been proven in other countries that have tried it and are now trying to change it.

Our vote against the OPS was not aimed at the elderly, as the Government would like to make out in case they have to withdraw it. On the contrary, I am sure that most Members, like myself, want to see an increased Comprehensive Social Security Assistance Scheme as stated in this motion today, and we want to see it now, not in two years' time when everything may be in the melting-pot.

If this proposed social security scheme is carried out fairly, with proper monitoring to make sure that money is not handed over to those who do not need it, I am sure that it will be no big burden to the taxpayer. Some employers have actually suggested that they would support such an increase even if it did mean a slight rise in income tax and profits tax. After all, taxes are graded according to income or profits and that is fairer than putting the same tax on all workers and employers, including those who employ foreign domestic workers whose employees would not receive the pension.

This motion today indicates our concern for the welfare of the elderly in need, not for those that the Government wants to reward as a prize for reaching the age of 65 regardless of need. However I would like to see the limit on savings raised to say \$50,000 so that an elderly person may have more feeling of security if his savings are dwindling.

I should also like to add that I believe all elderly persons should be entitled to housing if in need of it, as well as other welfare benefits. The need for housing is a blot on Hong Kong's reputation, and promises made five years ago have not been honoured. And I refer to a press report today in which a man of 80 years of age has been thrust out of his house because of the new system on cage dwellers.

Mr President, I support the motion.

MR HIU YIN-FAT (in Cantonese): Mr President, on the face of it, the subject of today's debate is based on the assumption that the Comprehensive Social Security Assistance (CSSA) rates per month received by elderly people who are aged 60 or above is not sufficient for pay for the basic necessities of life. But looking at the thrust of the debate, the purpose is undoubtedly to review and reverse the Government's arbitrary decision of rejecting the recommendations on the CSSA rates made in Dr MacPHERSON's report. Whether the attempt will be successful or not hinges not on how the pros and cons are accurately and sufficiently presented, but on whether the Government has the sincerity to understand and sympathize with the misfortunes of the group of people and families who are most unfortunate and most unable to help themselves, and

thence to make the necessary commitments by helping them to live with a little bit more dignity.

As a matter of fact, when compared with similar studies, Dr MacPHERSON's report is one that has adopted the most advanced and scientific method of survey and statistics. Since it was published in the middle of this year, it has been well recognized and well received by the public, scholars and Members of this Council. The Hong Kong Council of Social Service, relevant organizations and all members of the Welfare Services Panel of this Council argued most heatedly with the Administration on the implementation of the major recommendations of the report, and the result was obvious to all. However, the Governor's breach of faith with the Welfare Services Panel, the gross exaggeration of data and statistics by the policy branch officials who are intent on misleading the public and on rejecting outright any readjustment of the CSSA rates, and the smothering of any bargaining talk have abundantly reflected how the Government is taking shelter behind lame arguments and how much it is afraid of facing reality.

The only ground of objection put forward by the Government is one of financial commitment. That is why it has exaggerated some estimates to achieve the aim of threatening the people. The most obvious example is the Government's statement that deducing from the take-up rate (namely 84%) of CSSA protection for elderly people who are aged 60 or above, the readjustment of CSSA rates to \$2 300 per month per person would result in 155 680 additional low-income families losing the incentive to work but preferring to receive the meagre assistance after a strict means test; it has been further deduced that the readjustment could entail an extra spending of as much as \$25 billion a year, which would mean that the standard rate of both the profits tax and the salaries tax would have to be raised by 3% for the huge expenditure to be met.

As we all know, the dependence of elderly people on CSSA has always been on the high side. This is because employers in general are not inclined to employ elderly people who are approaching their retirement age. It must have been extremely lucky for them not to have been dismissed arbitrarily. This may be inferred from the low labour force participation rate of 16.1% for the elderly people. In Hong Kong, before any compulsory retirement protection is introduced, elderly people will have little means of livelihood after their retirement. The only thing they can rely on is CSSA. But the same cannot be said of low-income families and people of other categories. This is because Hong Kong people are hardworking by nature. Unless adversity should suddenly befall them, there was no way they would ever never ask the Government for assistance.

Similarly, it is simply not possible for the meagre CSSA rates to make one "feel too lazy to work". Therefore, low-income and unemployed cases so far have constituted only about 5% of the total number of CSSA cases. So, my view is that, unless the local economy is in a serious recession, implementing the

recommendations of the MacPHERSON's report would not result in Hong Kong's labour force participation rate declining by 1.5% or even 5% as was claimed by the Administration. On the contrary, the study conducted by Dr MacPHERSON not only deal with the consumption pattern of the assisted and their expectations of the CSSA, but also introduces, most importantly, the "budget standard approach" which experts have deemed to be a reasonable approach in arriving at the basic CSSA rates necessary to maintain the minimum living standard that is acceptable to a needy person in Hong Kong. The study is based on solid and objective statistics and facts. Even if some of the calculations fall wide of the mark, it does not follow that there can be no room for negotiation. However, if the Administration only adjusts the CSSA rates with reference to the inflation rate, it will never be able to meet the people's needs. This is because if the assisted were to live with dignity, it is fundamentally essential that they maintain their own social lives. However, as the assisted are at present using up to 70% of the CSSA rates on food that is essential for sustenance — more than double the 30% spent for the same purpose by poor families in developed countries — it is clear that no matter how hard the assisted scrimp and save they will still be unable to have their own social lives, not to mention the building up of self-confidence. In view of the economic conditions of Hong Kong, the Government should feel ashamed of itself.

Mr President, the readjustment of the CSSA rates is a matter that cannot afford to wait, especially for those elderly people who rely heavily on the payments. With these remarks, I support the motion.

MRS PEGGY LAM (in Cantonese): Mr President, I speak on today's motion with an anxious and heavy heart. It is because while the numerous discussions we have had over welfare for the elderly have got us nowhere nearer our goal, more and more old people in the meantime are passing away in destitution and despair. I strongly request the Government to give priority to the elderly people in the allocation of resources, to raise with immediate effect the payment for the elderly under the Comprehensive Social Security Assistance (CSSA) Scheme to \$2,300 per month and to raise the overall level of public assistance in the long run.

I do not think that the raising of CSSA payment for the elderly should be a matter for discussion, but should rather be a matter to be acted upon. The Hong Kong Federation of Women organized a public hearing on the CSSA families in September this year. The hearing was to demonstrate the destitution and the mental suffering of the old people who are scraping a bare livelihood from CSSA payments. A meagre \$1,670 a month is just a bottle of saline drip to keep alive the old people who have no one to depend on and may even be starved to death. This is also a bitter irony *vis-a-vis* the prosperity of Hong Kong. Living on a meagre allowance of \$1,670 a month means to live on \$55 a day, which covers the expenses to be spent on meals, medicine, electricity and water bills, transport and social occasions. What sort of a life are they leading?

Is this merriment or mirth — there is no need for me to elaborate, for this is as clear as broad daylight.

If the Government refuses to raise the payment for the elderly under the CSSA scheme, this will be tantamount to conceding that our present society's care for and commitment to the generation before us is for them to lead a life where instant noodles, rotten vegetables, salted fish and plain bread are what they are to eat, tattered clothes and shoes are what they are to wear and self-seclusion is the way that they are to live. Is it the so-called "comfortable old age" as defined by Governor Chris PATTEN? If the Government is not so stone-hearted, it should stand upright and say, "Our responsibility towards the elderly should go farther than that". It should not seek to put forward all sorts of pretexts and threaten the public with groundless or unsubstantiated argument that significant increase of public expenditure would result.

In fact, a life sustained on a meagre diet of rotten vegetables and salted fish is not part of the plot in a tear-jerker, but it is part of stark reality. The recommended level of \$2,300 a month for the elderly is not a figure plucked out of thin air, but is a recommendation based on the result of an academic research done by Dr MacPHERSON of City University on 683 CSSA families. *Report on the adequacy of public assistance rates in Hong Kong* as published by Dr MacPHERSON in July this year has made it clear that the existing level of CSSA is far from enough and the proposed \$2,300 would be the lowest acceptable level marginally sufficient to maintain a decent living, but falling short of being "generous". It is even more regrettable that the Government has turned a blind eye to such a comprehensive report which is rare in recent years in that it successfully presents a complete picture of the actual lives of CSSA clients. The Hong Kong Government even attempts to reject the recommendation contained in the Report on a "trumped-up" charge of "sponsoring laziness".

Experience tells us that "self-reliance" is the common belief which the elderly people in the territory subscribe to. No wonder some of our elderly citizens, though being infirm, would rather support their own living by collecting soft drink cans and cartons than resorting to public assistance. The Government's claim of "sponsoring laziness in people" has hurt the dignity of the elderly and has humiliated those who had contributed in making Hong Kong such a success today. Can the Government elaborate on how the elderly, who have toiled all their life, should prove that they are not "lazybones"? Do they have to collect soft drink cans from morning till night so as to prove that they are "not lazybones"?

A community organization conducted a survey on the scavengers in Sham Shui Po District and discovered that 60% of them are not aware of the CSSA scheme. The more surprising finding is that over 65% of the respondents indicated that they would not apply for assistance after they learnt of the details of the scheme. I believe the survey result amounts to an indictment by the elderly against the government for the hypocrisy of its elderly welfare policy.

As long as the elderly people still have the ability to work, they will not resort to degrading their own dignity and going through a process which is as humiliating as criminal interrogation, just for the purpose of receiving a CSSA payment which is as meagre as alms.

Over the years, society has been discussing the elderly welfare issue over and over again and the Government keeps introducing new measures to improve the lives of the elderly. Why is it that the desperate plight of the "pathetically forlorn" elderly people remains unchanged over the year? Why is it that over the years all the hopes once cherished by Members of this Council are always dashed? Why is it that the measures proposed by the Government always arouse criticism? The reason lies in the Hong Kong Government's lack of clear policies and long-term development strategies as regards the community's commitment to elderly welfare facilities provided by the Government into something like "chicken tendons" - tasteless to take but wasteful to discard.

I think that the Hong Kong Government must seriously review the over-restrictive methodology adopted for calculating CSSA allowances and should raise with immediate effect the payment under the CSSA scheme to at least \$2,300 a month. At the same time, it has to give a complete facelift to the negative image of the CSSA scheme for the elderly and to embark on a positive publicity campaign aiming at informing the elderly of their rights while the application and payment procedures should also be simplified. I believe that down-to-earth action is always better than grand and high-sounding pledges. The former will enable the Government to demonstrate to the public its determination in ensuring for the elderly a complacent old age.

With these remarks, Mr President, I support Dr LAM Kui-chun's motion.

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

MRS SELINA CHOW (in Cantonese): Madam Deputy, I believe that no one would deny that Hong Kong is a prosperous society. Especially in the Budget delivered by the Financial Secretary in March this year, it is forecast that, by 31 March 1997, Hong Kong's fiscal reserve will reach \$120 billion. Taking the population of Hong Kong as 6 million, this will mean that everyone will have \$20,000 in reserve on average.

Nevertheless, behind this prosperous facade, there is still a group of people in Hong Kong living below the poverty line who need society's support. They are the clients of the Comprehensive Social Security Assistance Scheme (CSSA Scheme). For various reasons, they are unable to provide for themselves. Some of them are crippled or handicapped; some are single-parent families; others are unable to work because of short-term health problems; there are even some others who are out of work. But most of them are aged who are unable to work and receive no support from their families.

In fact, the poor elderly people's need for societal support is more pressing than that of any other clients of the Scheme. With the change of society and the collapse of the system in which the family used to provide for their old, Hong Kong has yet to develop a sound retirement protection system. The life-long endeavours of today's old people were either devoted to their children or to the prosperity of Hong Kong. If they encounter any misfortune in their old age and are left penniless, they will be in dire straits.

Looking back on the public assistance cases in the past decade, it is obvious that each year about 65% of the cases are about provision of financial assistance to old people. As Dr LAM Kui-chung has just mentioned, there are over 53 000 old people in our community who need to receive CSSA allowance.

During this Council's debate on the CSSA Scheme in February this year, the Liberal Party already expressed its support for the improvement of the living conditions of these unfortunate citizens. It also supported the idea that a mechanism should be established to encourage the CSSA clients to participate in work so as to achieve the object of helping themselves and others to improve their lives.

After the release of the MacPHERSON Report, the Government, on the excuse that "giving people too much would make them lazy", firmly refused to raise the standard rate of the CSSA payment. We were disappointed at this decision of the Government as the Government had failed to face up to the real situation but just flatly refused to raise the CSSA payment in total disregard of the situation which the old people were in.

It is said that the quality of old people's life should include health, freedom, dignity and equality:

- (1) health — including physical and mental well-being;
- (2) freedom — including the freedom to have a social life;
- (3) dignity — meaning that the elderly do not have to resort to begging in order to survive;
- (4) equality — meaning not being discriminated against by others in the community.

However, Madam Deputy, please take a look. The elderly who receive CSSA payment can barely maintain their living at the survival level. The money they get is merely enough for them to stay alive, let alone having any equality or freedom. Let us make a calculation on the \$1,670 standard rate of the present CSSA payment which the elderly receive: the daily allowance is only \$55.5 and if it is only used on food, there is \$18.5 on an average for each of the three meals. However, other necessities also have to be paid for out of this amount of money. Are we asking the old people not to buy any clothes or

footwear in exchange for three more decent meals? Or should they eat less so that they can save from the already "very meagre" CSSA payment in order to buy a somewhat presentable piece of clothing? We must not forget that older people are usually poor in health. Although recipients of CSSA payment do not have to pay when they go to out-patient clinics, they would sometimes want to buy a prescription of herbal medicine at the herbal shop or go to see a Chinese herbalist, can we also ask the herbal shop or the Chinese herbalist not to charge a penny out of charity?

Why is the Government making things so difficult for these old people in such a that they dare not see the doctor when they are ill, dare not eat to their fill when hungry and dare not have some more decent clothes? Although there is a saying that "one cannot have both the fish and the bear paw", that is to say, one cannot have the best of both worlds at the same time, are we saying that the old people who receive CSSA payment should not satisfy their basic clothing, food, accommodation and transport needs at the same time?

Raising the CSSA payment for the elderly to \$2,300, in fact, is meant no more than to relieve these old people, who have contributed their efforts in building Hong Kong, of their worries about their basic subsistence in their twilight years. Today, our community has the ability to provide them with a better life but why is the Government stopping it? Why has the Government, on the one hand, stressed the need to levy a "new tax" to carry out an old age assistance scheme with a pay rate of just \$2,300 while on the other hand failed to implement a more feasible scheme, that is, to raise the old age assistance payment to \$2,300 immediately to help these poor old people? If the Government fails to give a satisfactory answer to this Council, it will certainly make people doubt the Government's sincerity about resolving the problem of the poverty-stricken elderly people and wonder about the Government's motive when it keeps pledging to improve the benefits for the elderly!

Lastly, I have to stress that \$2,300 will not be enough to let the elderly CSSA recipients have fancy meals nor enough to encourage them to become lazybones. \$2,300 can do no more than enabling them to buy \$10 worth of barbecued pork or have an apple besides a scanty meal so that they will live with a little more freedom and dignity.

Mr President, out of gratitude to the generation before us for their contribution to Hong Kong and their nurturing of the present generation, I make this submission in support of the motion.

MR JIMMY MCGREGOR: Madam Deputy, how difficult it is to judge the mood and views of this Council towards the elderly in our society. There are hundreds of thousands of them if we consider people over 65 years of age as elderly. We have consistently, although not without argument some of it politically oriented, held forth on the need to protect and support our elderly people. We have provided continually improving welfare benefits and facilities

for those deeply in need really until the overall package, including cash allowances, subsidized and free services and other much needed facilities. The package is not too bad at all. The Comprehensive Social Security Assistance (CSSA) is not of course only for elderlies although many do benefit, but not nearly as many as would benefit from the proposed old age pension of \$2,300 per month for each and every elderly. The CSSA includes a few tens of thousands of elderlies in its system of payments against means testing whilst the old age pension would, of course, include up to half a million elderlies, making the means test used in the CSSA unnecessary, at least as far as the proposed increase to \$2,300 per month is concerned.

Dr LAM realizes that an increase in the standard rate in the CSSA from about, I think, \$1,500 to \$2,300 per month would automatically require upward adjustments to all the other allowances in the CSSA Scheme. Not to do so for all the other beneficiaries would be really unfair and probably untenable. Dr LAM is not therefore proposing something which can be easily introduced without serious dispute. It is not, for example, difficult to envisage an outcry from many sectors of the community and the social institutions in support of similar substantial increases in every other form of social benefit since there would be a new higher base level for consideration of the entire system of social welfare.

I have many times in this Council spoken on the difference between social welfare and social security. Dr LAM is speaking about social welfare, not all of it but only a small part of it; and not about social security. The proposed Old Age Pension Scheme (OPS) is social security. If social welfare could somehow cover the needs of all old people on a basis of equality and dignity, it would probably not be necessary for us to discuss social security. Social welfare would do it all. That, in a way, is what leading business organizations wish to see. Welfare but not welfarism. Social security should only be provided on a voluntary basis, they say, and certainly not through a universal OPS. I differ from this view, as Members are aware. Mr Fred LI is not here to make his amendment but I think I should say that, in any event, his amendment would not have recognized that you cannot increase one main component of a financial package without modifying, increasing and adjusting all the others. I do not think it makes any sense to modify one and not modify the other payments accordingly. So I would not have supported Mr Fred LI's amendment had it gone forward.

I will support Dr LAM's motion but I hope his motivation is as pure as the driven snow and that his motion is not simply a stratagem for diverting support away from the proposed OPS.

MR MOSES CHENG (in Cantonese): Madam Deputy, with regard to the issue of improving the welfare for the elderly, the Liberal party's stand is very clear. We do not agree to the imprudent spending of money regardless of need, as free-lunch welfare policy is not suitable for Hong Kong.

Our conviction is that we should only attend to the elderly who are really in need, providing them with a safety net of a secure livelihood while not abnegating the citizens' desire to save for the future. Our goal is to maintain Hong Kong's economic characteristics of a low tax system a hardworking spirit among the populace while at the same time ensuring that the elderly will not be unable to get by because of poverty. The motion moved by my colleague Dr LAM Kui-chun today is to raise the basic allowance of the single elderly person under the Comprehensive Social Security Assistance Scheme to \$2,300 per month. This is one leg of the Liberal Party's "Two-Prong Approach Plan" on retirement and old age security which can be regarded as best suited to Hong Kong's circumstances and is our only choice. To improve the difficult livelihood of some of the elderly people is an endeavour that lies within the welfare domain which should be tackled from the welfare perspective. The Liberal Party recommends increasing the amount of elderly allowance immediately: the allowance for a single elderly person to be raised from the present \$1,670 to \$2,300 per month while the allowance for an elderly person with family to be raised from the present \$1,385 to \$1,700 per month. In the present day Hong Kong society, these amounts can only enabling elderly person to meet the minimum needs of a reasonable living and I believe the proposed amounts will be accepted by all members of the public.

At the same time, in order to enable the old people who live in the shadow of poverty to obtain assistance when the need arises, we suggest expanding, in appropriate measure, the present safety net for the elderly. The Government should relax the conditions in respect of application by the elderly for assistance under the Comprehensive Social Security Assistance Scheme. It should raise the upper limit on savings or readily realizable property of chattels from \$24,560 for a single person and \$16,360 for a person with family to \$34,500 and \$25,500 respectively. The upper limit on property not occupied by the family should also be raised from the present \$12,280 to \$30,600 in respect of a person with family.

Because of the comparatively low rate of elderly allowance, many elderly people choose to go back to their home town in China to spend their twilight years taking advantage of the lower rents and prices there. In a way, the small amount of their allowance appreciates in value so that the maximum economic effect is achieved. Earlier, some Chinese officials expressed their intention to build old people's homes in China for the old people from Hong Kong. With regard to these elderly people, I just do not see why the Government refuses to allow them to stay out of Hong Kong for over 180 days in a year and has to impose this constraint on them. The Government must abolish this punitive measure as soon as possible. The Liberal Party thinks that as long as the old person has lived in Hong Kong for over 20 years when he starts collecting the allowance he should not come under this constraint.

At present, the total number of old people aged over 65 in Hong Kong is about 540 000 and 80% of them live with their families. This shows that the family is still the major source of support in caring and providing for the

elderly. Any plan of improving the welfare for the elderly should not ruin the family structure inherent in our social tradition. We believe that not every elderly person need to depend on the care of the Government. However, if they do have the need, the safety net for safeguarding the elderly can prevent them from being forsaken by society and having no one to turn to for support.

According to our estimation, if the Government adopts the Liberal Party's recommendation as described above, the number of old people receiving allowance will only rise from the present 72 000 to 125 000. Also, the Government's spending on assistance for the elderly will only rise from the present \$1.07 billion to \$2.5 billion which will mean an extra expenditure somewhat in the region of \$1 billion a year. If the Government further expands the security net, standardizes the Old Age Allowance at \$550 a month and abolishes the upper limit on assets, the total extra spending will only be \$1.8 billion. Taking into consideration Hong Kong's current economic situation and the Government's financial surplus, we believe that the Government is absolutely capable of bearing that without imposing any extra tax revenue.

Not long ago, the Government rejected Professor MacPHERSON's report which recommended an overall increase in the rates under the Comprehensive Social Security Assistance Scheme. The reason given was that it would damper the citizen's desire to work. But on mature consideration we will find that the old people who come for the allowance are those who have been displaced from the labour market. Even if they have the ability to work, it will be difficult for them to find a suitable job, not to mention that it is a shame on our society if they are still required to work to maintain themselves. As far as these old people are concerned, the reason that "it would sponsor laziness in people" is absolutely untenable. As Dr LAM Kui-chun has said, we should not make any more excuses to repeatedly delay improving the livelihood of the poorest group of old people in our society. All along, the Government has been telling us it does care about the livelihood of its people and now is the time to put words into action. The allocation of funds to cover the extra spending needed for the adjustment of the elderly allowance, I believe, will certainly be fully supported by this Council and the public.

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

DR TANG SIU TONG (in Cantonese): Madam Deputy, the current policy on social security aims to provide assistance to those in need. Specific social welfare provision is given to people with particular needs in order to alleviate the hardships they face. Social security measures form an integrated whole with segments closely interlocking, and public assistance payment is undoubtedly one of the most important segments of these measures.

Demand has been raised by the community that the current public assistance payment, which is simply not enough for subsistence, should increase to a reasonable level. But although the Government always stresses the

importance of social care and social welfare, those are all but "lip service". As regards the aspirations and demands of the public, the Government adopts an attitude which is seeing without noticing, hearing without listening, planning without acting. These fully illustrate that what the Government does is simply not what it says.

The 10th of November this year was designated as the first Elderly Day. Various activities were organized for this purpose. However, in stark contrast to all these joyful scenes, an heart-breaking scenario could be seen from a short television footage. A large group of elderly people, who were either leaning on their walking sticks or had to be helped along by each other, were holding protesting placards and staging a demonstration in front of Government House to demand for an increase in the payment of public assistance in the hope that the deplorable situation that plagues them in their old age can be alleviated. These two markedly different scenarios, a true depiction of reality though they may be, effectively constitute a parody as well as an irony on the Elderly Day. It represents a poignant outcry against the Government's social welfare measures, which emphasize more on superficial packaging than any substantial action.

An in-depth study of public assistance payment lately conducted by Dr MacPHERSON has reached the conclusion that payments should be increased in varying degrees as soon as possible. The Government has subsequently estimated that an additional expenditure of more than \$ 9 billion per annum would go towards public assistance if the proposals of the report were to be implemented. However, according to the estimation of the Hong Kong Council of Social Service, the extra amount would be a mere \$1 billion. That the discrepancy between these two estimations reaches astronomical proportions is due to the Government's failure to explain in detail the actual basis on which its projection is made. The Government is suspected of "grim talk" and "gross exaggeration".

The Government's allegation that "an increase in public assistance payment will only 'sponsor laziness' and reduce the society's workforce" is groundless. The number of applications for public assistance submitted by those who are able to work currently stands at 5 280, representing a mere 5.6% of all applications. However, under the current system, applicants who are able to work must register with the Labour Department and they must take up whatever work referred to them by the Department or face immediate termination of their public assistance payment. Parents who must stay at home to take care of their children are the only exception. These are only rare cases bearing minimal effect, if at all, on the work force. Beside, stringent screening measures are in place to vet applications for public assistance payment in order to prevent abuse. So I am not worried that an increase in public assistance payment would "sponsor laziness", still less that it would give rise to a welfare state.

The Government would not even describe the Old Age Pension Scheme, in which all elderly persons would be entitled to receive payment, as an attribute of a welfare state. So how can an increase in public assistance payment to \$2,300 per month be described as a measure that goes towards constituting a welfare state? This Council has discussed numerous times this topic of increase, and the consensus is obvious to all. What is wanting is some sincerity on the Government's part. We hope that the Government will cease making all sorts of excuses and extend its helping hand to those who are in need of assistance in the society.

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

MR JAMES TIEN (in Cantonese): Madam Deputy, the business sector considers it necessary to provide reasonable assistance to the poor and needy in society, and this has long been the attitude of the sector towards social welfare.

The economy of Hong Kong has been developing rapidly in recent years. However, owing to inflation and industrial restructuring, some elderly people who have lost their ability to work are not merely unable to enjoy the fruits of economic development, but their living standard is also getting worse and worse. As regards these people who have once contributed greatly to the economic development in Hong Kong, the business sector thinks that the Hong Kong Government is obliged to improve their living standard without delay. Nevertheless, in order to avoid affecting the economic development of Hong Kong, the business sector opines that social welfare should only be offered to the needy. Most of the elderly in Hong Kong, after working hard in the past years, have already accumulated a certain level of wealth, thus not all elderly persons necessarily have difficulties in livelihood during their old age. To these people, social security such as standard assistance for the elderly is not indispensable. What we have to deal with urgently is those elderly people in need and not the elderly in general.

According to the existing social security system, the elderly people in need, after passing the means test, can obtain an assistance payment of \$1,670 per month. Judging from the current living standard, surely that amount cannot cope with daily expenses. Therefore, the business sector urges the Government to provide more assistance to these elderly people in real need without delay. As to the method of providing more assistance, since it has just been explained in detail by Mr Moses CHENG and Dr LAM Kui-chun, I am not going to repeat it.

At present, the Government's annual expenditure on old-age assistance is about \$1.07 billion. According to our estimation, if the Hong Kong Government can only increase that amount of expenditure to \$2.5 billion, the additional outlays incurred from all the above proposals can be covered. The business sector supports the Government in deploying that amount of money to achieve this meaningful objective. Besides, the implementation of this method

will not involve an increase in taxation or reduction of expenditure in other aspects. Therefore, we hope that the Hong Kong Government can put into practice our proposal as soon as possible instead of entangling itself with the Old Age Pension Scheme (OPS) which can never have the hope to be implemented.

However, the business sector reckons that simply by raising the rate of payment for the elderly under the Comprehensive Social Security Assistance (CSSA) Scheme will not, in any way, be a long-term solution to the question of old age retirement in Hong Kong. It is our hope that the Hong Kong Government can reconsider the Compulsory Occupational Retirement Scheme so as to provide a safeguard to employees after their retirement.

As a matter of fact, confronted with resolute opposition from the Chinese side, the OPS proposed by the Hong Kong Government can never be implemented. During the Question Time on 8 December, the Governor also made it clear that if the Chinese side opposed the OPS, it was not possible for the Hong Kong Government to implement the Scheme unilaterally. Besides, the Governor also said that the Government would consider other measures to help the elderly face their financial difficulties. The Liberal Party's "Two-Prong Proposal" — the Comprehensive Compulsory Occupational Retirement Scheme — is precisely the right choice for the Governor. This scheme is a practicable proposal which has been under study by the business sector and a number of economists and professionals. Therefore, we urge the Government to raise with immediate effect the standard rate of payment of the CSSA as well as to reconsider the Compulsory Occupational Retirement Scheme. Only with the adoption of this "Two-Prong Proposal" can the Hong Kong Government continue to encourage the public to get prepared for their old age with a view to lessening the long-term burden on the entire community on one hand, and continue to co-operate with China in tackling the retirement protection and elderly issue in Hong Kong on the other hand.

Madam Deputy, with these remarks, I support the motion of Dr LAM Kui-chun.

SECRETARY FOR HEALTH AND WELFARE: Madam Deputy, the overall objective of social security in Hong Kong is to provide for the basic and special needs of people in our community who are in need of financial or material assistance. This is enshrined in the White Paper on Social Welfare into the 1990s and Beyond, which received widespread public support. The Comprehensive Social Security Assistance Scheme (CSSA) is a key component of our social security system for those individuals or families suffering from financial hardship for various reasons, such as old age, disability, illness, unemployment and low earnings. It aims to bring the income of those in need up to a level where basic and special needs can be met. The Scheme is means tested, non-contributory and is related to an individual's or a family's means and needs.

The cash assistance provided under the CSSA Scheme, however, should not be seen in isolation. It is but an integral part of the safety net we have put in place for those who are financially vulnerable. This safety net covers a comprehensive range of social services for CSSA clients including cash assistance, free medical care, compassionate rehousing and other free programmes organized by the Government and non-governmental organizations. There is a common misconception that the standard rate is all that a CSSA client can get. The fact is that CSSA payments comprise not only the standard rate to meet basic needs such as food and clothing, but also special grants to meet special needs as well as long-term supplement and disregarded earnings according to their individual circumstances.

In addition to the standard rates, we now pay out broadly 24 types of special grants covering, in the case of elderly clients, for example, their expenses on rent, their expenses on travelling and special aids for people with disabilities, other expenses including special surgical appliances, medical expenses, special diets, telephone charges and so on. For clients who have received CSSA for not less than 12 months, they will receive an annual long-term supplement to help them replace household goods and durable goods. For those clients who are working, their earnings from employment are disregarded up to \$835 a month. From April next year this amount will be raised to \$1,115 a month. Over the years, the CSSA Scheme has been improved to ensure that payments are better tailored to meet the needs of our clients. The rates are adjusted each year in accordance with increases in the cost of living. Real increases have also been made to enable CSSA clients to share in Hong Kong's growing wealth. Over the last two decades the CSSA rates have increased by about 15 times, while the rate of inflation measured by Consumer Price Index (A) has gone up by only six times.

The average CSSA payment now ranges from \$2,440 for a single person, \$3,840 for a two-person household, \$5,280 for a three-person household and \$6,880 for a four-person household. These payments represent 35% to 98% of the average manufacturing worker's wage or 30% to 83% of the median wage. The CSS payment for an elderly client now amounts to an average of \$2,400 a month. As our Scheme is tailored to the individual client's circumstances based on his needs, the more needs there are, the more our clients will get. So, for example, this average payment is \$2,690 a month for those who are disabled, and \$4,220 a month for those who are in need of care and attendance.

The adequacy of CSSA benefits is a lively issue and so it should be, as we are a community that cares for those who are vulnerable. Dr MacPHERSON's academic research on the adequacy of CSSA rates makes a useful contribution to the on-going debate. Dr MacPHERSON, however, has used a budget standard approach in determining a perceived minimum acceptable standard of living based on a concept of relative poverty. The approach represents a radical departure from the philosophy and established policy of the CSSA Scheme. The recommendations of the research also have very serious financial and economic implications. Whilst we respect Dr MacPHERSON's work, we cannot therefore

use the research or accept its recommendations as a basis for changing our policy on social security. We are, nevertheless, alive to people's concern and the need to ensure that the benefits meet the needs of those who unfortunately have to rely upon them. CSSA benefits are, therefore, reviewed regularly. In these reviews, our aim is firstly, to target improvements to CSSA to those in need; secondly, to encourage CSSA recipients to gain a measure of financial independence through work; and thirdly, to make the CSSA Scheme more accessible and user-friendly to our clients.

Our CSSA Scheme has developed over more than two decades. It has evolved from providing for basis subsistence to a scheme which meets not only the needs of the average client, but also the special circumstances of individuals as well. We recognize that a scheme which provides special grants to individuals is by its very nature often difficult to understand. Many problems faced by CSSA clients arise from a lack of knowledge about their entitlements. We have therefore stepped up publicity on the CSSA Scheme to help recipients understand their entitlements. A handbook on the Scheme has been produced by the Social Welfare Department. It sets out in detail the entitlements of a CSSA recipient, including the different types and levels of grants under the Scheme, the complaint and appeal procedures, and other pertinent information. The handbook was published in June 1994 and was made available to CSSA clients, non-governmental organizations, various concern groups, district boards and the media. In addition, an audio-tape and a video-tape are being played interchangeably at the reception areas of all social security field units to publicize the assistance available.

As Members are aware, the Governor has announced in his recent policy address that a special exercise will be conducted to assess how well our social security arrangements are meeting the needs of their clients. Together with the Social Welfare Advisory Committee, we have started the exercise by first of all reviewing the administration of special grants to better serve the needs of CSSA clients. We will look into the eligibility criteria for CSSA to target improvements to those in need. We will review our staff training and customer service with a view to improving our services to CSSA clients. We will also review the CSSA payment rates when more statistical information on the spending patterns of different types of households, including those on CSSA, are made available by the 1994-95 Household Expenditure Survey.

In conclusion, Madam Deputy, I would like to assure Members that improvements to the CSSA Scheme is high on our agenda and it is an on-going programme which will continue. Thank you.

THE PRESIDENT resumed the Chair.

PRESIDENT: Dr LAM Kui-chung, you are now entitled to reply and you have seven minutes 34 seconds out of your original 15 minutes.

DR LAM KUI-CHUN (in Cantonese): Mrs Peggy LAM's speech has clearly decried the Legislative Council's attitude towards public assistance. Although the issue has been repeatedly debated, the Government has not taken any substantial action yet.

The Government gave a multiplicity of reasons to explain why it was impossible to implement the relevant scheme. The Secretary for Health and Welfare this time has also stated the Government's case in clear and unequivocal terms. Today, I move this motion to narrow down the scope of assistance to benefit only those who are in the direst straits and regarded by the community at large as those most in need of assistance. I hope the Government will accept this scope.

I am very thankful to my colleagues who have elaborated my idea in a clear and lucid manner. I would also like to thank other members of the Liberal Party who have explained why we can reduce such an extensive demand to a small scope as like. My suggestion, I believe, is feasible and acceptable to both the industrial and commercial sectors.

In fact, regarding the question of helping the elderly people who are in need, there is a consensus reached by the Legislative Council, the Hong Kong society and various countries in the world that money to secure against old age and welfare for the elderly are two different matters. Mrs Elsie TU has summed it up in a clear and explicit way. All welfare payments should be given to those in need only. Our debate is based on our consensus that the assistance should be provided to the aged and the needy.

I have rebutted every argument raised by the Government in the past. My Jimmy MCGREGOR has expressed his concern that upward adjustments to all other allowances in the CSSA Scheme would follow if the standard rate in the CSSA was increased. He hopes that my motivation is as pure as the driven snow. Mr MCGREGOR can set his mind at rest for I am not advocating free lunch because there is basically no such thing as free lunch. Nevertheless, this Council and the community have reached a consensus to the effect that the aged people are really at a disadvantage compared with the young and the able-bodied. If the aged people are not given any protection, they would fall into a loosely-knitted safety net and some of them might even fall through the holes of the net. In fact, the crucial point is this: why is it that the Legislative Council and the Government still unable to reach a consensus? That is exactly what Mr HUI Yin-fat and other members of the social work sector have been asking the Government. They are questioning the sincerity of the Government in improving the livelihood of the elderly.

Last week, I had a brief discussion with the Government and understood that the Government fully agreed to the grounds, approach and ultimate figures adopted in Dr MacPHERSON's report. But during our discussion, the Government did not say that it was in absolute agreement. Instead, it said it would give consideration and would not oppose it. As regards our proposal to

raise the standard rate of payment for elderly persons under the CSSA to \$2,300, if only the Government would change its attitude from one of resolute objection to willingness to consider, I would regard it as already a small step forward. Although it be only a small step, it would still be better than staying put or taking a step backward. In our discussion, the Government said that there were difficulties with immediate implementation. The Liberal Party, however, is aware that the elderly people are in need of an immediate increase in public assistance payment, and has thus decided to plead on their behalf and urge the Government to grant an immediate increase so that those who are in need can obtain substantial assistance before the advent of winter. If the Government should respond to our appeal for an immediate increase by taking it to mean immediate "planning" for an increase, which is not exactly what today's motion is asking for, I should think the elderly recipients of public assistance would still be grateful to the Government for its boundless benevolence.

In response to Mr HUI's question as to the Government's sincerity, I hope the Government will abstain instead of voting against the motion, because, by abstaining, it can have an opportunity to further consider its attitude towards this subject in the future. Nevertheless, if the Government can change its attitude from one of resolute objection to willingness to consider our proposal, we will think the Government has already given a favour to the people as in the incident of FUNG Xuan in Chinese history, that is, it has taken an action which should be commended by the public.

Thank you, Mr President.

Question on the motion put and agreed to.

PRIVATE MEMBER'S BILL

First Reading of Bill

KADOORIE FARM AND BOTANIC GARDEN CORPORATION BILL

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

Second Reading of Bill

KADOORIE FARM AND BOTANIC GARDEN CORPORATION BILL

MR PETER WONG moved the Second Reading of: "A Bill to establish a body corporate to manage and control the Kadoorie Farm and Botanic Garden for the public benefit as a centre for conservation and education, and for those purposes to vest in the body corporate the title to the existing Kadoorie Farm and Botanic Garden, and to provide for incidental matters."

MR PETER WONG: Mr President, I rise to move the Second Reading of the Kadoorie Farm and Botanic Garden Corporation Bill 1994.

The main purpose of this Bill is to establish a body corporate to manage and control the Kadoorie Farm and Botanic Garden at Paak Ngau Shek in the New Territories as a centre for conservation and education.

Before I turn to the Bill itself, Members may wish to hear a little of the interesting history of this quite remarkable Farm and Garden.

In the early 1950s, the late Lord KADOORIE and his brother, Sir Horace, established an association, the Kadoorie Agricultural Aid Association, with the aim of alleviating suffering among the very poor, and also to give those willing to work, a chance to lift themselves out of post-war poverty. Help was given in the form of gifts and low interest or interest-free loans for approved projects.

In 1956, the Association took over an area of hillside covered by stunted vegetation growing on steep, rock-strewn slopes. This unpromising site was transformed into a centre where local people were trained in modern farming and horticultural techniques without having to pay the cost. Trials were carried out in pig and poultry breeding, and experiments were conducted on food and flower crops, especially with newly introduced varieties and, in particular, with fruit trees and vegetables on terraced mountain slopes.

As the infrastructure of roads and services on the Farm was developed, every care was taken to minimize the disturbance of the regenerating forest vegetation.

Over the years the importance of agriculture in Hong Kong and the New Territories has greatly diminished, and the role of the Farm has gradually changed so that today far more emphasis is given to nature conservation. Many of the plants and trees have reached maturity, and there is now a richness of flora and habitats within a magnificently developed landscaped site.

With its well-developed infrastructure of concrete roads, paths, stairways and terraces, supported by an excellent network of services, including an extensive irrigation system, the Farm is unique amongst botanic gardens of similar size anywhere in the world.

The present Bill aims to preserve what has been achieved and to provide a sound basis for the future. In planning for this future, the Association received advice from the Royal Botanic Gardens, Kew, in the United Kingdom, and it was agreed that the long-term survival of the Farm could best be served by the establishment of an independent corporate body, separate from the Kadoorie Agricultural Aid Association.

Turning to the Bill itself, the explanatory memorandum describes the contents of the Bill and the various clauses. There are, however, a number of matters that I would like to highlight.

Clause 4 of the Bill sets out the functions of the Corporation and is the heart of this Bill. It provides that the Corporation shall manage the Farm for the public benefit as a centre for conservation and education, and then adds the words "with the aim of increasing the awareness of the environment". This is the mission of the Farm and the efforts of those involved will be directed accordingly.

There is provision in the clause for collaboration with organizations or institutions with similar aims or of a similar nature whether in Hong Kong or elsewhere. At present, the Farm has established excellent relationships with a large number of institutions in China, as well as with various botanic gardens in other parts of the world. This collaboration will be of considerable significance to the preservation of the environment in Southern China, and hopefully beyond.

In relation to clause 4, paragraph (d), the work being carried out at the Farm already complies with many of the requirements of the convention on biodiversity signed at the Earth Summit, Rio de Janeiro, in June 1992, by many countries including the People's Republic of China.

Clause 5 of the Bill sets out the general powers of the Corporation and, amongst other powers, enables the Corporation to receive donations, grants and subsidies. Nevertheless, for the time being the Trustees of the Kadoorie Foundation will continue to provide the sole financial support for the Farm.

In order to perform the various functions imposed on the Corporation, there is established a Board of the Kadoorie Farm and Botanic Garden. The relevant provisions are set out in Part III of the Bill. Members will observe from clause 9 that Sir Horace KADOORIE is appointed Honorary Chairman during his lifetime. Sir Horace is now of advanced years, but I am happy to be able to tell Members of this Council that he continues to take a most active interest in the well-being of the Farm. There will, in addition to Sir Horace, be a Chairman appointed by the Trustees of the Kadoorie Foundation.

Part IV of the Bill deals with the vesting of land and various contractual rights and obligations, and Parts V, VI and VII of the Bill provide for various matters concerning the staff of the Corporation and other matters regarding the administration.

In Part VIII, there is provision in clause 23, enabling the Corporation to make bylaws. This is an important provision because the Farm as a centre of conservation needs protection. Whilst the Farm already receives about 2 000 visitors a week, unrestricted access and use of the Farm would rapidly damage its environment.

Mr President, the Kadoorie Farm and Botanic Garden represents a unique opportunity to develop a botanic garden of regional and international importance. What has been achieved so far with the generous support of the Kadoorie Foundation provides a sound basis upon which to build for future generations. The Farm is an important part of Hong Kong's heritage.

Mr President, I beg to move.

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

ADJOURNMENT AND NEXT SITTING

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 11 January 1995.

Adjourned accordingly at three minutes to Eight o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Internationally Protected Persons and Taking of Hostages Bill, Employees Retraining (Amendment) Bill 1994, Sewage Services Bill, Carriage of Goods by Sea Bill and Kadoorie Farm and Botanic Garden Corporation Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

WRITTEN ANSWER**Annex****Written answer by the Secretary for Security to Mr Roger LUK's supplementary question to Question 3**

The current peak hour demand at Lo Wu is about 14 000 passengers. Before measures were introduced to improve the peak hour handling capacity, the average clearance time per passenger was 24 seconds and the Immigration Department operated about 57 counters; the maximum handling capacity was 8 550 passengers per hour. This represented 61% of the peak hour demand of 14 000.

After the installation of the Optical Character Recognition readers in September 1994, the average clearance time per passenger was reduced by two seconds. With the addition of 51 immigration staff in October 1994, the Immigration Department was able to increase the number of counters to 70 during peak hours. The peak hour handling capacity is now 11 480 passengers per hour. This is 81% of the peak hour demand.

