

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 24 May 1995

The Council met at half-past Two o'clock

PRESENT

THE PRESIDENT

THE HONOURABLE SIR JOHN SWAINE, C.B.E., LL.D., Q.C., J.P.

THE CHIEF SECRETARY

THE HONOURABLE MR MICHAEL LEUNG MAN-KIN, 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 RONALD JOSEPH ARCULLI, O.B.E., J.P.

THE HONOURABLE MARTIN GILBERT BARROW, 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

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 EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

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

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ANNA WU HUNG-YUK

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

THE HONOURABLE ALFRED TSO SHIU-WAI

THE HONOURABLE LEE CHEUK-YAN

ABSENT

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

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

DR THE HONOURABLE HUANG CHEN-YA

IN ATTENDANCE

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

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

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

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

MR BOWEN LEUNG PO-WING, J.P.
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

MR FRED TING FOOK-CHEUNG
SECRETARY FOR RECREATION AND CULTURE

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

THE CLERK TO THE LEGISLATIVE COUNCIL
MR RICKY FUNG CHOI-CHEUNG

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>
Newspapers Registration and Distribution (Amendment) Regulation 1995	172/95
News Agencies Registration (Amendment) Regulation 1995	173/95
Land Drainage (Consent and Approval) Regulation	174/95
Land Drainage (Appeal) Regulation	175/95
Public Health and Municipal Services Ordinance (Public Markets) (Designation and Amendment of Tenth Schedule) (No. 2) Order 1995.....	176/95
Trustee Ordinance (Amendment of Second Schedule) Order 1995	177/95
Securities and Futures Commission (Annual Returns) (Amendment) Rules 1995.....	178/95
Abattoirs (Urban Council) (Amendment) Bylaw 1995	179/95
Library (Urban Council) (Amendment) Bylaw 1995	180/95
Pleasure Grounds (Urban Council) (Amendment) Bylaw 1995	181/95
Declaration of Markets in the Urban Council Area (Amendment) (No. 2) Declaration 1995.....	182/95
Official Languages (Authentic Chinese Text) (Theft Ordinance) Order.....	(C)37/95
Official Languages (Authentic Chinese Text) (Business Registration Ordinance) Order.....	(C)38/95

Sessional Paper 1994-95

No. 88 — Report of the Broadcasting Authority
September 1993 - August 1994

ADDRESS

Report of the Broadcasting Authority September 1993 - August 1994

SECRETARY FOR RECREATION AND CULTURE: Mr President, I have much pleasure in laying the annual report of the Broadcasting Authority for the year ending 31 March 1994 before the Council today. The report marks another year of dedicated work by members of the Authority in grappling with the fast changing broadcasting environment at home and abroad; a job made more difficult by rising expectations amongst the Hong Kong viewing public and a rapid growth in the number of channels to be monitored.

The public hearings conducted in connection with the mid-term review of the television licences of Asia Television Limited and Television Broadcasts Limited are testament to the good work done by the Authority in meeting these public expectations. It was greatly encouraged by the level and extent of public participation at these hearings and will seek, where appropriate, to utilize such forums to enhance collection of public opinion in the future.

Another important aspect of the Broadcasting Authority's function is to regulate the services provided by commercial broadcasters. The Authority has been highly vigilant and conscientious in maintaining our broadcasts at a high standard. During the year under report, the Authority's Complaints Committee dealt with a total of 1 382 complaints, and arising from these, some 18 warning letters were issued to various broadcasters to remind them of the need to observe more closely the different codes of practice issued. In addition, the Authority imposed on the licensees, on six occasions, financial penalties ranging from \$10,000 to \$100,000 for breaches of the codes.

I am particularly grateful to the Authority for fulfilling its many statutory tasks with such enthusiasm and ability. The fair, open and predictable regulatory philosophy it adopts has provided our local broadcasters with a stable environment to develop and expand their businesses. It has also helped in our pursuit of reinforcing Hong Kong's position as a broadcasting centre in the region. This is in full accord with our broadcasting policies.

Looking ahead, the Broadcasting Authority will again be busily engaged in 1995. The mid-term licence review of Commercial Radio is already underway, and towards the latter part of the year the Authority will embark on the review of the satellite television licence held by Hutchvision. It also needs to

monitor further increases in the numbers of broadcast channels both on our subscription network and in the satellite broadcast arena.

I warmly commend all members of the Authority, particularly its Chairman, Sir Roger LOBO, for his leadership and wise counsel. I look forward to another year of their sound judgment and good advice, in the difficult job of regulating Hong Kong's fast changing broadcasting scene.

Thank you, Mr President.

ORAL ANSWERS TO QUESTIONS

Town Planning Ordinance

1. MR ALBERT CHAN asked (in Cantonese): *In his written reply to my enquiry in September 1994, the Deputy Secretary for Planning, Environment and Lands stated that a bill to amend the Town Planning Ordinance would be published by the end of that year. However, the Government has still not published the amendment bill. In this connection, will the Administration inform this Council why the amendment will has not yet been introduced into this Council for scrutiny and when the amendment bill will be published?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, Members will recall that a Consultative Document on Comprehensive Review of the Town Planning Ordinance was published for public consultation in July 1991. The intention was to bring about a completely new Town Planning Ordinance for future operations. A large number of public views were collected, including the views of this Council. These views were divided, and some doubts were raised, in respect of certain proposals originally made by the Administration. We therefore had to undertake a very careful examination of these views within the Administration.

The many complex and highly technical issues involved have required the Bill to take more time to be drafted than originally envisaged. Moreover the resources likely to be needed to implement the proposed new ordinance are very significant. The Administration is taking stock of the situation and studying a working draft of the Bill. Our examination involves an analysis of the pros and cons of amending our original proposals in the light of public views and legal complexity of the issues, as well as an in-depth study of some proposals made by the public. We are also considering the need and merits of introducing certain interim amendments to the current Town Planning Ordinance to see whether we can bring forward some improvement to the system early.

MR ALBERT CHAN (in Cantonese): *Mr President, I note that recently whenever the Administration was faced with complicated issues, it appears that all it could do was to provide explanations, and cause repeated delays to the material policies; this fully reflects the mentality of a sunset government. Actually, further delays in the introduction of the Bill help, to a certain degree, protect developers' interests by enabling them to develop, under an unreasonable Town Planning Ordinance, their properties and land more to their own advantage. If such delays continue, Hong Kong residents will be deprived of the opportunity to be involved in town planning. Will the Administration inform this Council when the bill will be submitted to this Council for consideration? It was mentioned in the document that there would be individual amendments, what does this mean? Will the Administration explain?*

PRESIDENT: Would you like to take the first question first, Secretary?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, I am afraid I cannot agree with what was raised in Mr CHAN's question, that is, developers are benefited. In fact, the comprehensive review of town planning first proposed by the Administration involved issues that are extremely complicated, both in technical terms and in legal terms. When views are divided, we cannot hastily put forward a totally new bill, hoping that it will be accepted by the Legislative Council and the public. So, we need to analyze the views we have collected and decide whether it is necessary to amend our original proposals. At the same time, we need to be analytic and see which part of the existing Town Planning Ordinance should be given priority for amendment on the basis of the urgency of the matter; rather than repealing the entire ordinance and then draft a new one, as we originally intended to do.

PRESIDENT: What was your second question, Mr CHAN?

MR ALBERT CHAN (in Cantonese): *In this main reply, the Secretary talked about introducing certain interim amendments to the current Town Planning Ordinance. Will he explain what he means by "certain interim amendments", and has a timetable been fixed?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, in the submissions received, two views stood out. One is for more public involvement in town planning, as pointed out by Mr CHAN; the other is for improvement to the existing practice of the Town Planning Board (TPB) to enable more speedy preparation of town planning layout plans and hearings on such plans. We hope, therefore, to introduce an amendment bill that will incorporate the above views and bring about

improvements. For example, we may consider giving more chance for the public to sit in on TPB meetings. Or, we may quicken the processing of public objections to draft plans. We may also consider increasing the number of vice-chairmen or members of the TPB or establishing more committees to properly and promptly deal with suggestions and objections from the public. As a large number of legal issues are involved in the present town planning work, we will look into the need to create a legal section or the post of legal adviser within the TPB.

MISS CHRISTINE LOH (in Cantonese): *Mr President, I was glad to hear the reply given by the Secretary just now. Will the enhancement of transparency be accomplished within the current legislative session or the soonest will be within the next one? Secondly, will the Administration allow the public to sit in open meetings through legislation or will it do so by way of a standing order?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, as regards the increase of public involvement, the current practice is that any plan published by the TPB will be displayed in a number of places so that the public may have a chance to express their views. We are considering how to reach a wider cross-section of the public. As to whether or not to open TPB meetings to the public, either through legislative or administrative means, I would like to point out that, in actual practice, whenever members of the public express their views, by way of objections or suggestions, on draft plans, the TPB will invite them to attend its meetings to hear and discuss their views. This explains the recent increase in the TPB's workload: every opportunity is given to the public to express their views. We have yet to decide whether in future the TPB's discussions should be made open by legislative or other means, but we do intend to give the public more chance to get involved. For instance, draft plans, after being published, may be displayed in the relevant area for a longer period of time, or district boards or other people affected may be given more chance to look at the draft plans before they express their views or be invited to attend meetings. These are all feasible ways.

PRESIDENT: Miss LOH, not answered?

MISS CHRISTINE LOH (in Cantonese): *My other question, Mr President, is whether it is necessary to wait till the next legislative session before the individual amendments mentioned by the Secretary are made.*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, there is not much time and not too many sittings left of the current legislative session to deal with law-making. Moreover, we need

more time to discuss the review we are currently conducting. In the circumstances, I am afraid we would have to wait till the next legislative session before we can submit a preliminary draft bill to this Council for discussion.

REV FUNG CHI-WOOD (in Cantonese): *Mr President, this amendment Bill is extremely important to the development of Hong Kong. At first, the Administration said the Bill will be published at the end of 1997. It has been six months since the Administration so indicated and there is still no time-table. This is disappointing. Will the Administration inform this Council when it will submit the bill to this Council for consideration? Will the submission be postponed until after 1997?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): In fact, I already mentioned that point in my reply to the first follow-up question. Owing to the diverse views collected, we will first submit those which we initially regard as feasible and on which there is consensus to this Council for amendment. In considering other less focused views, or those that, after assessment, may appear to us to entail huge amounts of resources, we may need to consider the pros and cons of the proposals originally made before deciding whether amendments should be made. This is exactly what we are doing now. If we do decide to amend the original ideas, another stage of legislative work may be affected.

MR JAMES TO (in Cantonese): *Mr President, if Members knew that the Administration is delaying the pace of urban redevelopment, they would not be surprised at the delays in the amendment of the Town Planning Ordinance. Will the Administration inform this Council whether the amendment Bill to the Town Planning Ordinance is related to the review on urban re-development issues? Are the two affecting each other so that they delay each other, making it never possible to find a solution to the problem?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, I am afraid I cannot agree with what Mr TO said. As I said, our original intention was not to cause delays by amending the existing Town Planning Ordinance. Rather, we wanted to draft an entirely new ordinance that may be totally different from the existing Town Planning Ordinance. That is why we need to deliberate very clearly. If we come to some consensus views after comprehensive consultation, we may make some preliminary improvements to the existing ordinance. Whether the entire existing ordinance should be got rid of for a new one to be drafted is still under consideration, as views on this are not uniform.

Mr TO asked whether the amendment bill was related to urban redevelopment. I can categorically say that the two issues are absolutely unrelated. Urban redevelopment has been an on-going thing, whereas the drafting of an entirely new law is a separate matter. If one asks whether the two delay each other, the answer is negative.

PRESIDENT: I am obliged to call Dr HUANG Chen-ya, despite his absence, under Standing Orders. As he is not present his question will be postponed to the next sitting in accordance with Standing Order 19(6).

Unemployment Rate

3. MR HENRY TANG asked (in Cantonese): *According to the latest statistics for labour force published by the Census and Statistics Department, the seasonally adjusted unemployment rate in the territory for the first quarter of this year and for the period between December last year and February this year was 2.8% and 2.5% respectively. However, according to a survey conducted by the Hong Kong Federation of Trade Unions, the unemployment rate for the period between December last year and January this year was as high as 9.5%. In view of this, will the Government inform this Council of the survey methods adopted by the Government; and whether the statistics obtained from such methods truly reflect the real situation of the labour market?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, the source of the data for the compilation of the unemployment rate is the General Household Survey (GHS). This is a continuous survey conducted on a random sample of 13 500 households per quarter selected in accordance with a scientifically designed sampling scheme to represent the population. Having regard to the frequency of the survey and resource implications, this is quite a large scale operation.

The data collection methods adopted by the Census and Statistics Department are those commonly followed by statistical authorities worldwide. Interviewing of respondents is performed on the basis of a well-structured questionnaire so that the activity status of the respondent can be established on well-stated, objective criteria.

Interviewing is conducted by full-time, properly trained field workers under appropriate supervision of senior staff to ensure adherence to designed procedures. Repeated calls to households are made as necessary. A high response rate of about 95% is normally achieved in the survey.

Under rigorous procedures, coupled with unambiguous definitions based on the recommendations of the International Labour Organization, the statistics obtained from the survey should truly reflect the real situation of the labour market.

MR HENRY TANG (in Cantonese): *Mr President, while the labour sector has been criticizing the Labour Importation Scheme as snatching away local workers' rice-bowls, and government officials have stressed on several occasions that the two are not necessarily related, can the Government provide this Council with convincing data to explain the effect of labour importation on unemployment?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, the data which is collected in the GHS is not directed specifically at shedding light on the labour importation scheme. It is aimed mainly to show the overall rate of unemployment in the community as a whole and to give some form of detailed breakdown of that. But there is no specific orientation towards the scheme that was mentioned by Mr TANG.

PRESIDENT: Yes, Mr TANG, not answered?

MR HENRY TANG (in Cantonese): *May I rephrase my question so that it may be easier to answer?*

PRESIDENT: Remember this question goes to labour statistics not to the import of overseas labour, Mr TANG. Put your question again if you like.

MR HENRY TANG (in Cantonese): *Thank you, Mr President. My question in fact is, does the Government have any data to show the quarterly unemployment situation by sectors of the workforce? And can the Government give us the number of imported workers in those sectors? Can the Government give us these data in writing so that we can see whether or not imported workers are directly related to unemployment?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, as I have already indicated, the answer I gave to the main question did not cover this aspect because that did not flow from the question about the overall rates and the difference between the figures produced by the Federation of Trade Unions (FTU) and those produced by the Government. However, I would be happy to see what figures might be available for the purpose that Mr TANG would like to have them and would be happy to provide them in writing. (*Annex*)

MR LEE CHEUK-YAN (in Cantonese): *Mr President, regarding the following three kinds of people: (a) those who want to get a full-time job but can only get a part-time one; (b) those who cannot get a job and can only be content with being housewives; and (c) illegal hawkers, can the Government inform this Council whether the current statistics have taken these people as among the unemployed? And does the unemployment rate remain at a low level because these people are not regarded as unemployed?*

SECRETARY FOR FINANCIAL SERVICES: Yes, Mr President, I believe the definitions would pick up the first category mentioned. They would also pick up the housewives who are dealt with in the same way as normal persons, that is to say if they are not working but have been actively seeking work, they would be classified as unemployed. But if they have not been actively seeking work then they would be classified as economically inactive. There is a variation on this depending on whether the reason for not seeking work is that they believe that work would not be available to them. In those cases, they would be regarded as discouraged workers and would be included in the unemployed statistics. I doubt very much that the questions would reveal anything about whether hawkers were hawking legally or illegally, and I suspect that it would be very difficult to design questions that could illicit that information.

MR ROGER LUK: *Mr President, according to paragraph one of the Secretary's answer, the unemployment rate is derived from a random sample. Can the Secretary tell us the sampling error of this particular survey in respect of the unemployment rate please?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, the sampling error is described in the quarterly report on the GHS which contains a specific section on the reliability of the estimates and I would refer Members to that. With regard to the overall level of unemployment in the community there is a variation, a co-efficient of variation which applies to that of 0.3 percentage point. So for a 3% unemployment level, the range would be from 2.7% to 3.3%.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, does the Government agree that the unemployment rate is on the low side as far as low-income workers are concerned, because the Government's unemployment survey is based on a sampling scheme representing the overall population of Hong Kong, and it is therefore unable to truly reflect the effects of the labour importation scheme on low-income workers and those housewives who failed to get a job and are therefore forced to cease looking for one? Will the Government consider conducting an independent survey specifically for low-income workers, in order to fathom the effects of the labour importation scheme on low-income workers?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, the figures that are derived from the survey apply equally across the board. They do not take account of the actual income level as such. I would refer Members to the definitions of unemployment which are again set out both in the quarterly reports and in the monthly bulletin of statistics, in the issue for January this year. The statistics do make clear that in looking at unemployment, the question is related to whether or not the individual in question, being over the age of 15, has had employment within the past seven days, is seeking employment and is available for employment. Those are the basic criteria. I will certainly note the interest in the relationship between these figures and the specific scheme which has been mentioned and will consider whether anything can be done in the context of these figures to try to illicit information that would shed light on that particular aspect.

MR TAM YIU-CHUNG (in Cantonese): *Mr President, how long has this surveying method been in use? Has the method been reviewed lately?*

SECRETARY FOR FINANCIAL SERVICES: Since 1982, Mr President, that methodology has been in place. The methodology is fully described, as I mentioned before, in published documents whenever the results are produced on a quarterly basis. There is a statement about the methodology there and I would refer Members to that.

MR FRED LI (in Cantonese): *Mr President, why did not the Government conduct the unemployment survey in a more detailed way and investigate the situation of different sectors such as the manufacturing sector, the service industry and the financial sector, so as to ascertain whether the unemployment rates in the various sectors are high or low and under what conditions, and to reflect more fully the unemployment situation of the labour sector on the whole?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, the present sample size is sufficient to give an accurate picture at the overall level but obviously since it is based on a sample and has already been observed, there is always with a sample an error of variation from the picture that the sample shows and what the totality of the picture would be and that has a direct relationship to the size of the sample. If you want to go to a level of detail, that involves actually dividing the sample. Every question that you ask is a division or a sub-division or a sub-sub-sub-division of the sample and the co-efficient of variation gets larger and larger. That is why in the statistics that are published there are asterisks by some of the figures indicating that these figures should be treated with caution.

Now it is accepted that it would be desirable to shed more light on the details at the sectoral level and the Commissioner for Census and Statistics does have in mind to enlarge the sample, in fact to double the sample size with a view to trying to increase the level of detail and hence the in-depth analysis of the labour situation. Subject, of course, to the availability of resources, we hope that that will be able to go ahead if the resources are available, within the reasonably close future.

MR HOWARD YOUNG (in Cantonese): *Mr President, the Government takes the view that the General Household Survey is more comprehensive, and its finding, that is, the unemployment rate of 2.5% to 3%, more scientific. However, a survey conducted by trade unions has found that the unemployment rate is as high as 9%. The discrepancy being so large, has the Government attempted to find out the factors contributing to the higher figure? Is that because of different bases being used? Or would it be possible that some trade unions targeted their investigations on certain specific sectors or specific age groups whereas the Government's only looked at the general situation? If such is the case, will the Government consider conducting a survey using the same base as used by the trade unions so that the public can know which of the surveys has more reference value?*

SECRETARY FOR FINANCIAL SERVICES: Yes, Mr President, the reason that the figures are different, I think, is quite easily explained. The figures produced by the FTU and those produced by the Government are in fact measuring different things. They are both samples, and as such, they each represent a whole, but the whole is different in these two cases. The Government's whole is the entire population. The sample is taken from households right across the population and insofar as the results relate to unemployment, they represent the totality of the workforce, the full 3 million. On the other hand, for the FTU figures, that sample was taken only from FTU members and therefore can only represent the situation within the 200 000 or so members of the FTU, which is not necessarily a group that is representative of the whole of the population or the whole of the workforce. It may, for example, have some over-concentration in some particular occupations and some under-representation in some others.

There are some other differences between these surveys. The government figures, as I have mentioned, had a response rate of about 95%; the FTU figures, 43%. I think what can be said of the FTU figures is that they do show what would happen if once every three months you made 2 800 phone calls to members of the FTU, got a 43% response rate, and that was the result. The government figures, on the other hand, cover 13 500 households every quarter, which is 54 000 households during the course of the year. It is a constantly shifting mix of households being looked at, different each month and behind that is 128 000 individuals every year, 15 or over, who are being looked at in that sample. So I think that that is clearly a totally different order of

magnitude and operation scale and it is hardly surprising that the figures show some degree of variation. However, that said, the doubling of the size of the sample which I have mentioned we would like to do, subject to the availability of resources, should throw sufficient additional light at the detailed level to give us a better picture in the sectoral areas and, I hope, be able to throw up some of the information that Members presently like to see.

MR LEE WING-TAT (in Cantonese): *Mr President, in surveying how many people are unemployed and under-employed, information pertaining to casual workers, part-time workers, hourly-paid workers and piece-work workers is most difficult to accurately interpreted and classified. Will the Secretary for Financial Services inform this Council:*

- (a) *are those people who have not been working for a long time and now want to be employed again classified as unemployed? The Secretary explained just now that if these people were actively seeking a job, they would be classified as unemployed. But then how do we define actively seeking work?*
- (b) *are those people who have been unemployed for a long time and reckon that they cannot find a job in their own trade and have therefore given up actively seeking jobs included in the number of persons being surveyed by the Government? Can these people be picked up in the survey?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, the definitions and the questions that relate to them do include the category of persons without a job who are available for work but are not seeking work because they believe that work is not available to them. It also includes those who are available for work but are not seeking work because they have made arrangements to take up a new job or to start business at a subsequent date, as well as those who are expecting to return to their original jobs and this includes casual workers who are called back to work from time to time when their services are required. So those categories are indeed picked up by the specific questions. If Members are interested, I would be happy to circulate a copy of the questionnaire which contains 55 different questions and not all of these questions are asked in every case, but there are different streams of questions depending on the answers to the earlier parts of them. But I would be happy to circulate that to Members.

MR JIMMY MCGREGOR: *Mr President, could the Secretary say whether the Government accepts the 9.5% figure as stated by the FTU and if so, bearing in mind it is a very very high proportion, will the Government consider assisting the FTU to point the direction for some of these unemployed people in the way of companies which are making applications under the importation of labour*

scheme? In other words, can you connect the unemployed with the people who wish to employ?

SECRETARY FOR FINANCIAL SERVICES: On the first part of the question, Mr President, the figure of 9.5%, we do not regard that as representative of the situation in the population as a whole or in the workforce as a whole. As I have mentioned earlier, we regard that as only representing the position within the membership of the FTU which is all that that sample relates to.

On the second part of that question, I think we were straying a little bit outside the realm of the original question which was related to the reliability of the statistics in the light of the

PRESIDENT: You are not in a position to answer, Secretary?

SECRETARY FOR FINANCIAL SERVICES: That is right.

General Out-patient Services during Public Holidays

4. DR TANG SIU-TONG asked (in Cantonese): *At present, the general out-patient departments of public hospitals close on general holidays, thus causing problems to those who wish to seek treatment during extended holidays, such as the Lunar New Year, Easter and Christmas holidays. In view of this, will the Government inform this Council whether:*

- (a) *attendance at the accident and emergency departments of public hospitals on general holidays was higher than that on normal weekdays during the first four months of this year; if so, whether this has resulted in additional pressure on the accident and emergency services of the hospitals; and*
- (b) *it will consider providing limited general out-patient services in public hospitals during holidays?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, a recent survey conducted by the Hospital Authority during the Easter Holidays (from 14 to 17 April) revealed an increase of 23.5% in accident and emergency attendance over the normal daily average. The increase is attributable to the partial opening of general clinics operated by the Department of Health as well as the closure of some private clinics during public or extended holidays.

In order to ensure that patients requiring emergency care will receive prompt medical treatment, a triage system has been introduced in public hospitals whereby experienced and specially trained nurses will categorize patients according to the severity and nature of their medical conditions and give priority to urgent cases. It is coping well with the demand.

At present, the Department of Health provides general out-patient services on Sundays and some public or extended holidays in eight of its clinics. Only one out of all clinic sessions during the Lunar New Year and Easter Holidays this year was full. In view of the current utilization rates, the Government has no intention to further extend out-patient services during extended holidays. However, we will closely monitor the situation.

DR TANG SIU-TONG (in Cantonese): *Mr President, in the first paragraph of its main reply, the Government pointed out that during the Easter holidays, there was an increase of 23.5% in attendance at the Accident and Emergency Department, but in the third paragraph of the reply it was also mentioned that the eight clinics opened during the holidays were not full. I would like to ask the Government what the names of these eight clinics under the Department of Health are; why were those clinics not full during the holidays and why did people not go there instead of seeking treatment from the Accident and Emergency Departments?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the average utilization rate of the clinic sessions during public and extended holidays ranges from about 47% to 80% depending on the clinic. This could be explained by the common tendency for patients to anticipate the partial closure of general out-patient clinics and seek medical treatment before public holidays. Furthermore, about 40% to 60% of those receiving treatment in our general clinics are chronic patients requiring regular follow-up consultation, hence they have been able to secure their appointments to avoid public holidays.

DR CONRAD LAM (in Cantonese): *Mr President, in the first paragraph of her main reply, the Secretary for Health and Welfare mentioned that there was an increase of 23.5% in attendance at the Accident and Emergency Department. I would like to ask: out of the extra number and the total number of patients, how many had common ailments like fever and influenza, and how many were indeed urgent cases? Does the Government have any specific measures to divert the non-urgent cases from the Accident and Emergency Department to suitable clinics such as the general out-patient clinics?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the primary purpose of the accident and emergency service is to provide medical treatment to urgent cases. However, the urgency or otherwise of some cases can only be determined after diagnosis by a doctor. On average, it has been estimated that out of the total attendance, about 4% are critical cases, 16% are urgent cases, 60% are semi-urgent cases and 20% are non-urgent cases. It is always very difficult for the doctor to refuse treatment to a patient when he presents himself at the Accident and Emergency (A & E) Department of a public hospital and it is only after he has diagnosed the patient that it is possible for him to decide whether this patient should or should not have gone to that department.

PRESIDENT: Dr LAM, not answered?

DR CONRAD LAM (in Cantonese): *The second part of the question is: Does the Government have any specific measures to divert non-urgent cases from the Accident and Emergency Department to general clinics?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, it is difficult to generalize on what we can do to assist patients to seek medical treatment at the proper out-patient clinic. But all this has to do with general understanding and awareness of the type of treatment that a patient needs and this is part of the general health education that we are doing to help patients understand their own needs, so that they can go to either a general out-patient clinic when it is necessary, or to the A & E Department when there is an emergency.

DR LEONG CHE-HUNG: *Mr President, in the Secretary's reply there is an obvious increase in the attendance rate during extended holidays and so on and so forth. I wonder if the Secretary can inform this Council whether there is adequate staff during those times on an ad hoc basis and whether the Government has any plans to negotiate with the private sector to ensure that the sudden increase will be eased?*

PRESIDENT: By employing private doctors, Dr LEONG?

DR LEONG CHE-HUNG: *No, by asking, perhaps some of them, not to close their clinics during extended holidays.*

SECRETARY FOR HEALTH AND WELFARE: Thank you Mr President. Thank you, Dr the Honourable LEONG Che-hung, for that question. Part of the problem of the increase in our A & E Department is due to private medical practitioners going on leave during holidays. I do not think it is possible for the Government to decide who can and cannot go on leave during these holidays. However, I understand that many medical practitioners do, as a matter of good practice and ethics, refer their patients to colleagues of their's when they go on leave and inform the patients when they are likely to return. I understand that in the Tuen Mun Hospital, for example, of which Dr LEONG is Chairman of the Governing Committee, there is a plan under study to examine whether it is possible for both the public sector and the private sector to take part in shared-care programmes, and part of this process would no doubt address the problem of doctors going on leave during holidays.

MR MICHAEL HO (in Cantonese): *Mr President, when replying Dr the Honourable Conrad LAM's questions just now, the Secretary mentioned that out of the total accident and emergency attendance, about 20% were non-urgent cases. Will the Government inform us whether the Health and Welfare Branch or the Hospital Authority will consider taking some measures so that those patients with non-urgent problems seeking treatment from the Accident and Emergency Department during holidays can have doctors to attend to them? I do not want to say that these people are abusing accident and emergency services because it is a fact that it is very hard for them to find a doctor to attend to them on Sundays and holidays. Will the Government take positive action on this so that these people do not have to go to the Accident and Emergency Department and still find doctors to attend to them?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, I will certainly consider the possibility of better co-ordination between the private sector and the public sector in the provision of general out-patient services for patients during public holidays and I will be pleased to refer this matter to the Hong Kong Medical Association, for example, and other bodies which deal with these things.

MR PETER WONG: *Mr President, would the Secretary inform us whether the fact that there are no charges for accident and emergency patients whereas there are charges for the general out-patient and private clinics has anything to do with the possible abuse by people using the accident and emergency units?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, we have not done any scientific study to assess whether it is the way that charges are levied in both the government out-patient clinics and the private sector that has been driving patients to the A & E Department, but this might well be one of the

factors, that patients prefer a free service to a service for which they have to pay.

Succession Planning for the Police Force

5. MRS SELINA CHOW asked (in Cantonese): *Recently, the police indicated that around 10% of police at the rank of superintendent would leave the force after 1997. In view of this, will the Government inform this Council:*

- (a) *of the number of local and expatriate senior police officers, that is, those of the ranks of superintendent and above, who are eligible for retirement before 30 June 1997, and what is the percentage of such officers out of the total number of their ranks;*
- (b) *whether the Administration will release the number of police officers at the ranks of superintendent and above in Her Majesty's Overseas Civil Services who will accept compensation and leave the force before 30 June 1997;*
- (c) *whether the Administration will announce the full findings of the survey on the intention of senior police officers to leave or remain in the force after 1997; and*
- (d) *what measures the Administration will take to ensure that no succession gap will appear in the territory's Police Force?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, the question refers to an estimate that about 10% of officers above the rank of Superintendent in the Police Force would leave before 1997. This figure was quoted recently in the media on the basis of a preliminary and personal assessment given by the Deputy Commissioner of Police (Management) in the light of a manpower planning survey currently being conducted in the Police Force.

My answers to the four points raised in the question are as follows:

- (a) Of the 457 police officers at the rank of Superintendent and above 24 are currently within the retirement zone; in other words, if they are on the Old Pension Scheme they are over 50 years of age, and if they are on the New Pension Scheme they are over 55 years of age. A further 18 will have to retire before 30 June 1997 because they will have reached the retirement age before that date. A breakdown of these figures by rank is attached to the written copy of this reply.

- (b) There are currently 182 members of Her Majesty's Overseas Civil Service (HMOCS) at the rank of Superintendent and above. Of these, nine will reach retirement age before 30 June 1997. The remainder have an option to stay until normal retirement age or leave under the terms of the HMOCS Compensation Scheme. The officers have been asked to submit formal returns to the Civil Service Branch by the end of July indicating whether they intend to retire before June 1997. It is not possible to say how many will decide to retire until the option forms have been returned to us.
- (c) The Commissioner of Police intends to announce the findings of the manpower survey currently being undertaken in the Force once the results have been analyzed. The questionnaires issued to all officers in the Force at the level of Inspector and above were due in on 20 May. It will take some time to analyze them. The Commissioner hopes to release the results by July this year.
- (d) On the basis of preliminary indications obtained in the manpower planning study, the Commissioner of Police is confident that, if nothing occurs which causes a significant number of officers to change their personal plans, the Force should be able to comfortably accommodate the slightly higher wastage rate expected. To avoid any succession gap, the Commissioner of Police and his senior colleagues will maintain close contact with members of the Force to gauge any change of mood or intentions that might signal a higher wastage rate than forecast. And they will continue to identify officers of potential for training and promotion to fill vacancies as they occur.

Annex

Breakdown of officers who will retire before 30 June 1997

1. Currently within the retirement zone: 24

<i>Rank</i>	<i>No.</i>
Deputy Commissioner of Police	1
Senior Assistant Commissioner of Police	2
Chief Superintendent of Police	7
Senior Superintendent of Police	8
Superintendent of Police	6

2. Will reach retirement age (55) before 30 June 1997 : 18

<i>Rank</i>	<i>No.</i>
Deputy Commissioner of Police	1
Assistant Commissioner of Police	1
Chief Superintendent of Police	5
Senior Superintendent of Police	4
Superintendent of Police	7

MRS SELINA CHOW (in Cantonese): *Mr President, the worst scenario would be all 182 members of Her Majesty's Overseas Civil Service (HMOCS) at the rank of Superintendent and above decide to leave the Force by July 1997. They can and may do so. Why were they required to submit the so-called formal returns in a separate exercise and not as part of the whole review? Will the Government announce the number of officers leaving the Force after receiving all the returns?*

SECRETARY FOR THE CIVIL SERVICE: (in Cantonese): Mr President, this is a rather long question. If I miss out any part of the question, would Mrs CHOW please kindly remind me. First of all, the 182 officers mentioned above have the right to submit retirement applications before the transfer of sovereignty, irrespective of their years of service and age. According to our projection, however, I believe that a majority of the officers will stay to continue serving the people of Hong Kong. This questionnaire survey exercise will serve to establish the intention of the officers. If the officers decide to retire, we will have to make retirement arrangements for them. That is the reason why we have allowed them a total of six months to respond to our questionnaires. The questionnaires were sent out in February, so it is reasonable to require the return of the questionnaires by the end of July.

In addition, I would like to point out here that if these officers intend to retire under the prevailing system, they will have to, first of all, give a six-month advance notice to the Hong Kong Government and to exhaust all their accrued leave before 30 June 1997. Therefore, we will have sufficient time to ensure that proper arrangements are made for the officers to leave the Force slowly.

As to whether we will publish the figures, as I have pointed out earlier, the Commissioner of Police is prepared to release the results by July this year when all questionnaires are received. The results, I believe, are more comprehensive. These 182 officers are just a relatively special group of colleagues.

PRESIDENT: Not answered, Mrs CHOW?

MRS SELINA CHOW (in Cantonese): *Mr President, my question was: does paragraph (b) of the main reply imply that the worst scenario would be for all officers to leave the Force; however, the Secretary replied that a majority would likely stay while no reason was given thereof. My question is: what ground is the Secretary's belief based on?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Mr President, the worst case would of course be that all 182 officers will leave. This is true. However, as all these questionnaires have to be sent back to the Civil Service Branch, although I have yet to tally figures or make in-depth study on the questionnaires, the information in hand shows that many officers are prepared to stay in Hong Kong. Of course, from now up to 30 June 1997, they may still change their mind.

PRESIDENT: I have got four supplementaries and will draw the line there.

MISS EMILY LAU (in Cantonese): *It was said in the last paragraph of the main reply that "the Commissioner of Police is confident that, if nothing occurs which causes a significant number of officers to change their personal plans, the Force should be able to comfortably accommodate the wastage rate". Can the Secretary tell us what are the things that could happen? If such things happen, will that only cause the senior officers in the Police Force to change their personal plans, or will that cause all civil servants to change their personal plans?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Mr President, as a civil servant, we must always be cautious when we reply any question, in particular, a question referring to the personal way of thinking of so many colleagues. We definitely must make it clear that if something does happen, they may change their mind. I believe that it is a reasonable guess. However, it varies from person to person as to what would change their mind. Therefore, it is impossible for me to give a clear account in response to Miss LAU's supplementary question on this matter.

MRS MIRIAM LAU (in Cantonese): *Mr President, when faced with the problem of wastage of senior officers in the Force, the Secretary said in the fourth paragraph of his main reply that it is not a big problem and the public do not need to worry about anything because the Commissioner of Police and his senior colleagues will maintain close contact. However, the problem does make people very worried. Can the Government inform this Council whether the Government has effective contingency measures to cope with the potentially serious impact that wastage of senior police officers would have on the entire community?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Mr President, I am greatly encouraged that the recent retirement applications of only two relatively senior police officers under normal circumstances have created such tremendous reverberation. This shows that the public recognizes the importance of stability in the civil service, in particular in the Police Force; this also means that the public very much appreciates our work. In view of this, it is essential that we do pay attention to this issue.

Mrs LAU asks me what plans we have to cope with problems in this regard. First of all, the information in hand does not show that there is a high wastage rate among police officers. As I have already mentioned, it is more a question of age. We raised the retirement age of civil servants from 55 to 60 in 1987 and that has resulted in a large number of colleagues aged between 55 to 60 who may retire at any time. Therefore, under the circumstances, it is reasonable and normal that comparatively more colleagues will retire when they approach the retirement age.

As to the plan we have if the wastage rate turns to be higher than forecast, the Police Force has in fact drawn up a series of plans, such as the filling of civilian posts in the Police Force currently taken up by police officers with civilian staff, the restructuring of part of the establishment of the Police Force, the re-arrangement of work and the generation of more opportunities for accelerated promotions for young and capable officers. I believe that all these are good plans.

MR HOWARD YOUNG: *Mr President, could the Secretary just clarify that the 10% figure is in fact a personal assessment? In paragraphs (a) and (b) of his reply, he mentions 24 and nine people respectively are within the retirement zone, which just so happens to be equivalent to about 5% of the 457 or 182. The Secretary says in the last part of his reply that “the Force should be able to comfortably accommodate the slightly higher wastage rate expected”. I would like the Secretary to tell us, should the survey prove that 10% is in fact accurate, if that would be regarded as what he means by only a “slightly higher wastage rate” or would it be deemed as overwhelmingly higher than the normal wastage rate, because 10% is the double of 5%?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, there is no such thing as a normal wastage rate, mainly because a wastage in terms of retirement and so on is a function of the age profile of the organization. As I have just said, we also have the special factor of the change in retirement age in 1987. But for a Force of the size of the Royal Hong Kong Police Force, I think a wastage rate, even if it is 10%, could easily be accommodated.

MR JAMES TO (in Cantonese): *Mr President, the fourth paragraph of the main reply indicates that some factors may cause police officers to change their personal decisions about their future. Has the Government noticed that there is a trend for some private companies and billionaires to offer police officers extremely attractive remuneration packages, and the Government usually approves their applications to leave the Force at short notices? Is it one of the factors he mentioned in his reply.*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Mr President, there are of course a lot of factors causing the officers to leave the Force and the attraction of job opportunities in the private sector is of course one of them. If an officer applies for leave to quit a particular government post and to join the private sector, they have to apply in accordance with the established procedures. We have regulations to govern such applications if the posts in the private sector are not suitable.

Stop and Search Operations by the Police

6. MR ROGER LUK asked: *Will the Administration inform this Council of the effectiveness (in quantitative terms) of "stop and search" operations on the street by police officers in achieving their intended purposes and whether the checks and balances currently in place have been effective in preventing police officers from abusing their authority in this regard?*

SECRETARY FOR SECURITY: Mr President, in 1994, police officers exercised their power to stop a person on 1 300 000 occasions. This figure includes stop and search, roadblock operations, and stop and question (which does not involve search). As a result of these operations, some 10 000 wanted or missing persons, together with some 30 000 illegal immigrants were located. In quantitative terms, on roughly one out of 30 occasions, the police achieved a successful result.

In addition to this quantitative measure of effectiveness, an active and visible police presence on the streets and in public places, particularly in crime black spots, together with their authority to stop and search, acts as a deterrent.

The Police Force is, of course, conscious of the need to balance the protection of, and respect for, personal freedom, privacy and dignity, with the maintenance of law and order. A comprehensive set of guidelines and procedures on the conduct of stop and search operations is set out in Police Force General Orders, the Force Procedures Manual and the relevant Headquarters Order. Any complaint against the abuse of authority will be thoroughly investigated. If the complaint is substantiated, the police officer at fault will be liable to disciplinary actions or even criminal proceedings.

Of the 3 090 complaints received by the Complaints Against Police Office last year, only 19 were related to stop and search. From these figures, the problem of abuse does not appear to be serious. We will, however, keep the situation and the existing guidelines under review.

MR ROGER LUK: *Mr President, the mean population aged 18 and over for 1994 was 4.5 million and this means that on average about one in four adults have been stopped by the police last year. Does the Secretary agree that this ratio reflects that the police have been excessive, if not abusive, in exercising this power?*

SECRETARY FOR SECURITY: Mr President, no, I do not agree so. I would like to point out first that not all of the 1.3 million cases involved a person being searched. The figures, as I explained, include roadblock operations and stops which do not involve a search. But, as I have explained, the powers are necessary to combat the problem of illegal immigrants and for the detection and prevention of crime.

PRESIDENT: Not answered, Mr LUK?

MR ROGER LUK: *Mr President, just the point that the roadblock operation does not include the search of a person; have I heard it incorrectly?*

SECRETARY FOR SECURITY: Mr President, no, the roadblocks do not involve the search of a person.

REV FUNG CHI-WOOD (in Cantonese): *Mr President, I believe the majority of the public does not like to be stopped and searched by the police in public places. Have the police considered reducing the number of stop and search operations and yet still effectively maintaining law and order?*

SECRETARY FOR SECURITY: Mr President, I think that the figures I have quoted are good. Without the powers that I have referred to, 3 000 more illegal immigrants would remain in Hong Kong and thousands of wanted persons would remain at large each year. If we were to reduce the number of operations, we would reduce the effectiveness of those results. In other words, there would be more illegal immigrants at large and there would be more wanted persons at large each year.

DR CONRAD LAM (in Cantonese): *Mr President, in paragraph 4 of the main reply, the Secretary for Security said that the Complaints Against Police Office received 3000-odd complaints last year, and only 19 were related to stop and search. Although there are only 19 such complaints, in our daily contact with the public, we find that many of them do not bother to lodge complaints because they are afraid of trouble. In these complaint against police cases, very often members of the public complain that the police did not have sufficient reasons to stop them, but the explanations offered by the police were usually that the police officers suspected they were illegal immigrants. When we pursued further why they suspected these people were illegal immigrants, the answers given were often ridiculous. So I would like to formally ask the Secretary here, what are the grounds for the Government to suspect someone is an illegal immigrant?*

SECRETARY FOR SECURITY: Mr President, the police are required to have reasonable grounds of suspicion and it is obviously difficult for us to set down, in specific terms, how those detailed grounds can be defined; there are no hard and fast rules. A police officer, however, is given specific instructions not to stop persons arbitrarily simply in the hope that he or she will find evidence of a crime. Reasonable suspicion is based on the information or observations that would lead a reasonable person to believe that a person has done, or is about to do, a certain act. The factors that are taken into consideration are the behaviour of the person concerned, articles carried, the circumstances prevailing in the surrounding area and the crime situation in that location. Police officers are expected to use their common sense, their experience and their professional judgment before exercising this authority.

In the case of suspicion regarding illegal immigration, the grounds for reasonable suspicion are, I think quite obviously, a little more widely drawn. It is very difficult to categorize an illegal immigrant and, therefore, we again rely on the common sense, experience and professional judgment of the police officers concerned.

MR JAMES TO (in Cantonese): *Mr President, we agree that it is difficult to define objective suspicion. Having heard the figures quoted by the Honourable Roger LUK, that is every year one out of four adults would have been stopped once by the police, the Secretary said that last year, 30 000 illegal immigrants and 10 000 missing or wanted persons were located in these operations.*

However, I wish to inform the Secretary that the number of stop operations in 1993 was lower by 20%, but the results were more or less the same, about 20 000 to 30 000 illegal immigrants were located. So, should the Secretary not therefore review whether guidelines for locating wanted persons and ways of teaching police officers to exercise their judgment be made more practical? More instruction and training may perhaps be given to police officers so that the number of stop operations can be reduced to the minimum while achieving the same results. All that is needed is more accurate judgment on the part of the police officers. Does the Secretary find my views useful?

SECRETARY FOR SECURITY: Mr President, I can again refer to my previous answer when I say that police officers are given specific instructions not to search simply in order to discover evidence of a crime. I am afraid I must clarify the statistics given by the Honourable Member. The number of stop and search operations which took place in 1993 and 1994, when compared, showed an increase of 6%. The number of wanted or missing persons and illegal immigrants that were found in 1993 and 1994, when compared, show an increase of 12%. So in other words, we were more efficient by increasing the number of operations by only 6%, but yet achieving a 12% increase in successful results.

PRESIDENT: Mr TO, not answered?

MR JAMES TO (in Cantonese): *Mr President, if this is the case, we could then locate more illegal immigrants if we made 4 million stop operations a year. I would like to ask the Secretary where does the balance lie? What exactly is the meaning of his reply?*

SECRETARY FOR SECURITY: Mr President, I do not think we have any intention, or indeed the capability of doing four million stop and searches in a year. As I pointed out in reply to an earlier question, the question of stop and search remains largely a matter of judgment. Nobody walks around with a sign saying, "I am an illegal immigrant". Nobody walks around saying, "I am a wanted or a missing person". We must rely on the professionalism and the judgment of the police officers concerned. There are no fixed quota of stops and searches; we do this simply in response to the crime situation. And I think that the results that I have explained in the answer to the main question illustrate that we have been quite successful in that respect.

WRITTEN ANSWERS TO QUESTIONS

Occupational Health Clinic

7. MISS CHRISTINE LOH asked: *Will the Administration provide this Council with a breakdown of the occupations and the injuries and/or diseases of persons who sought treatment at the Occupational Health Clinic in the first eight months since its opening?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, a total of 246 persons sought treatment at the Kwun Tong Occupational Health Clinic during the eight months from 30 November 1993 to 31 July 1994. 148 (or 60%) of them were treated for work-related injuries or illnesses. A breakdown by the type of work-related illnesses/injuries and by major occupational groups are as follows:

Occupational Groups

<i>Type of Work-related illnesses/injuries</i>	<i>Construction</i>	<i>Manufacturing industries</i>	<i>Service</i>	<i>Office</i>	<i>Total</i>
Upper limb injuries	6	6	8	0	20
Lower limb injuries	4	5	8	0	17
Trunk injuries	7	14	20	2	43
Head/Neck injuries	1	1	2	0	4
Occupational lung diseases	1	4	3	0	8
Musculo-skeletal disorders	1	16	13	6	36
Occupational dermatitis	1	5	4	1	11
Lead poisoning	0	2	0	0	2
Noise-induced hearing loss	3	3	1	0	7
Total	24	56	59	9	148
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Repatriation of Vietnamese Migrants

8. MR WONG WAI-YIN asked (in Chinese): *The Vietnamese Government has earlier undertaken to take back 1800 of Vietnamese boat people (VBP) stranded in the territory each month. In this connection, will the Government inform this Council:*

- (a) *how many VBP are expected to be repatriated to Vietnam each month;*
- (b) *what measures have been put in place to attain the above target of repatriating 1 800 VBP each month, and what are the anticipated difficulties in enforcing such measures and how they can be overcome; and*
- (c) *whether consideration will be given to adopting mandatory repatriation so as to attain the above target; if not, why not?*

SECRETARY FOR SECURITY: Mr President,

- (a) It would be premature to forecast the number of Vietnamese migrants who will be repatriated until such time as the simplified procedures are implemented and assessed, but we shall, of course, strive to repatriate as many as possible each month.
- (b) To expedite the return of Vietnamese migrants to Vietnam, the simplified repatriation procedures agreed at the Sixth Steering Committee of the International Conference on Indo-Chinese Refugees will be implemented.

The major difficulties envisaged are two-fold: the willingness of the Vietnamese migrants to go home and the speed with which the Vietnamese authorities clear their names for return. To encourage more Vietnamese migrants to join the voluntary repatriation programme, the United Nations High Commissioner for Refugees and the Hong Kong Government have stepped up counselling in the detention centres and an additional allowance of US\$150 has been introduced to each eligible migrant who volunteers to return to Vietnam.

- (c) We will step up the orderly repatriation programme as a means to encourage more Vietnamese migrants to join the voluntary repatriation programme, which remains our preferred repatriation option.

Purchase of Electricity from Daya Bay

9. MISS CHRISTINE LOH asked: *Owing to the fact that the China Light and Power Company Limited (CLP) is committed to purchasing 70% of the power generated from the nuclear power station at Daya Bay but the financial arrangement regarding such purchase is excluded from the Scheme of Control agreement, will the Government inform this Council:*

- (a) *how long the CLP is committed to purchasing 70% of the electricity produced from Daya Bay;*
- (b) *how the price of electricity purchased from Daya Bay is determined; and*
- (c) *of the amount of the fixed annual return that the Guangdong Nuclear Power Joint Venture Company is entitled to recoup through electricity tariffs?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the Guangdong Nuclear Power Station (GNPS) at Daya Bay is owned and operated by the Guangdong Nuclear Power Joint Venture Company, Limited (GNPJVC). GNPJVC is a joint venture between the Hong Kong Nuclear Investment Company Limited (HKNIC), which has a 25% equity share and the Guangdong Nuclear Investment Company, Limited (GNIC) which holds the remaining 75% equity.

Under the terms of the joint venture contract, HKNIC is committed to purchasing 70% of the total output of the GNPS of which 25% is purchased directly from GNPJVC and 45% by way of resale from GNIC. The nuclear electricity purchased by HKNIC is resold, without any mark-up, to its holding company, the China Light and Power Company Limited (CLP) for distribution to CLP customers. CLP's purchase of nuclear electricity via the HKNIC is monitored by the Administration through the annual Auditing Reviews.

With this background, the answers to the specific questions are:

- (a) unless the parties agree to an extension, the joint venture contract will be effective until 5 May 2014, that is, 20 years after the commissioning of the second nuclear unit;
- (b) HKNIC and GNIC are required to purchase electricity from GNPJVC at full economic cost, which includes an element of profit. The following conditions apply in respect of the resale of electricity from GNIC to HKNIC:

- (i) no mark-up is permitted during the resale of electricity from GNIC to HKNIC;
 - (ii) the amount of electricity purchased under the resale arrangement cannot exceed 4.5 billion units per annum for the first five years of operation up to 31 December 1998; and
 - (iii) during the first five years of operation, the sale price per unit cannot exceed the notional cost of a unit of electricity generated by a coal-fired station constructed in Hong Kong and commissioned in 1991.
- (c) GNPJVC's profit is fixed as a percentage of the funds invested by its shareholders and has regard to the performance and utilization of the station. The actual amount of return is commercially sensitive. GNPJVC does not sell electricity directly to customers in Hong Kong or in Guangdong. The amount of GNPJVC's return which is recouped from CLP's customers is proportionate to the amount of electricity purchased via HKNIC.

Influenza Vaccination

10. DR HUANG CHEN-YA asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the total number of cases of influenza or influenza related diseases requiring hospitalization in hospitals under the management of the Hospital Authority in each of the past three years; and*
- (b) *whether it will organize vaccination programmes for our senior citizens in view of the investigation results in a number of cases confirming the efficacy of influenza vaccination in reducing influenza and its complications?*

SECRETARY FOR HEALTH AND WELFARE: Mr President,

- (a) The total number of cases of influenza admitted to hospitals under the management of the Hospital Authority was 50, 61 and 61 in 1992, 1993 and 1994 respectively. We do not have readily available information on the number of cases of influenza related diseases requiring hospitalization. Since, under the current discharge coding system of these hospitals, influenza related diseases is not separately identified.

- (b) In considering whether to organize any vaccination programme, we have to examine carefully the extent of the problems relating to the disease in the local community, possible side-effects of the vaccine, operational logistics, cost-effectiveness and the overall benefit that the programme could bring. In the case of influenza vaccination, as influenza viruses are known to undergo frequent transformation, we have to consider also whether or not new vaccines could be developed in time and produced in sufficient quantities to support a community vaccination programme. The Advisory Committee on Immunization of the Department of Health, comprising experts in related disciplines, will be deliberating the issue later this year.

Inspection of Buildings

11. DR DAVID LI asked: *According to the findings of inspections carried out on housing and office buildings throughout the territory by the Hong Kong Concrete Repair Association, more than 60% of all buildings have or will develop serious and potentially dangerous structural problems. In this connection, will the Government inform this Council whether consideration will be given to setting up a mandatory inspection scheme whereby owners must check their buildings every five to 10 years; if so, what is the time table for implementing such a scheme?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the Government has in fact been keeping a close watch on the structural conditions of private buildings and undertaken inspections ourselves. In 1989, the Buildings Department (BD) initiated a scheme of external visual inspections on the structural conditions of buildings. 60 000 buildings have been inspected and categorized according to their degree of danger. 266 buildings have been demolished and almost 5 000 repair orders served to 16 000 buildings. Some 40 000 buildings are considered unlikely to require any major action within the five years from the time of initial inspection.

In October 1994, BD also commissioned a consultancy study into the conditions of buildings constructed between 1946 and 1958 which have cantilevered structures. The survey is aimed to ascertain the current structural conditions, assess the durability and deterioration trends, and recommend a strategy for the future inspection and investigations, of these buildings. The study is scheduled to be completed at the end of this year. However, when steel corrosion was found to be the cause of collapse of a canopy in Aberdeen last year, BD considered that “younger buildings” constructed between 1959 and 1980 should also be surveyed. The Administration hopes to seek funds for this proposal shortly.

The Government shares the view that building owners should be responsible for maintaining their properties. A mandatory scheme requiring them to carry out regular inspections would help to further strengthen building safety and maintenance. The Administration will be better placed to examine the need and practicability of a mandatory building inspection scheme when findings of the above study and survey are available. In the meantime, the Administration will continue with publicity efforts to educate building owners to properly maintain their properties and Building Management Co-ordination Teams in the districts will also provide advice on building maintenance to owners and resident associations.

Employees Retraining Board

12. MR PANG CHUN-HOI asked (in Chinese): *Regarding the problem of shortage of funds faced by the Employees Retraining Board, will the Government inform this Council whether:*

- (a) *it will continue to inject funds into the Board; if so, what the amount of injection will be; if not, why not; and*
- (b) *consideration will be given to increasing the levy imposed on employers of imported worker; if not, why not?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) In 1992, the Government injected \$300 million into the Employees Retraining Fund (the Fund) to provide financial assistance for the Employees Retraining Board (ERB) to carry out its statutory functions. Apart from the Fund and its interest income, the ERB also receives levy income from the employers of imported labour under the General Labour Importation Scheme and the Special Importation of Labour Scheme for Airport Core Programme Projects.

For the financial year 1995-96, the ERB plans to spend \$290 million to provide retraining programmes to displaced workers aged over 30, industrial accident victims, people with a disability and others who wish to rejoin the labour force. \$239 million of these expenses will be covered from interest generated by the Fund and the levy income. The remaining \$51 million will be met from the Fund itself, which balanced at \$280 million on 30 April 1995.

By the end of the 1995-96 financial year, the Fund will still have \$229 million left. As the financial situation of the ERB is healthy, there is no immediate need to inject further money into the Fund.

- (b) The Administration is currently conducting a review on the operation of the General Labour Importation Scheme. The rate of levy will also be looked at as part of the review.

Public Carparks

13. MR LAU WONG-FAT asked (in Chinese): *Will the Government inform this Council of:*

- (a) *the total number of government-owned public car parks at present, together with the number of such car parks which have been handed over to private companies for management; and*
- (b) *the total receipts from public car parks managed by private companies for the 1994-95 financial year, together with the percentage of the receipts apportioned to the Government and the private companies respectively?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) There are 14 government-owned public carparks. These are managed by Wharf Holdings Company Limited and Wilson Parking (HK) Company Limited under separate management contracts, with each company being responsible for seven carparks. These contracts were let through competitive tenders.
- (b) In 1994-95, total gross receipts from these carparks amounted to about \$340 million, with about 90% of this going to the Government.

Chinese Summonses Issued by Magistrates' Courts

14. MISS EMILY LAU asked (in Chinese): *At present, some items in the Chinese version of the summonses issued by the Magistrates' Courts are still written in English, including the address of the defendant, particulars of the charge and the location of the offence and so on, and this may cause inconvenience to people who are not conversant with English. In view of this, will the Government inform this Council whether:*

- (a) *a Chinese version is attached to all summonses issued by the Magistrates' Courts;*

- (b) *there is a special format for the summonses issued with an accompanying Chinese version; if so, why some of the items in the Chinese version are still written in English and; whether this runs counter to the original intention of issuing a Chinese version; and*
- (c) *there are any plans for the Magistrates' Courts to issue summonses written in Chinese only; if so, when such plans will be implemented?*

CHIEF SECRETARY: Mr President,

- (a) Summonses issued by the Magistrates' Courts are produced by the Computerized Case and Summons Management System (CASEMAN). Whether a summons contains a Chinese translation depends on whether a standard offence description(s) has (have) been prepared by the relevant prosecuting department(s). Most (about 3 000) standard offence descriptions are already available in both English and Chinese, and summonses in respect of these offences are being issued in both languages. However, variables such as the defendants' addresses have not yet been included because of the limitation of the CASEMAN's capability.
- (b) All summonses are prescribed and issued pursuant to Form I of the Magistrates (Form) Rules, Cap. 227 of the Laws of Hong Kong. A Chinese version of the Form has been prepared, and it will be brought into operation upon the upgrading of CASEMAN's capability in the light of the findings of the inter-departmental working party referred to in (c) below.
- (c) In the longer-term, CASEMAN will have to be upgraded to enable summonses to be issued in both English and Chinese. An interdepartmental working party has been formed to identify the changes required to achieve full bilingualism in summonses and to work out how to interface with prosecution departments on the electronic exchange of information. The working party is expected to complete its findings by the end of this year.

Provision of Student Hostels by UGC-Funded Universities

15. MR WONG WAI-YIN asked (in Chinese): *Regarding the provision of student hostels at the universities funded by the University Grants Committee, will the Government inform this Council:*

- (a) *of the criteria adopted by the universities in approving students' applications for such accommodation; whether the universities have accorded priority to students on grounds of long travelling distance*

and inconvenient transport facilities in allocating hostel places; if not, why not; and

- (b) *whether the Government will request the universities to provide information regarding the number of students residing in Tuen Mun and Yuen Long districts whose applications were rejected by these institutions in the past three years, as well as the reasons for rejection?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, among the seven UGC-funded institutions, only the Chinese University of Hong Kong (CUHK), the Hong Kong University of Science and Technology (HKUST) and the University of Hong Kong (HKU) currently have student hostel accommodation. The Lingnan College (LC) and the Hong Kong Institute of Education (HKIEd) will, however, also have some student hostel accommodation at their new campuses in Tuen Mun and Tai Po respectively.

In reply to part (a) of the question, the main criteria adopted by the CUHK, HKUST and HKU for allocating hostel places to students are:

- (a) the student's travelling time between home and campus;
- (b) the student's living environment at home; and
- (c) exceptional personal needs, for example, physical disabilities.

In addition, the HKUST and HKU reserve a small number of hostel places for allocation to students with leadership qualities and a proven contribution to hall life.

In reply to (b) of the question, the Administration has sought information from the universities concerned. The HKU and CUHK do not have statistics on the number of students living in Tuen Mun and Yuen Long whose applications for hostel places were rejected. However, both universities confirm that under normal circumstances, students living in Tuen Mun and Yuen Long would be assigned hostel places. In the case of the HKUST, all students living in Tuen Mun or Yuen Long and applying for admission to a student hostel have been allocated hostel places over the past three years.

China-based Wives' Eligibility for Public Housing

16. MRS ELSIE TU asked: *China-based wives of Hong Kong residents know that, in addition to other benefits, they can beat the seven-year residency rule in applying for public housing by depositing Hong Kong-born infants in the territory to make up the 60% eligibility rule for allocation of housing to a family. Therefore a mother even with one China-born child can avoid this rule*

if she deposits two more Hong Kong-born children in the territory and have them added to her husband's singleton application to fulfil the requirement. As this practice creates social problems for motherless babies, encourages larger families, and lengthens the waiting time for local residents on the Waiting List, will the Government inform this Council if it will plug this loophole by counting only the residency qualification of the mother after her admission to Hong Kong on the daily quota, and not the children she has deposited here apparently as a housing warranty for herself?

SECRETARY FOR HOUSING: Mr President, an applicant for public housing, together with a majority of his family members, must satisfy the seven-year residency rule in order to become eligible. For an applicant already on the Single Person Waiting List, he may apply subsequently to add the names of his wife, children and relatives to the application, and to transfer it to the General Waiting List. Upon transfer, he may be given a credit, in terms of waiting time, equivalent to half of the waiting time he has already accumulated on the Single Person Waiting List, subject to a maximum credit of three years. This means that following genuine changes in family circumstances, he does not have to queue up afresh. This arrangement has been operating satisfactorily, and is considered reasonable and fair. In 1994-95, there were about 1 100 such cases, of which only a small number involved children born in Hong Kong of China-based wives. We do not intend to change this policy, but will keep it under review.

Compensation to HMOCS Officers

17. MR TIMOTHY HA asked (in Chinese): *A Member of the British Parliament recently stated that compensation payable to members of Her Majesty's Overseas Civil Service (HMOCS) serving with the Hong Kong Government who would be obliged to retire prematurely as a result of the transfer of sovereignty in 1997 should be borne by the Hong Kong Government. In view of this, will the Government inform this Council:*

- (a) of the total number of these officers;*
- (b) of the total amount of compensation to which they are entitled; and*
- (c) whether it has clearly indicated to the British Government that such compensation will definitely not be paid from the territory's public funds; if so, when and in what way this was done; if not, why not?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, the British Government has obligations to members of HMOCS as set out in United Kingdom White Papers and as followed in other territories upon the loss of the Secretary for State's authority due to constitutional change. They have

therefore agreed to introduce and pay for an HMOCS Compensation Scheme for HMOCS officers serving in Hong Kong. Under the Compensation Scheme, officers may opt to retire between 1 July 1996 and 30 June 1997 or continue in service after ceasing to be members of HMOCS. These compensation and retirement arrangements are consistent with the British Government's obligation and HMOCS officers' terms of appointment. The answers to the specific questions are as follows:

- (a) Approximately 550 HMOCS officers could be eligible for compensation under the HMOCS Compensation Scheme. Compensation will be payable irrespective of whether an HMOCS officer retires or continues in service after ceasing to be a member of HMOCS.
- (b) The amount of compensation payable to individual HMOCS officers varies according to factors such as salary, length of pensionable service, age, and the pension scheme under which the officer serves. The maximum individual compensation payable is £120,000 at 1991-92 prices; which will be updated in line with the United Kingdom Retail Price Index (the present ceiling is £134,500) and would be payable to an officer in his mid-forties. The British Government estimates the total cost of the HMOCS Compensation Scheme at around £40 million.
- (c) The HMOCS Compensation Scheme will be funded entirely by the British Government. The Overseas Development Administration in the United Kingdom will be responsible for detailed payment arrangements.

Reclamation in Hong Kong

18. MISS EMILY LAU asked: *Will the Administration inform this Council:*

- (a) *when reclamation was first started in the territory, and what were the major reclamation projects completed since then;*
- (b) *how many hectares of land have been formed by reclamation in the territory; and*
- (c) *how many hectares of land will be formed by reclamation between now and 30 June 1997?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, reclamation in Hong Kong can be traced back a long time. An examination of previous maps indicates that reclamation could have started in Hong Kong well before 1887. However, some of the historical records cannot

be traced now, but it is generally understood that a lot of the built-up area on North Hong Kong Island, the coastal areas on West and East Kowloon were reclaimed before 1945.

All the reclamation works were done to acquire land for the social and economic development of Hong Kong. It is estimated that 5 400 hectares of land were formed by reclamation up to September 1994. Recent examples include reclamation required for the formation of Sha Tin, Tuen Mun, Tseung Kwan O and Tin Shui Wai New Towns, container terminals, and industrial estates. More recently, reclamation works at West Kowloon, Chek Lap Kok Airport and Tseung Kwan O Industrial Estate have been largely completed.

A number of reclamation projects are still in progress, and it is estimated that by 30 June 1997 they would form an additional 100 hectares of land for Hong Kong. These include the remaining part of West Kowloon, Central and Wan Chai, Aldrich Bay, Belcher Bay and Stonecutters Island.

Remuneration of Principal Executives of Statutory Bodies

19. MR CHEUNG MAN-KWONG asked (in Chinese): *Regarding the salaries and fringe benefits received by the principal executives of statutory public bodies, will the Government inform this Council:*

- (a) *of the criteria for determining their remuneration;*
- (b) *which statutory public bodies have disclosed the remuneration of their principal executives; which statutory public bodies have not and what are the reasons for non-disclosure, and whether consideration will be given to requesting these bodies to disclose the remuneration of their principal executives; and*
- (c) *what mechanism does the Government have to monitor those public-funded statutory bodies which have not disclosed the remuneration of their principal executives?*

CHIEF SECRETARY: Mr President, the remuneration received by the principal executives of statutory bodies financed by public funds varies because they have different levels and areas of responsibilities. My reply to Mr CHEUNG's question will necessarily have to be a general one.

- (a) The criteria adopted by these statutory bodies vary according to their specific requirements but in general the following are taken into account:

- the pay levels of jobs in the Civil Service or the private sector that have comparable responsibilities and that require similar qualifications and experience; and
 - any independent management studies carried out within the organization concerned.
- (b) The total remuneration for staff of these bodies is publicly available. Some bodies have also made public the remuneration bands or pay scales of senior executives through recruitment advertisements or annual reports. A list of these bodies is attached.

We will encourage the others to make similar information available to the public as far as possible when they are requested to do so. However, information on the remuneration of individual staff cannot be disclosed because this might undermine the ability of the organizations concerned to recruit and retain staff of the right calibre and with the necessary experience, bearing in mind they often have to compete with the private sector for staff. This is particularly so for bodies which are required by law to operate on prudent commercial principles.

- (c) There are well-established mechanisms by which the Government can monitor the operation of all these bodies. They include:
- legal provisions governing their operation;
 - government representatives sitting on their management boards;
 - the submission of regular reports to the Government and other governing bodies; and
 - audited annual accounts presented to the Government and tabled in the Legislative Council.

Annex

1. The Opening Learning Institute of Hong Kong
2. Hong Kong Institute of Education
3. UGC-funded institutions
4. Hong Kong Academy for Performing Arts
5. Hong Kong Arts Development Council +

Annex

6. Mass Transit Railway Corporation
7. Kowloon-Canton Railway Corporation
8. Securities and Futures Commission *

+ will be disclosed upon the establishment of the Council in June 1995

* will be disclosed in June 1995 when its Annual Accounts are published.

Former Special Branch Officers

20. MR CHEUNG MAN-KWONG asked (in Chinese): *Regarding the police officers formerly deployed in the disbanded Special Branch who still work in the Police Force at point 47 and above of the Police Pay Scale, will the Government inform this Council of:*

- (a) *the age of such officers and their current posts, and how many of them have opted for the new pension scheme; and*
- (b) *a breakdown, by the category of police officers at point 47 and above of the Police Pay Scale who were previously posted to the Special Branch and those of equivalent ranks who have never worked in the Special Branch, of the respective numbers of officers who are applying for and those who have been granted approval for early retirement in each of the past three years; and the annual percentages of the former out of the total number of officers in the ranks concerned?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, we have identified about 100 serving police officers of the rank of Superintendent (Police Force Point 48) and above who have, in some stage of their careers, served in the Special Branch. There are likely to be more, but we cannot provide an accurate figure without laboriously checking the personnel records of all serving police officers in these ranks. As there are 457 police officers in these ranks, this would be a major undertaking.

For the reasons stated above, we are unable to provide the detailed breakdown requested. However, the general situation in respect of officers who have applied for early retirement in the ranks of Superintendent and above are set out below. All applications have been approved.

<i>Rank</i>	<i>1992</i>	<i>1993</i>	<i>1994</i>	<i>1995</i> <i>(to date)</i>	<i>Present strength</i>
Superintendent of Police	11	2	6	13	291
Senior Superintendent of Police	2	3	1	5	92
Chief Superintendent of Police	1	-	-	2	53
Assistant Commissioner of Police and above	-	-	-	4	21
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Total	14	5	7	24	457
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BILLS

First Reading of Bills

OFFICIAL LANGUAGES (AMENDMENT) BILL 1995

PUBLIC BUS SERVICES (AMENDMENT) BILL 1995

AIRPORT AUTHORITY BILL

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

Second Reading of Bills

OFFICIAL LANGUAGES (AMENDMENT) BILL 1995

THE CHIEF SECRETARY moved the Second Reading of: "A Bill to amend the Official Languages Ordinance."

CHIEF SECRETARY (in Cantonese): Mr President, I move that the Official Languages (Amendment) Bill 1995 be read the second time. The Bill seeks to remove the present restriction on the use of Chinese in the higher courts and certain tribunals.

Section 5(1) of the Official Languages Ordinance provides that proceedings in the courts specified in the Schedule to the Ordinance may be conducted in either English or Chinese as the court thinks fit. These scheduled courts include the Magistrates' Courts, Coroner's Court, Juvenile Court, Labour

Tribunal, Small Claims Tribunal, Immigration Tribunal, Municipal Services Appeals Board, Administrative Appeals Board and Minor Employment Claims Adjudication Board. However, section 5(2) requires that proceedings in the Court of Appeal, the High Court, the District Court and any other courts not specified in the Schedule shall only be conducted in the English language. This means that all hearings in these courts are conducted in English only, although section 5(3) specifically allows the parties and witnesses attending before any court to use either of the languages or such other language as the court may permit, with interpretation provided by a Court Interpreter as required. Chinese documents which are to be produced in court must be translated into English and certified by official translators.

In August 1992, the Chief Justice appointed a working party chaired by Mr Justice Patrick CHAN to “consider the ways in which the Chinese language can be used in the District Court within existing resources and with the addition of reasonable resources”. In September 1993, he appointed another working party chaired by Mr Justice LITTON to “consider the means by which the use of Chinese language may be further promoted in court proceedings at all level where appropriate, and generally the greater use of Chinese in the law.” Both Working Parties recommended that the present restriction on the use of Chinese in the higher courts should be removed. Having accepted this recommendation in principle, the Chief Justice appointed, in September 1994, a Steering Committee, under the chairmanship of Mr Justice Patrick CHAN, to advise on how this should be implemented. The Steering Committee has now completed its task and put forward its recommendations on both the necessary legislative amendments and the actual implementation strategy.

The Executive Council has endorsed the recommendation made by the Steering Committee that the Official Languages Ordinance should be amended to remove the present restriction on the use of Chinese proceedings in the higher courts and certain tribunals. The Official Languages (Amendment) Bill 1995 contains one key clause, that is, Clause 3. This clause enables a judge presiding over a court hearing to use either or both of the official languages, but his choice of the language will not dictate what language a party, a legal representative, or a witness is to use. Lawyers representing parties may use either or both of the official languages; and parties and witnesses may even use other languages. Interpretation will be provided as required. It is also proposed that, as a matter of practice, court documents may be submitted in either English or Chinese, and will be translated, if necessary, into the language which the Judge decides to use at the hearing; and the written transcription of proceedings will be prepared in either English or Chinese as the court thinks fit.

This reform will lead to the increased use of the Chinese language in Hong Kong courts, as it will give an option to those people who feel that justice is best served by the use of Chinese, rather than English, in their cases. But it is a complex exercise and it needs to be implemented in phases. The Executive Council has endorsed the 8-phase implementation strategy recommended by the Chief Justice’s Steering Committee, which aims to put in place a framework

which will allow the use of Chinese, along with English, in all judicial proceedings by 1 July 1997. The pace of the phased implementation will be left to the Chief Justice to decide, having regard to the experience gained from a series of trial schemes which are due to start in August this year. Clause 3 of the Bill provides the Chief Justice with the necessary power for this.

The Honourable Simon IP and some other Members of this Council have suggested that simultaneous interpretation should be used as a more immediate means of putting in place a bilingual court system. The Steering Committee has studied the feasibility of this, and has concluded that simultaneous interpretation would not be suitable for evidence-taking because oral delivery is always made impromptu. Without a full translation of the exchange, material mistakes could be made through simultaneous interpretation and, if uncorrected, could result in a miscarriage of justice. Furthermore, unlike consecutive interpretation, inaccuracies in simultaneous translation cannot easily be detected. However, the Steering Committee has an open mind on the feasibility of providing simultaneous interpretation for other stages of a trial. The Judiciary will launch a pilot scheme this October on the use of simultaneous interpretation on appeal cases heard in the High Court which do not involve the giving of evidence.

The Chief Justice's Steering Committee has consulted the Bar Association and the Law Society and has taken their views into account when finalizing the Bill and the 8-phase implementation strategy. I understand that the Legislative Council's Panel on Administration of Justice and Legal Services has been consulted and has given its support.

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

PUBLIC BUS SERVICES (AMENDMENT) BILL 1995

THE SECRETARY FOR TRANSPORT moved the Second Reading of: "A Bill to amend the Public Bus Services Ordinance."

He said: Mr President, I move that the Public Bus Services (Amendment) Bill 1995 be read the Second time.

Franchised bus companies play a vital role in providing public transport. This is clearly demonstrated by the fact that over 3.5 million passenger trips are made by bus every day. Any serious disruption to bus services would have dire consequences and it is incumbent on the Administration to do its best to prevent such a situation from arising. The Public Bus Services (Amendment) Bill 1995 before Members today seeks to provide the Government with the necessary powers to deal with emergencies should a franchised bus company cease to operate.

The present Ordinance was enacted in 1975, over 20 years ago. The existing provisions which empower the Governor in Council to revoke the franchise of a bus company that fails to maintain a proper and efficient service and to take temporary possession of its property for a period not exceeding one year or suspend a franchise in case of an emergency are inadequate to deal with present-day situations. One key reason is that the sizes of bus fleets have grown substantially. Thus if one of the major operators ceases to operate, there would simply be insufficient lead time within the one-year period to select a replacement operator and to allow the replacement operator to gear up to operate a proper franchised bus service. We also need to have powers to deal with situations where a franchise is not renewed and, apart from leasing bus depots and buses, to empower the Government to purchase property which is considered to be absolutely necessary for bus operations, for example, buses and spare parts. This is to facilitate a replacement operator's preparatory work to commence service.

Indeed the measures proposed are tough, but they are required to safeguard public bus services in emergency situations. However, the Government has no intention whatsoever to penalize the franchisee financially and, accordingly, the Bill provides for open market rentals or compensation to be paid for leasing or purchasing buses and other property required to provide a bus service.

Mr President, let me now briefly outline the main features of the Bill:

- (a) Clause 3 of the Bill permits the Administration to suspend a franchise and take possession of any property used or kept by the franchisee when an emergency exists.
- (b) Clause 4 of the Bill extends the period of taking possession of property used or kept by the franchisee to a period of not more than two years with an extension of up to another year subject to the approval of the Governor in Council. The situation where a franchise is not renewed after expiry is also covered. Upon receipt of the Government's written notice, the franchisee is required to deliver the property to the Government.
- (c) Clause 5 of the Bill gives the Government the right to purchase property, except for land and buildings, which are used or kept by the franchisee. The franchisee has to be notified which items of property that the Government intends to purchase within one year from the date of the Government taking temporary possession. The clause also gives the Government the power of entry.

All these clauses also set out in detail the compensation provisions and the terms upon which possession of franchise related property is to be taken. A new section 25D under clause 5 also provides for disputes as regarding compensation to be referred to an independent arbitrator.

Clause 6 of the Bill provides that the amendments will apply to all existing franchises.

Mr President, let me assure Honourable Members that the Government has no intention of taking over public bus services except in very exceptional circumstances and, even so, for no longer than it takes for private enterprise to resume operations. The Bill before this Council simply seeks to safeguard the interests of the travelling public. With these remarks, I recommend the Bill to Honourable Members.

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

AIRPORT AUTHORITY BILL

THE SECRETARY FOR ECONOMIC SERVICES moved the Second Reading of: “A Bill to reconstitute the Provisional Airport Authority and to provide that from the commencement hereof it shall be known in the English language as the Airport Authority and in the Chinese language as “機場管理局”, to enable it to provide, operate, develop and maintain an airport for civil aviation in the vicinity of Chek Lap Kok and otherwise to define its functions, to make provision for the safe, secure and efficient operation of such airport and for connected purposes.”

He said: Mr President, I move that the Airport Authority Bill be read a Second time.

The purpose of the Bill is to reconstitute the Provisional Airport Authority (PAA) as the Airport Authority (AA) to enable it to provide, operate, develop and maintain our new airport at Chek Lap Kok. The Bill defines the functions of the Authority and makes provision for the safe, secure and efficient operation of the airport.

In January 1994, we published the Airport Corporation Bill in the form of a White Bill for public consultation. Members of this Council formed a Subcommittee to study the White Bill. We are most grateful for the comments and suggestions put forward by members of the Subcommittee. In addition, we would like to thank the Honourable Peter WONG who sent us a separate written submission and the Honourable Albert CHAN, the Honourable Frederick FUNG, the Honourable Fred LI, the Honourable Steven POON and the Honourable TAM Yiu-chung who put forward comments on behalf of the organizations they represent. We would also like to thank members of the Airport Consultative Committee, as well as other organizations and members of the public for taking time to study and comment on the White Bill.

In the course of the public consultation exercise, we received 19 written submissions. We held 14 meetings with the Subcommittee of this Council, the Ad Hoc Study Group of the Airport Consultative Committee and a number of organizations. The comments and suggestions put to us focused mainly on the name, structure, powers and functions of the Authority, employment of staff, the extent of governmental control, monitoring and auditing, payment of compensation and charges. We have studied each and every comment received. In line with the “Memorandum of Understanding Concerning the Construction of the Airport in Hong Kong and Related Questions” (MOU), we have also consulted the Chinese side of the Airport Committee of the Joint Liaison Group.

The objectives and structure of the Airport Authority Bill are the same as those in the 1994 White Bill. In drafting the Bill, we have aimed to address as many of the comments and suggestions received as possible. We have also taken into account fully the agreements reached with the Chinese side.

Name

Under the Bill, the PAA will be re-named the “Airport Authority” (AA) in English and “機場管理局” in Chinese.

Structure

During the public consultation process, we have received suggestions that in order to provide a wide range of checks and balances on the Authority and on its management, the Authority should have a Board. It has also been suggested that the Authority’s Chairman and Chief Executive Officer should be separate persons. Accordingly, clause 4 of the Bill now provides that the affairs of the Authority shall be under the care and management of a Board. Clause 3(3)(a) of the Bill also makes it clear that the Chairman and the Chief Executive Officer will be different persons with different roles and responsibilities.

Localization

Some commentators suggested that given the importance of the Authority, it should adopt a localization policy for employment of staff and that the Chairman and, if possible, the Chief Executive Officer should be “locals”. Others specifically suggested that the Chairman should be a Hong Kong permanent resident. Clause 3(3)(a) of the Bill now provides that the Chairman shall be a Hong Kong permanent resident as defined in the Immigration Ordinance. As regards employment of staff, the Authority’s plan is to fill all senior posts, including that for the Chief Executive Officer, with Hong Kong permanent residents and the Authority will recruit from sources outside Hong Kong only in the absence of suitable local candidates.

Powers and functions

On the powers and functions of the Authority, comments we have received focused mainly on the scope of activities and powers of the Authority relating to charging of land and property, borrowing and delegation of functions. Some felt that the powers of the Authority in the White Bill were too wide. Others were concerned that in the unlikely event that the Authority fails to repay its debt or exercises its power to charge or to delegate in a wrong manner, it may inadvertently lose control of the airport.

As regards the activities of the Authority, in addition to providing, developing, operating and maintaining the airport, clauses 5(2) and (3) and 7(2)(f) of the Bill now provide that the Authority may only engage in “airport-related” activities. By “airport-related”, we mean that the Authority should only undertake activities which are essential or conducive to the efficient operation of the airport or which are related to the development and running of an airport, for example, the development of hotels, freight forwarding facilities, offices, or other commercial and retail premises. We do not envisage that the Authority will undertake activities which are not normally undertaken by airports in other territories.

Turning now to the charging and disposal of land and buildings by the Authority, the Land Grant referred to in clause 16 of the Bill will specifically prohibit the Authority from disposing of land and buildings required for the operation of the airport or charging them in such a way which would jeopardize the operation of the airport. Clause 16(1) of the Bill further provides that the restriction over charging and disposal of land and buildings in the Land Grant cannot be changed except with the prior approval of the Financial Secretary.

As regards the Authority’s power to borrow, clause 28(4) of the Bill provides that the Governor may direct the Authority not to borrow above a particular level without the prior written consent of the Financial Secretary.

As regards delegation and sub-delegation of the Authority’s functions, the White Bill already provided that some powers of the Authority could not be delegated. These include the power to delegate, the power to form or acquire a subsidiary, the power to acquire or dispose of shares in a subsidiary and the power to make bylaws. The White Bill also provided that the Financial Secretary would be given powers to revoke any delegation made and irrevocable delegations have to be approved by him in advance. In the Bill we have put before Members today, we have included one additional residual safeguard. Clause 9(3) of the Bill provides that the Financial Secretary may direct the Authority not to delegate functions except with his prior consent. This would ensure that in effect, the Government could at any time forbid the delegation of any function of the Authority.

Auditing

On auditing of the affairs of the Authority, we have received divided views. There was strong support for strengthening the auditing functions of the Authority. Some have said that since a considerable proportion of the Authority's funds comes from the public purse, the Director of Audit should be given the power in the Airport Authority Ordinance to initiate value-for-money audits on the Authority. Some felt that the Director of Audit should also audit the annual accounts of the Authority. On the other hand, others were content to leave the regular annual auditing functions in the hands of private sector professional auditors. Some also felt that, as long as the Director of Audit could carry out value-for-money audits on the Authority, clause 29(6) of the White Bill already provided adequate powers.

It is clearly most important that the activities of the Authority are subject to rigorous and effective audit procedures. With this object in mind, we have decided to strengthen the mechanism for audit within the Authority by providing in the Bill that the Authority must establish an Audit Committee. Clause 31 of the Bill provides that the functions of the Audit Committee are to consider matters relating to the financial affairs or audits of the Authority as it considers necessary or desirable and any other matters referred to it. It further provides that neither the Chief Executive Officer nor any other employees of the Authority could be a member of the Audit Committee and that its chairman shall be a member of the Authority. The Committee is expected to play a proactive role and may instigate value-for-money studies in any area where it considers the management approach may be made more cost-effective and efficient.

As regards the role of the Director of Audit, section 15 of the Audit Ordinance provides that "Notwithstanding that he is not empowered by any Ordinance to audit, examine or inquire into the accounts of a person, body corporate or other body, the Director may audit, examine or inquire into the records and accounts of any person, body corporate or other body if he is authorized in writing to do so by the Governor in the public interest" Clause 32(7) of the Airport Authority Bill makes it clear that this section of the Audit Ordinance applies to the Authority. So the Governor could, if necessary, authorize the Director of Audit to audit, examine or inquire into the records and accounts of the Airport Authority.

Used in combination, section 15 of the Audit Ordinance and clause 31 of the Airport Authority Bill provide strong powers, and I believe them to be sufficient. Like the Mass Transit Railway Corporation and the Kowloon-Canton Railway Corporation, the Airport Authority will be required to operate on prudent commercial principles. Like the two railway corporations, it will be expected to raise considerable sums of money in the international capital markets and it is important that it develops the same strong reputation amongst lenders and international credit rating agencies. This can only be achieved if a proper balance is struck between the need for prudent oversight of the

Authority's activities and the need for it to be allowed to operate effectively as a commercially independent entity, and be seen to be so.

Compensation

Turning now to the payment of compensation, we have received suggestions that the Authority, which is wholly owned by the Government, should be obliged to act in the public interest and should not be paid any compensation for losses incurred as a result of being directed by the Governor in Council to take certain courses of action. There is, however, another angle to this issue. Lenders to the Authority will want to be assured that the Authority will be able to generate the necessary revenues to service and repay its debt and that its ability to do so will not be adversely affected by a direction given by the Government. Balancing the two considerations, we decided that the circumstances under which compensation will be payable should be qualified. Clause 20(2) of the Bill now provides that compensation will only be payable where compliance with a direction given by the Governor in Council in the public interest results in the Authority's being unable to conduct its business according to prudent commercial principles and to pay a debt or otherwise being unable to discharge any of its legal obligations. In addition, clause 20(3) of the Bill provides that an application for compensation shall be made by, and only by, the Board of the Authority.

Quorum for meetings

A number of commentators expressed concern that the quorum requirement for meetings of the Authority in the White Bill was too low as compared to that for other statutory bodies. Clause 18(8) of the Bill now specifies that the quorum for all meetings of the Board shall be at least half of the members of the Authority including the Chairman and Chief Executive Officer. The minimum number of public officers in the quorum is now two.

Airport charges

We have received suggestions that the Government or the Legislative Council should be given wider powers to vet and approve airport charges. These stemmed from a concern that the Authority might try to levy high fees in order to maximize profits. Others have noted however that doing so might significantly undermine the Authority's ability to conduct its business according to prudent commercial principles. Clause 34 of the Bill now provides that the Authority may make a scheme or schemes for determining airport charges and before making such a scheme, it shall submit to the Governor in Council for approval a draft of the proposed scheme together with a statement specifying the date on which the charges are intended to operate and reasons for the proposed scheme. Separately, we have taken the opportunity to refine the definition of "airport charges" in the Bill. At the time the White Bill was drafted, it was thought that aircraft passenger charges would be subject to international obligations applying to Hong Kong. Accordingly these charges were included

under the definition of “airport charges” in the White Bill. It now transpires that, as a result of the conclusion of negotiations between the United Kingdom and the United States of America on air services, aircraft passenger charges would not be subject to international obligations applying to Hong Kong. The definition of “airport charges” in the Airport Authority Bill has therefore been amended accordingly.

Conclusion

Mr President, in drafting the Airport Authority Bill we have attempted to take into account all views and suggestions put to us. We have strengthened government controls over the Authority. We have defined more clearly the Authority’s powers and functions, structure and procedures. We have sought to strike that delicate balance between controlling the Authority but at the same time not restricting its activities in such a way as to render it impossible to conduct its business in accordance with prudent commercial principles. Mr President, I commend this Bill to this Council and I look forward to further discussion with Members.

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

IMPORT AND EXPORT (AMENDMENT) (NO. 2) BILL 1994

Resumption of debate on Second Reading which was moved on 7 December 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).

INDUSTRIAL TRAINING (CLOTHING INDUSTRY) (AMENDMENT) BILL 1994

Resumption of debate on Second Reading which was moved on 7 December 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).

COPYRIGHT (AMENDMENT) BILL 1995**Resumption of debate on Second Reading which was moved on 29 March 1995**

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).

TAI LAM TUNNEL AND YUEN LONG APPROACH ROAD BILL**Resumption of debate on Second Reading which was moved on 8 March 1995**

Question on Second Reading proposed.

MRS MIRIAM LAU: Mr President, the Tai Lam Tunnel and Yuen Long Approach Road Bill introduced into the Legislative Council on 8 March 1995 provides for the award of the franchise to build and operate the Tai Lam Tunnel and Yuen Long Approach Road to the Route 3 (CPS) Company Limited. The tunnel and the approach road will form an integral part of Route 3, providing a vital strategic corridor serving the northwestern part of the New Territories.

A Bills Committee, of which I am the Chairman, was set up to study the Bill. The Bills Committee held altogether seven meetings to discuss the major issues which involve both principles and policies. The Bills Committee also met with representatives of the Company with a view to better understanding the Company's traffic forecasting process for the project and its stand on the toll adjustment mechanism. Representatives of the Company advised that the banks would not support the project without the provision of the toll adjustment mechanism.

Let me briefly go into the areas of major concern to Members. The first one is the internal rate of return (IRR) sought by the Company. The target IRR for this project, estimated at 15.18%, compares favourably with IRRs of other similar projects in the Asia-Pacific Region which range between 15% and 25%. Members have noted that the Company's forecast of usage of the facility over the franchise period is 8% lower than that projected by the Administration. Although the Administration is satisfied that this difference is within an acceptable forecasting margin, Members have asked the Administration to provide the Bills Committee with the IRR based on its own traffic forecasts. The result was that if the Administration's traffic forecast were adopted, an IRR

of 16.20% would be reached at the end of the franchise period, an increase of about one percentage point over the Company's target rate of 15.18%. This return would still be reasonable when compared to other similar projects.

The second area which Members have examined in detail is the toll adjustment mechanism. The Company will have three anticipated toll increases during the franchise period, that is on 1 January of the years 2003, 2010 and 2017. This is subject to the criterion that in the year preceding such anticipated toll increase, the Company's Actual Net Revenue is below the Maximum Estimated Net Revenue for that year. If in any year the Actual Net Revenue is below the Minimum Estimated Net Revenue, the Company may apply to the Administration to advance a toll increase or to have an additional toll increase when all three anticipated toll increases have been used. If the Actual Net Revenue is equal to or exceeds the Maximum Estimated Net Revenue in a year preceding a year with an anticipated toll increase, the toll increase will be deferred. Any excess of Actual Net Revenue over the Maximum Estimated Net Revenue in any year will be paid into a Toll Stability Fund. Money in the Fund may be applied to increase the Company's net revenue so as to defer toll increases. The majority of the Members of the Bills Committee accept the toll adjustment mechanism subject to the introduction of some measures to enhance transparency and enable the Legislative Council to monitor the operating cost budget and revenue accounts of the Company. I shall go into these measures in more detail in the latter part of my speech.

Members of the Democratic Party on the Bills Committee consider that toll increases should be subject to the control of the Legislative Council and would move an amendment to this effect at the Committee stage. I have asked the Administration to ascertain the proposed franchisee's views on the matter. The consortium has advised that having regard to the large amount of bank debt and the commercial and other risks involved, the toll adjustment mechanism is crucial to the banks' willingness to provide financing for the project. Accordingly, if the Bill were to be amended to the effect that toll increases would be subject to the approval of the Legislative Council, the Company would be unable to obtain bank financing and would not therefore be able to undertake the project.

The third area of concern is over clause 31(4) which provides that where at any time the Financial Secretary is of the opinion that the moneys in the Toll Stability Fund are in excess of the moneys that are required for the purposes of deferring toll increases, he may direct the excess amount to be paid into the General Revenue. Members are very concerned over this provision and consider that the Bill should also provide for the Financial Secretary to re-transfer money back into the Fund if circumstances require. After much discussion, the Administration has agreed to make an undertaking during the resumption of the Second Reading debate that should moneys be transferred out of the Fund to the General Revenue, this would not lead to any toll increase resulting from there being insufficient money left in the Fund to deter toll increases for the remaining period of the franchise. In the unlikely event that

there is insufficient money left in the Fund because of any such withdrawal, the Administration will initiate immediate action to transfer back the requisite sums from the General Revenue to the Fund up to the amount that has been withdrawn.

To enhance the transparency regarding the franchisee's plans and performance, the Administration will table in the Legislative Council in July every year the franchisee's plans as embodied in its three-year rolling projection of net revenue and its annual budget of operating costs. In October every year, the Administration will also table in the Legislative Council the figures contained in the annual submission of the audited statement of Actual Net Revenue and make a statement on the occasion on both the figures and any application for a toll increase. It will also brief the Transport Panel on the Administration's findings before deciding by the end of October whether the toll increase should be agreed. In addition, it will table in the Legislative Council before 31 December every year a copy of the audited statement of accounts of the Toll Stability Fund, together with the auditor's report on the statement of accounts, if any, as well as a report by the Toll Stability Fund Management Committee. These arrangements will enable Members to discuss and debate any proposed toll increase so that Members' views can be made known to the Administration before the Secretary for Transport decides whether he is satisfied with the Company's net revenue statement and whether or not he agrees with the toll increase application. I trust the Secretary will in his speech later on confirm that all these arrangements will be effected.

Mr President, the Tai Lam Tunnel and Yuen Long Approach Road Project is most urgently needed to provide relief for traffic congestion in northwest New Territories, particularly along Tuen Mun Road. The new road will also facilitate cross-border traffic and will allow further development in northwest New Territories. This important transport infrastructure is already long overdue and we cannot afford to wait any further.

With these remarks, Mr President, I commend the Tai Lam Tunnel and Yuen Long Approach Road Bill to Honourable Members.

MR WONG WAI-YIN (in Cantonese): Mr President, the debate held during the last meeting of the 1992-93 Session is still fresh in my memory. During that sitting we debated heatedly the Western Harbour Crossing Bill. The most controversial part was none other than the "toll adjustment mechanism". That mechanism not only enabled the Legislative Council to be bypassed, but also stripped the Council of the function of monitoring the operation of the Government and public utilities. We exchanged fire with the Government over this issue for a number of times, requesting the Government to listen to our opinions under the general principle of protecting the interests of the public, so that the consortia would not be given the opportunity to reap huge and "legal" profits and be free from monitoring by any mechanism.

The then Secretary for Transport, Mr YEUNG Kai-yin, promised that ample time would be allowed for communicating with the Legislative Council before any Bill relating to “build, operate and transfer” (BOT) franchise was to be tabled to the Legislative Council for scrutiny in the future. He also undertook at that time that when Bills of that nature were introduced into the Legislative Council, sufficient time would be made available for the Legislative Council to deliberate the Bill to ensure that the Bill governing the franchise would not have to be discussed and passed by this Council in a hasty manner. Unfortunately, when the Tai Lam Tunnel and Yuen Long Approach Road Bill came before this Council for scrutiny, the Government did not honour its promise. It was only after the Bill had been drafted and consent had been obtained from the Chinese side that the Administration gave a briefing to this Council. This showed that the Administration lacked the sincerity to communicate with this Council. Moreover, according to the legislative programme of the Government, it is intended that the legislative process in respect of the Bill be completed by the end of May; however, the Bill was first tabled for this Council’s scrutiny as late as 20 March, in total disregard of the fact that this Council would not have sufficient time to scrutinize such an important piece of legislation. Behind this cosmetic posturing and sleight of hand was the Government’s contempt for the opinions of this Council.

While going back on its own undertakings, the Government did not even listen to our opinions and requests. The provisions in and the spirit of the Tai Lam Tunnel and Yuen Long Approach Road Bill follow exactly those of the Western Harbour Crossing Ordinance. I believe that the Government has provided guidance to the consortia as to the direction in which to proceed when they submitted their tenders. This is in total disregard of the opinions of the Legislative Council. The Democratic Party has to voice strong discontent in this respect.

In fact, the existing Legislative Council has a sound public opinion base while the next Legislative Council will be fully elected and its foundation of public opinion base will even be beyond doubt. This “toll adjustment mechanism” conferred upon the consortia by the Government is not subject to Legislative Council monitoring and approval. Insofar as the revenue of the franchisee does not exceed the maximum estimated revenue within a specified time span, it can effect toll increases on the specified dates. That mechanism of toll increase will be maintained for a period of 30 years. The Legislative Council is not required to participate at all. That will mean not only depriving the Legislative Council of its power in monitoring the operation of public utilities, it will also imply that the Government will, for the sake of protecting the interests of the consortia, put commercial interests above public interests. The practice of the Government obviously goes against the democratic and open development trend of this Council. The Government pays no heed when the public tries to make known its aspirations through the Legislative Council. The Democratic Party holds that this is totally unacceptable.

Some people are worried that the investment risks will be greatly increased with the participation of the Legislative Council, then no consortium will invest and no bank will be offering loans. The Democratic Party finds this view or argument absolutely absurd. First of all, in many democratic countries, such as the United States, France, and so on, the operation of their public utilities is monitored by either a legislature formed through democratic elections or by independent boards or councils with public representatives on them. If the private sector is not willing to invest in anything that the Legislative Council can play a part in, does it mean that all investment will go to countries with no democracy? The fact shows that the contrary is the case. The investors attach importance to a stable and predictable investment environment, not one where the Legislative Council cannot play a part. The Legislative Council is not irrational. We will raise no objection if the franchisee operates under healthy conditions, renders good services and targets for a reasonable rate of return. However, if the operation of the consortium is plagued with problems, if huge loss is thus incurred due to operational or personnel problems and toll increase need to be effected to make up for the loss, then this Council will of course be duty-bound to see who should shoulder the responsibility. The argument that banks would not be willing to offer loans if this Council were to participate is also far from convincing. At present, the fare increases of a number of public utilities are subject to Legislative Council approval, for example, the Eastern Harbour Crossing, the Cross Harbour Tunnel, the Tate's Cairn Tunnel, the Star Ferry, the Yaumatei Ferry and so on. Yet they can successfully apply for loan from banks for the purpose of investment. I therefore cannot see any difficulty in obtaining bank loan for Route 3 (Country Park Section). I believe that the consortium is only making use of the possible refusal of loan applications as a pretext. If the argument advanced by the Government or the consortium is correct and valid, does it imply that all projects of similar nature will have to have a "toll adjustment mechanism" in order to attract tenderers?

In fact, during the discussion, we have been under tremendous pressure from various quarters. We are warned that if our amendments are carried, there will be no Route 3. I do not share this view because, as a matter of fact, we have all along been requesting the Government to fully fund the construction of Route 3. In fact, Route 3 includes not only the Tai Lam Tunnel and Yuen Long Approach Road, but also the Ting Kau Bridge section. The Government ultimately will have to allocate \$4 billion to construct part of Ting Kau Bridge. Only an additional \$7 billion would need to be allocated if the Government were to fund the construction of the entire Route 3. This approach would, on the one hand, benefit the public in terms of the toll level while, on the other hand, bring benefits to the Government in the form of stable revenue. Therefore, I totally disagree that without the participation of the consortium, there will be no Route 3.

Mr President, leaving aside issues such as the powers of the Legislative Council and the difficulty involved in obtaining loan, the toll adjustment mechanism is absolutely not suitable for Route 3. First of all, the triggering of the mechanism depends on whether the revenue at that time is within the range between the maximum and minimum estimated revenue. The determination of the

estimated revenue is based on the forecast of the volume of traffic flow and the mix of vehicles using the Route. I have made a detailed study of the two forecasts and I have great reservations about their accuracy.

First of all, cross-border traffic between China and Hong Kong is becoming busier and Route 3 is linked to Lok Ma Chau; therefore, the main users of Route 3 will be container trucks and lorries. The number of container trucks will increase significantly after the introduction of 24-hour clearing service at the Lok Ma Chau border crossing point. However, the consortium estimates that the mix of vehicles using the Route will remain unchanged after 2009. This is certainly overlooking the fact that the increase in the volume of cross-border traffic between China and Hong Kong will result in a large number of container trucks and lorries using Route 3. According to the existing toll structure, the toll for container trucks doubles or triples the toll for private cars. If the consortium has made an excessively conservative estimation of the number of container trucks using the Route, the consortium may have to effect three toll increases unnecessarily.

Apart from this, the consortium has failed to take into full account the development of the traffic network in New Territories West in the next 30 years. The Government announced last year that the Northwest New Territories Railway will be completed by 2001, but the consortium estimates that the Northwest NT Railway will not be operational until as late as 2006. There is a lapse of five years between the Government's announced completion date and the consortium's estimation. The construction of the Shenzhen West Expressway and the Ling Ding Bridge has been put on the discussion agenda and some suggest that they be linked up with Route 3. However, the consortium concerned has failed to consider the possible effects these important trunk road projects will have on Route 3. I have to admit that the construction plans for these trunk roads have not been finalized and the consortium will therefore certainly have difficulty formulating an accurate forecast. It is impractical that the Government requires Members of this Council to pass, in one go, a piece of legislation which contains the specified maximum and minimum revenue, the rate and number of toll increases and the number of years between toll increases, while all those provisions are based on potentially inaccurate forecast.

I will move amendments to the Bill on behalf of the Democratic Party to the effect that the Legislative Council will be given the power to scrutinize the application for toll increase for the future Route 3. Moreover, I will move another amendment in the hope of enhancing the transparency and representativeness of the Tai Lam Tunnel and Yuen Long Approach Road Toll Stability Fund Management Committee.

At present, all three members in the Management Committee are government officials. The main function of the Management Committee is to use the Fund to defer toll increases so as to stabilize the toll level. The existing Bill only specifies the source of the Fund while the way the Fund is to be used is left totally in the hands of the Management Committee. Notwithstanding that the Fund is to be used in full compliance with the provisions, the Management Committee

may still exercise its discretion as to whether the Fund will be used to stabilize the toll. We must understand that upon the expiry of the franchise, the money left in the Fund will be transferred to the public coffers. If the relevant government officials allow the consortium to keep on introducing toll increases, thus letting the Fund snowball until the money in the Fund has to be transferred to the Treasury, that will certainly boost government revenue. And the users of Route 3 will have to keep paying higher toll which goes against the principle of equity. Therefore, I request that the Legislative Council and the public should also play a part in the Management Committee, so as to ensure the best utilization of the Fund.

Some may think that the possibility of “black box operation” is eliminated since the Bill has provided that the Management Committee has to table its Statement of Accounts to the Legislative Council every year. Although it has been stipulated that the Statement of Accounts of the Fund has to be tabled to the Legislative Council, the Council is not given the authority to make decisions on the use of the Fund. Moreover, our worries are not allayed because the Government may refuse to listen to or accept the opinions of the Legislative Council. With the inclusion of non-official members into the Committee, the transparency of the Committee can be greatly enhanced and this will be in line with the trend of a more democratic and open society. In fact, there is nothing special in this arrangement because the involvement of non-official members in the Emergency Relief Fund Committee is already a precedent. Two have been elected from among Legislative Councillors to join the Emergency Relief Fund Committee. So, my amendment cannot be said to be setting a precedent. In fact, the setting up of a committee comprising entirely of official members is totally unnecessary. We believe that our proposal of abolishing the membership of the Secretary for Transport and the Director of Accounting Services in the Committee will not hamper the operation of the Committee since the Secretary for Transport and the Director of Accounting Services may continue to attend the meetings of the Committee so as to submit information and to take part in the discussion. What they will lose is only the right to vote in the Committee. Therefore, this will certainly not jeopardize the operation of the Management Committee.

Mr President, taking into account the great impact Route 3 will have on the traffic in the New Territories, the importance of this public facility and the franchise’s life span of 30 years, the Legislative Council is duty-bound to take up the monitoring responsibility to balance the interests of different social sectors, no matter whether we look at the issue from the angle of protecting the interests of the users or enhancing the development of the transport network. The Legislative Council cannot shirk its responsibility in this regard.

Mr President, last but not least, I must emphasize that the amendments moved by the Democratic Party only aim at ensuring that the Bill will enable the future Route 3 to provide services that are in line with the public interest. We have no intention of shelving Route 3. The Democratic Party must make this point very clear in the hope that my colleagues and the government officials will no longer threaten us that, once our amendments are carried, there will be no Route 3. In fact, I do not need to go to great lengths to explain the importance of Route

3 because no one in this Council is unaware of it. However, shall we accept a public transport network which has a toll adjustment mechanism that goes against the principle of protecting the public interest? If we accept that without reservations, does it mean that this unreasonable mechanism will have to be put in place for all similar projects? I do hope that my colleagues can give full consideration to this issue. I will move two amendments at a later stage.

Thank you, Mr President.

MRS ELSIE TU: Mr President, I am sure that every Member of this Council agrees that this tunnel is necessary for the benefit of those who live and work in the New Territories.

I am convinced that this rather large Bills Committee worked hard to reach the best possible terms from the Company now being considered for the award of the franchise. The Committee has made sure that there will be transparency and that the Company's performance and any future toll rises will be monitored by this Council.

Of the 17 members of the Bills Committee, and I was not a member, we are told that a minority of only two wish to amend the Bill so that toll increases in future will be under Legislative Council and public control. I hardly need to remind those who are putting forward the amendments of the meaning of "franchise", that is, the freedom of a company to operate in its own way. Because of the freedom granted to the Company, it is necessary for the Government to lay down strict conditions under which the franchise can operate. It is the duty of this Council to scrutinize those terms and see what improvements can be made and how the public interest can be safeguarded. Once these terms have been accepted, the Company must be free to operate its business. The role of the Legislative Council is then to monitor the efficiency of the Company and to make sure that it operates within the terms of the franchise.

Those who propose this amendment are fully aware that if the amendment is carried it will scupper the project because the banks refuse to lend money for a project that is under the unpredictable decisions to be made by a body like the Legislative Council which may change its membership every four years, which may not have business expertise, and which is likely to be influenced by vote-catching rather than sound financial principles.

What the amendments do is virtually to change a private enterprise into a government-controlled enterprise. The two systems, capitalist and socialist, cannot operate at one and the same time. History has proved that governments are not particularly good at running business ventures; they usually end up by being more costly and less efficient.

The proposer of the amendment has done a great deal to try to improve transport facilities in the New Territories. It would be ironical if he were to scupper this project, or even delay it indefinitely, which is most likely to be the case if the amendments succeed.

Mr President, this Council needs to be watchful, but not obstructive or destructive. The proposed amendments may be politically profitable, but in the long run will bring no improvement to transport in the New Territories about which we are all deeply concerned.

MR STEVEN POON (in Cantonese): Mr President, the purpose of investing is to make profits. Whether an investment project is designed to be profiteering depends on the amount of money made. I do not understand why the Honourable WONG Wai-yin said the investment in Route 3 is meant to reap colossal profits. Any amount borrowed has to be repaid. Banks will only lend money to borrowers when they are sure the borrowers are capable of making repayments. Route 3 is a big project, involving several billions of dollars but, to illustrate, let us use the example of borrowing money for the purchase of a flat: If in negotiating for a loan I were to tell the bank that, after borrowing, my repayments would require prior approval from the Legislative Council. I believe the bank would find the arrangement difficult to understand and would not approve the loan. It is too bad that Dr David LI, Mr Vincent CHENG and Miss Christine LOH have stepped out of this Chamber and cannot give a response. Maybe the most well-off Members can. What I mean is that borrowing from a bank is possible, but if repayments in future require approval from the Legislative Council, I believe the requirement would make it difficult to find a lender.

Mr WONG Wai-yin also said there do exist provisions for some public utilities to the effect that Legislative Council approval is required for fare increases. His examples include companies running the Eastern Harbour Crossing, the Cross Harbour Tunnel, the Tate's Cairn Tunnel, the Star Ferry, and the Hong Kong and Yaumati Ferry. These may not be appropriate examples to cite after all. At the time, the Legislative Council was not as politicized as it is now. All the Administration needed to do was demand a show of hands in the Council. At that time 1997 was not an issue. There were not so many doubts then, and people were not worried about the way Legislative Councillors would be elected. Having said that, however, we do have examples of public utilities whose fare increases do not require approval from this Council: Towngas, the two bus companies in town, the two electric companies and Hong Kong Telephone. So, depending on the merits of each case, we have examples for each category. Under the existing conditions in Hong Kong, the subjective desire of asking banks to approve loans to institutions whose repayments require Legislative Council approval will be impossible to realize. Mr WONG Wai-yin said Legislative Councillors are rational and I am sure he is too because I have been working with him for several years. We are not sure whether future Legislative Councillors are. The consortium is even less sure. I

believe investors want to dispense with the requirement of Legislative Council approval in respect of fare increases by prospective borrowers because they are worried that borrowers may not be able to repay in future.

The issue lies not in the Legislative Council not giving approval or having no power to do so. On the contrary, the Legislative Council may exercise its power to give approval at this very moment. The present position is something like this: If two parties enter into a contract, and the investors, being one of the parties, produce a contract and say they will sign it if the other party agrees to the terms of the contract, in which case the other party shall act according to the terms of the contract. The investors are not saying the other party is entitled to change the terms of the contract. Now, if applications for fare increases have to go through the Legislative Council, that means the Legislative Council is empowered to stop fare increases, meaning that the contract entered into with the investors may be unilaterally changed by the Legislative Council. We must understand that this situation runs counter to the original intention of the signing of the contract.

Mr WONG Wai-yin questioned the necessity for the establishment of a fare increase mechanism for public utilities in future. I believe that many investors will have the worries I mentioned just now insofar as legislative and executive functions remain two separate systems and it is unlikely that the executive will influence the legislature, which, as things stand, is a direction along which the Legislative Council is developing. Once investors develop such worries, what should we do? Should the Administration shoulder the responsibility of completing the project, as Mr WONG Wai-yin says? I dread the need for the Administration to do so. Is Hong Kong changing from a capitalist society to a socialist one? Must a project like this one be nationalized now? Why should Hong Kong nationalize a project that can be operated by a commercial organization while the whole world is going for privatization - the United Kingdom, the United States, Communist Vietnam, and China, who even privatizes state-owned assets for listing purposes? I do not understand. Is this communism? What is this Council doing now? I do not understand.

Mr WONG Wai-yin talked a lot about traffic flow estimates. I wrote about the same topic in my article that appeared on Ming Pao Daily News. Traffic flow estimates are an academic issue not related to practical problems. No matter what the estimates are, and what the results are after deductions and additions, everything has to be within the boundaries defined in the so-called internal rate of return (IRR), whose lower limit is 13.70% and upper limit is 17.08%. The base figure is 15.18%. Since everything is subject to the IRR, it is meaningless to have extended and heated debates over the issue of traffic flow estimates.

What worries us is that banks will not bankroll the project if Legislative Council approval for future fare increases is required. Nothing can be done without bank financing. The completion of the Western Harbour Crossing may be delayed for several months or even several years. Route 3 may be delayed for several years. I wonder whether Mr WONG Wai-yin would then be entering as a candidate for election in the same district and how he would explain the delay to his voters. Preparatory work for Route 3 has taken a lot of time and everything would vanish if Mr WONG Wai-yin raises objection. If I were Mr WONG, I would not dare to enter as an election candidate there. I hope Mr WONG Wai-yin may either re-consider his position or deal with the matter in a more reasonable manner.

Another issue that arises is related to the so-called Toll Stability Fund Management Committee (the Committee). Indeed, Mr WONG Wai-yin is well aware of the fact that the issue was one that I raised in a panel discussion. I raised the matter hoping that the Administration could consider whether or not members of the public should be allowed to join the Committee. We were given a lot of feedback from the Administration. My understanding of the feedback is that the only purpose of the fund is to stabilize tolls. The fund may not be used for charity or to finance the consortium. Its sole purpose is clearly defined by law. Furthermore, the law requires that the fund be plated with the exchange fund, which shall invest as it deems fit. So, there is little left for the Committee to do. The committee may be regarded as a "paper committee". No meetings are required and its account is made public. Supervision is not an issue. Even the Financial Secretary cannot divert the money in the fund to somewhere else. If the Financial Secretary wants to transfer money out of the fund, he must undertake to transfer it back from the Treasury and the fund will not diminish. After hearing such feedback, I form the opinion that having members of the public on the Committee would not enhance supervision. Both the Liberal Party and I think that if public supervision on the Committee is required, we should appoint as members of the Committee those members of the public who can contribute to the Committee rather than having Legislative Councillors appointed automatically to the Committee. This is a principle about which we hold totally different opinions from the Democratic Party.

What the Democratic Party or Mr WONG Wai-yin is saying is that a Legislative Councillor must be appointed to the Committee. I feel this idea is exactly the opposite of what we think. A Legislative Councillor is elected to take up legislation work rather than take part in the work of any committee. Whether the Administration appoints someone to a certain committee depends on whether that someone can contribute to the committee. We therefore do not think that the law should clearly state that someone is automatically entitled or qualified to be appointed to the Committee simply by virtue of his or her being a Legislative Councillor.

Mr President, the debate on this matter has dragged on for too long. I agree with what Mrs Elsie TU says, which is that we should start the construction of Route 3 as soon as possible. Indeed, it is one of the ten projects linked to the new airport. Without it, a sizeable portion of communications or traffic with China would be hindered. Without it, traffic congestion in northwest New Territories will continue to exist. We have been discussing time and again traffic congestion there, but I feel that further debates on side issues such as those I mentioned a few moments ago are meaningless. I hope Members from the Democratic Party can withdraw their amendment.

Thank you, Mr President.

MR LEE WING-TAT (in Cantonese): Mr President, before I deliver my prepared speech, I would like to respond to a few points. First, Mr Steven POON thinks that the amendments proposed by Mr WONG Wai-yin are indicative of nationalization and a communist way of handling things. I was not in the stream of social science, but to my understanding, nationalization means that assets or enterprises are developed largely by national capital with the State taking the lead in the operation. The amendments that Mr WONG Wai-yin will be moving merely concern the way the toll of a tunnel will be adjusted in future. There are two reasons for a person equating the way toll is adjusted with nationalization or communism. One is that he is an idiot who is ignorant of everything. The other is that in so doing he is trying to “put labels” on other people. If there is any Member of the Legislative Council who does not know what nationalization or communism actually means, I shall be pleased to lend him a book on Marxism and Leninism. If he still fails to understand it, I would advise that Member to take up extra-mural courses organized by the University of Hong Kong or other tertiary institutions on the basic concepts of social science.

Secondly, does it mean that no one will make investment if toll adjustment is to be subject to the deliberation and approval of the Legislative Council? This is a question which we debated two years ago. The logic that Mr POON based his argument on assumed that no one would make investment in Hong Kong should there be a Legislative Council born of a democratic political system and a directly-elected Chief Executive because these people will expend all their efforts to entice support from voters in order to secure a directly-elected seat. That is to say, Hong Kong will not be able to function if we have a Legislative Council fully elected by direct election and a directly-elected Chief Executive. I think this is a kind of alarmist talk and shows a lack of common sense. Let us take a look at many other countries or places in the world. To name a few, the United States, Canada, Britain and even Taiwan. Which one of them does not have the popular election system? If the induction derived from that logic is tenable, would it not mean that all of these places are plagued by depression in all sectors, little investment, full unemployment, crumbled economy and a chaotic state of conditions in the country? Can Members tell us which of the places with a directly-elected legislature has those features mentioned above?

Mr President, we can have a diversity of opinions on this matter but “putting labels” on other people is not the rule.

Mr President, at the initial stage of the tendering exercise, guidelines had been issued to leading consortiums by the Government. In addition to giving a brief introduction of the “build, operate and transfer” (BOT) arrangements for Route 3 (Country Park Section), the guidelines also indicated that consortiums can draw on the arrangements set out in the Western Harbour Crossing Ordinance. Yet, when the Western Harbour Crossing Bill was tabled at the Legislative Council for deliberation, fierce contention had been aroused in the Legislative Council over the issues of automatic toll increase mechanism, internal rate of return and so on. Members criticized vigorously that the Legislative Council was being divested of its rights and stated that the automatic toll increase mechanism was unacceptable. Now that the Government is leading the consortia to institute an automatic toll increase mechanism, I would like to ask the Government whether it has listened to the opinions of the Legislative Council and whether it has taken into account the interests of the general public. Is it that the Government intended to free toll increase from any sort of control in order to protect the interests of the consortium which had been contracted to build the Western Harbour Crossing and, for this reason, the Government is going to stick to the automatic toll increase mechanism for the Route 3 (Country Park Section) project that follows? I also hope that the Secretary for Transport will clarify later on whether the automatic toll increase mechanism will be included in contracting out BOT projects in future and whether all the projects taken up by the private sector will not be monitored by the Legislative Council in future.

The Government kept stressing that this Bill would not bypass the Legislative Council because all the mechanisms proposed in the Bill would be subject to the approval of the Legislative Council before coming into effect. Yet, the Government stood firm later and asked the Legislative Council to approve the Bill without making any changes to it. The Government added that if amendments were to be made, the consortium would withdraw and the Government would have to carry out another tendering exercise again. In the event of any delay in the project, the Government would hold the Legislative Council responsible. However, I must emphasize that from our debate on the Western Harbour Crossing Bill in 1993 to this Tai Lam Tunnel and Yuen Long Approach Road Bill that we are dealing with now, the Democratic Party has time and again drawn the Government’s attention to the fact that the automatic toll increase mechanism is impracticable and unacceptable. Has the Government listened to this appeal made by the community?

The Government has repeatedly stated that the monitoring mechanism contained in the Bill is adequate and that the result of the tendering exercise which was contested by three consortiums is the best in the public interest. This includes a mere three toll increases and the average internal rate of return will be lower than that anticipated by the Government as well as that of BOT projects in neighbouring regions. Such being the case, the interests of all

sectors can be safeguarded. I think the Government has misled members of the public in saying so. The fact that the internal rate of return is lowered as there were three consortia bidding for the project is an improvement, but only a slight one. While there were three consortiums competing for the project, the rate of return is just around 1% less than that of the Western Harbour Crossing. Is this to be taken as the best result in the public interest? Perhaps the Government simply decided in favour of the one which made the lowest bid among the three, thinking that this could be taken as a justification with which the Legislative Council and the community would be satisfied.

In fact, Route 3 possesses an even greater potential for development than that of the Western Harbour Crossing. As Route 3 is a trunk route on land, its anticipated profit from the development of real estate will be promising enough to make up for a low rate of return for any kind of investment. Let me cite some examples to illustrate this point. The rate of return of many public transport facilities in the territory is very low. However, the actual benefits that the consortium will gain from their investment in public transport facilities do not come from the facilities themselves, but the development of real estate. The internal rate of return of the Mass Transit Railway Corporation (MTRC) is 10% but the proceeds gained from property development have constituted a considerable non-recurrent income of the MTRC and indirectly assisted the MTRC in the development of Tsuen Wan line, Kwun Tong line, Island line and even the New Airport line. Kowloon Motor Bus Company Limited gained \$1.7 billion solely from the sale of land last year. The ferry service provided by the Hong Kong Ferry (Holdings) Company Limited has not been very profitable in the past few years and the ferry company has even suffered losses. However, the ferry company has indicated that if the Government allowed it to build properties above its pier in Central, they would immediately make improvements in the ferry service and buy new ferries. These are investments and these consortiums are merchants. The Hong Kong Ferry (Holdings) Company Limited is willing to invest despite the rate of return being so low because what it is interested in is not the transport services, but the high rate of return in the development of real estate. Let us get back to the Country Park Section of Route 3. The consortium which successfully bid for the project is Sun Hung Kai Properties Limited and group. Everyone knows that in recent years Sun Hung Kai Properties Limited has acquired plenty of farmland along Route 3 or other trunk routes in its vicinity. The profit generated from the development of properties along these routes will be very assuring upon the completion of Route 3. Under such circumstances, the low rate of return of the Route 3 project does not have any impact on the financial condition of the consortium because the consortium is not really keen on Route 3. Having successfully bid for the project, the consortium only has it in mind to finish this route speedily and then proceed to the development of real estate in northwest New Territories.

Route 3 is vitally important to residents of the New Territories and container truck drivers because it will become the trunk road that they rely on to travel between northwest New Territories and the urban areas. However, has the Government made the best of its efforts to fight for a deal which can safeguard the long-term interest of members of the public in a better way? The answer is no. Mr President, Mr WONG Wai-yin has submitted his amendments. His purpose is very simple. That is, he did so for the sake of public interest, enabling members of the public to be more fairly treated when travelling Route 3 (Country Park Section) as regular and long-term users. If Members of the Legislative Council unite and take the same side, I believe there will be greater concession on the part of the consortium.

MR FREDERICK FUNG (in Cantonese): Mr President, I would state my stance before explaining the rationale behind it. I would vote against the amendment to clause 45 of this Bill to be moved by Mr WONG Wai-yin and I would also say “no” to the original Bill.

Actually, I agree that the Legislative Council has the power to monitor the rate of toll increase proposed by the public utility companies. The amendment to be moved by Mr WONG Wai-yin this time only serves to add a power of veto by the Legislative Council to the existing mechanism of toll increase recognized by the Government. That is to say, even if the Legislative Council has the power to negative the rate of toll increase proposed by the Route 3 (CPS) Company in the future, it would still have no dissenting power with regard to toll increase mechanism of the consortium. This kind of monitoring is like supervision with a cage. Within this framework, you can say “no”, otherwise you will have to say “yes” because it has been made clear that there will be no further amendments. That does not give sufficient protection to the people of Hong Kong, especially in terms of consumer rights.

I think the monitoring of the public utility companies should go beyond the surface of a power of vote; a distinction should be drawn to differentiate whether the toll increase mechanism is beneficial to the public or whether it is even more beneficial to the consortium. If the actual profits of the franchised companies have not reached the lowest level of estimated net profits for a certain year, they can raise the toll to a rate even higher than that of inflation. I think that is in fact a mechanism to safeguard the profits of franchised companies. Even if the Legislative Council then had the power to scrutinize the applications for toll increase, it could either say “yes” or “no” because our hands would be tied and our choices would be limited. Therefore, that is in fact a mechanism to protect the consortium’s interests. The Legislative Council would not have the power to make any amendment in the future and the rate of toll increase could be made higher than that of inflation to safeguard the profits of the consortium. I therefore think that another mechanism would be more suitable to our consumers.

Take the formula $CPI - X$, that is, the Consumer Price Index minus a certain number, as an example. When the profit margin of the franchised consortium falls short of a certain percentage, it can ask for a toll increase the rate of which will be the Consumer Price Index minus a certain number. Suppose the current Consumer Price Index is 9.6 and X is 2 or 3, the rate of increase will be 7.6 or 6.6. In this way, while franchise companies will be allowed to increase their toll when their profit margin reached a certain level, consumer's rights can also be protected. We think that only mechanisms like this should be considered.

Such a mechanism will not stop the consortium from making money. Having a rate of toll increase lower than that of inflation does not necessarily mean that greater profits cannot be made. This mechanism alone does not protect consumers. If the consortium can improve on its management, techniques and staffing, profits will rise despite the fact that the rate of toll increase is lower than that of inflation. Besides, my proposal has not set a ceiling for profit margin and so the margin could be higher than 15% or it could reach 17%, 20% or even 30%. Hence, I think that Mr WONG Wai-yin's motion goes for outward appearance at the expense of the soul. Therefore, I cannot support it.

The debate about this Bill is another version of the Western Harbour Crossing incident. By using the same tactics, the consortium is forcing the Legislative Council into a corner with this mechanism. There is no difference. Besides, the Government has also agreed to the use of this kind of tactics. Now, there are only two options open to Members: let the Bill be carried or to suffer the consequences of the withdrawal of the consortium. Considering this kind of tactics and the fact that I do not agree to the toll increase mechanism proposed by the Government, I will also vote against the original Bill.

I would support the second amendment to be moved by Mr WONG Wai-yin to clause 32. The amendment seeks to introduce a Member of the Legislative Council and a Hong Kong permanent resident into the Committee because that would increase the transparency of the public utility companies. Some Members and staff of the Transport Branch have spoken to me about this amendment and they said the introduction of these two kinds of people would politicize the Committee. That is the point Mr Steven POON has raised earlier. I totally support what Mr LEE Wing-tat has said. People who said these things are ignorant; they are trying to escape from the reality that the constitutional system of Hong Kong is undergoing a democratization process.

Elected Members are themselves a matter of politics. Where there are Members, there are political activities. That is a matter of fact. If there should be no Members, if things should not be politicized, then theoretically, Members should not be involved in any advisory board and committee of the Government at all, otherwise, these committees will become politicized. Besides, no Member should become a member of the Board of Directors of statutory bodies or committees, otherwise these boards and committees would become an area of

political battles. However, that has not been the approach adopted by the Government. The Government often appoints appointed or elected members of the district boards, the Urban Council and the Legislative Council as members of various advisory boards and committees which have policy-making powers, for example, the Housing Authority, the Town Planning Board and so on. If the Government has appointed Members to sit on these boards and committees, why can it not do the same with regard to this particular committee?

Besides, the Government is now vigorously implementing a representative system, encouraging the public to elect their Members so that they can make future policies for and on behalf of the people. Theoretically, the power of the elector could follow this line into the policy-making bodies. If Members should not be involved in all the policy-making bodies, the pronouncements of the Government would become lies and that would also mean that the Government was not willing to implement a representative system.

Even if no Member were allowed to sit on these committees, does it mean that these committees will not be politicized? Politics is public affairs; where there is public affairs, there is politics. I do not think that if there were no Members on the committees, the committees would not be politicized. It would only result in a politicized situation which is not transparent. We would not be able to see the politicized situation within the committee nor perhaps the economic and self interests which would also come into play. Therefore, we should not object to the introduction of a Legislative Council Member and a member of the public into the committee so that they can monitor the company from the points of view of consumers and the legislature.

In September this year, all members of the three-tiered boards and councils will be elected. After 1997, the Chief Executive will not be appointed and perhaps, one day, we would even have a directly-elected Chief Executive. In that case, if Hong Kong is to be left in the hands of an elected Chief Executive, why can this committee not consist of a Legislative Council Member elected from among the councillors themselves? If people are scared, are they scared of election or are they scared of democracy? I hope those who object to the proposition can clarify this point.

I support the amendment to clause 32 to be moved by Mr WONG Wai-yin.

MRS SELINA CHOW (in Cantonese): I would like to respond to the Honourable LEE Wing-tat with regard to the way he labelled the Liberal Party moments ago. As a matter of fact, when it comes to sticking labels, the Democratic Party is second to none in this Council. As regards the so-called label-sticking that Mr LEE said the Honourable Steven POON had resorted to, in fact it was not so much sticking label as telling the truth. Hong Kong is a capitalistic society. Capitalism is built upon freedom of investment, and freedom of investment is built upon stable profits and stable business. If these two things are not stable,

the desire to invest will greatly diminish. As a matter of fact, in the present, the consortia concerned have made it clear to the Bills Committee that they will not accept any mechanism whereby toll rise will be determined by the Legislative Council.

Such being the case, if the consortia were unwilling to take up the project of Route 3 which had to go ahead, the only choice left would be to have the Government take up the project, and government commitment would mean state enterprise. Any left-tilted government or left-tilted political party would ask the government to take up various social responsibilities, and in the end its social and economic responsibilities would snowball. Nationalizing industry and commerce and putting them under state ownership is precisely what leftist political parties are after. Therefore, when Mr POON pointed out this fact it was not exaggeration at all.

The Honourable WONG Wai-yin said, not only this time, but also during the debate on the Western Harbour Crossing Bill, that “if the consortia won’t do it, the Government can do it”. If whatever the consortia refuse to take up is taken up by the Government, then everything will have to be taken up by the Government, so that every single project will be built and run by the Government. In fact, there is nothing the private sector cannot commit itself into. I believe that an essentially capitalistic society must acknowledge one thing, and that is: we hope the Government will work with the private sector and let private enterprises have reasonable profit by way of returns as far as is practicable. Not to put too a fine a point on it, nobody is interested in business with no returns. Investors have freedom of investment. If they profiteer, they will certainly be censured, or, when choices are available, they will not be given business. Insofar as free market is concerned, we must acknowledge that there should be other choices, and that the public is free to express themselves. That is why we have to protect freedom of expression.

Where membership of the committee is concerned, I believe Mr POON’s remark is being distorted, for Mr POON did not say no Member of the Legislative Council should join the committee. He merely said no one should be made a member of the committee simply because they were Legislative Councillor. Of course, if a Legislative Councillor, apart from being a public representative, is also equipped with certain specialized knowledge and are able to usefully contribute to the committee’s deliberations, that is, if the Member has both of these qualities, it would certainly be ideal. However, there should not be rigid provision that one be made a member of the committee by virtue of being a Legislative Councillor in spite of the fact that one is incapable of understanding what is going on there. This will only hamper the operation of the committee.

Mr President, I think there is a need to clarify the matter so as to set the record straight.

MR HOWARD YOUNG (in Cantonese): Hong Kong has a very good tradition, that is, there are a lot of investors and private organizations investing profusely in public utilities. This spares the Government from spending public money. As we can see, the electricity company, telephone company and container terminals in Hong Kong are all operated by way of private investment. They are subject to varying degrees of profit or price control. The consequences of such kind of investment are: apart from sparing us the need to spend public money, I believe that no one will criticize the electricity supply of Hong Kong as being not as good as that of neighbouring countries in terms of efficiency or charging; the telephone services, whether ordinary or mobile, are equally advanced; and even in terms of container terminals, Hong Kong at present is the largest container port in the world. The Government so far has never invested in any container terminal. All the terminals are being invested and operated by private consortia. I think that we have to realize that this is a feature of Hong Kong and is a good feature worth maintaining.

I remember when the Chinese and the British Governments were negotiating over the future of Hong Kong in the 1980s, the confidence of the Hong Kong people had plunged to the lowest point, and many people were afraid that the investors would leave Hong Kong in the future. If the investors really leave Hong Kong, what will the future of Hong Kong be? On the other hand, China has promised to practise one country, two systems in Hong Kong and to maintain capitalism here. What China means is to maintain the environment for investment in Hong Kong. I recalled that when we were discussing the Western Harbour Crossing Bill, someone said, "where there is the Legislative Council, there will be no investor." I do not know whether this comment has subsequently been researched to find out if it is true. But I also remember that when this subject was under debate in the Legislative Council, it was claimed by an Honourable Member that when all the seats in the Legislative Council were to become elected in 1995 and when the democratic voices became loud and strong, they would stage a comeback. Of course, I am not an investor. But I think that if there was any investor sitting in the public gallery and listening to this remark, he would consider packing his luggage and leaving before 1995. There are rules and regulations in investment. And the investors would like to know what these rules and regulations are. If they have to watch to find out what the whims of politicians are before deciding whether to increase the charges or not when actually these politicians are to be replaced by another batch every four years, how are they supposed to run their businesses? I believe that this will pose a very big problem to the investors.

We have to acknowledge that when the Legislative Council is getting more democratic, it is also becoming more politicized. And this is inevitable. Some Legislative Councillors always say that they speak on behalf of the taxpayers, and that if the investors do not invest in public utilities, public money can be spent for that purpose. It sounds so generous. But I would like to point out that a large proportion of the voters in Hong Kong do not have to pay tax. How can these Members say that they are elected by taxpayers? They can only say that they are representatives of the voters. What a contradiction indeed. In my

opinion, that legislature in Hong Kong is different from other western legislatures. According to my observation, the situation of Hong Kong is different from many other countries which have long history of democratic development, and Britain is one of the examples. In Britain, the Members of Parliament can really say that not only do they represent the voters, but they also represent the taxpayers. It is because most of the voters in British have to pay tax, and they have to pay a lot. I therefore deem that we have to recognize a fact, that is, in the present situation, if we do not encourage the investors to invest in public utilities but, instead, we impose various restrictions on them so as to suppress their investment desire and even propose to replace their investment with public money, this will definitely prove unsuitable to the practical environment of Hong Kong.

Mr LEE Wing-tat just mentioned that Mr Steven POON was “tagging labels on others”. I think that Mr LEE might not have heard clearly what was said by Mr Steven POON or Mr LEE might be only taking a statement not of context and thus “tagging a label back” on Mr POON. I do not think the proposed monitoring of the toll adjustment mechanism by the Legislative Council is tantamount to nationalization, communism or socialism. But as regards the proposal that the project be financed by public money if no private consortium is willing to commit itself to it, would that not be a form of socialism? It may not be similar to the old form of socialism practised in the Soviet Union and China, but at least it is the European style of socialism. The Labour Party of Britain also acknowledges that it is a leftist political party practising a certain kind of socialism. But recently, even this party has given up attaining the goal of nationalization of enterprises. Hence, I think that it is unrealistic for Hong Kong to put this into practice.

Quite a number of Members have just mentioned about investors. I believe that we do not have the actual experience of getting bank loans in the capacity of investors. But there is a kind of experience which many Hong Kong people, including many Honourable Members here, should have, and that is purchasing property. It is learnt that nearly one million Hong Kong people are flat-owners. Most of these people have to obtain bank loans in order to purchase property. When a person signs the contract with a bank, he cannot say that every time before he pays the instalment, a family meeting will have to be held in order to decide, through democratic voting, whether the bank can increase the amount of monthly instalment. It is impossible. If one wants to obtain a loan, one has to prove to the bank what kind of return and protection it is going to get. This is the rule of the game in reality. If the bank refuses to grant any loan, nothing can be done. This applies to the Route 3 Project, the Western Harbour Crossing Project and home purchase as well. The bank can adjust the interest rate at any time. If one does not agree with that arrangement, one will not get the loan. If it as simple as that.

Finally, I would like to respond to a point. I do not know if the consortium, which has been successful in tendering for the project, has purchased many pieces of land in the vicinity of the project site. It is because when the Committee asked the representative for the consortium how much land it had purchased, he could not answer. But I reckon that since there is a vast stretch of usable land extending from Tai Mo Shan to Yuen Long and since there are at least five major property developers in Hong Kong, if Sun Hung Kai Properties Limited knows where to purchase the prime sites in the related area, I believe the other property developers will not lag behind and may have already purchased a lot of land. Some people may say that since the successful bidder of the Route 3 Project is the Sun Hung Kai Group which is also engaged in real estate business, it can thus afford to accept the less favourable terms and to earn less profits or even negative returns because, after all, it can reap profits from the real estate business. If that is the case, then the consortium being awarded the contract for the Route 3 Project will be forced to become a great philanthropist, benefitting other property developers at the expense of itself. I find this illogical.

As Members all know, the consortium concerned has already clearly stated that should the toll adjustment mechanism be subject to the control of the Legislative Council, it would be unable to obtain bank financing and would not therefore be able to undertake the project. In the circumstances, what should be done? Should public money be used? In fact, I have thought out a third method. If any one is going to undertake the project, just give it to the Democratic Party.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, during the debate on the Western Harbour Crossing Bill, I myself gave full support to the interests of the Government and the consortium. But today I am sure I will support the Honourable WONG Wai-yin's amendment. In principle, his objective and the data he presented are not entirely correct. So why do I still support him? It is because I want the consortium to wake up to reality.

The election which is due in September is very important to the overall political structure of Hong Kong. However, many consortia in Hong Kong are self-serving. Not only are they indifferent to the election, but the rate of registration as voters among them is also very low. The political struggle in Hong Kong is something which Members of the Legislative Council cannot avoid. They have to resort to their own ways in the process. It is understandable that candidates standing for direct election have to seek support at the grassroots level. While consortia have to protect their own interests, what have they done so far? Why do we have to fight for the rights and interests on their behalf? The fact that they do not even bother to register themselves as voters shows that they do not take the election system and the Members seriously indeed. So why do we have to take them seriously then? This time I vote against it because I want to make the business and industrial sector of Hong Kong wake up to reality. If the business and industrial sector really regards the

elected seats as something important, they ought to show sincerity and do their part. In fact, there are no free lunches, nor are there any volunteers. Very often when people say that there are volunteers helping in the election, they are deceiving themselves as well as others. Volunteers have to eat and drink anyway.

Mr President, economy plays an important part in the future development of our society. There should be communication and trust among various sectors to ensure that Hong Kong remains an economic and financial centre and all the people staying in Hong Kong after 1997 may enjoy a better future. Although I vote in support of Mr WONG today, I know that he is definitely doomed to lose. Therefore, my vote is not going to affect the outcome in any way. As far as the residents in the New Territories are concerned, Route 3 is absolutely important. I personally think and it is undeniable that it must be built. Even if I raise objection, the Government will still proceed with the project. But let us not forget that the consortium has often said that if the Bill is not passed, they will pull out from the project. In my view, we could not care less if they really do. Could Hong Kong's tomorrow be doomed simply because the consortium refuses to undertake this particular job? I personally think that the Government can fund the whole project and then list it in the stock market. Why not? Alternatively, the Government can float the Mass Transit Railway Corporation in the stock market, using the sum of money to finance the Route 3 project, while retain the control on its operation. Why not? Now in England, many of the state-owned enterprises are listed in the stock market by the Government there.

The consortia regard themselves as being extremely important. I am absolutely opposed to that. I think that as we are now living in a progressive and modern society, we have to bear in mind that what is taken from society should be used partially in the interest of society. We should not think ourselves as being extraordinary or perforce right. In fact, people of various sectors have to adapt themselves to the circumstances. I am of the view that it is not entirely unreasonable for the Legislative Council to devise a mechanism to monitor the consortium in matters relating to toll increase. But at the same time, the interests of the consortium should also be protected. I would like to offer a piece of advice to members from various political parties that promising free lunches to electors in return for their votes is absolutely easier than putting forward constructive proposals.

Mr President, while political parties only commit themselves to the well-being of their respective electors, they should take into account that taxes and other revenues collected by the Government mostly come from normal operation and inevitably even as a result of the efforts put in by the consortia in various respects. We do not want to see Hong Kong change from a commercial society built on financial and economic success to a welfare kind of society. I would like to advise certain people from the bottom of my heart that if Hong Kong does well, it can help China achieve greater success in its open policy in future; if Hong Kong does not do well, it will become a burden for China and

the standard of living here in Hong Kong will be significantly lowered. Therefore, I hope that the politicians, in addition to their own conditions, will take into account the interests of various investments in Hong Kong in future as well as their reasonable returns.

Mr President, however it may be, I think the business and industrial sector should warn themselves. The election due in September is crucial to the investment climate in Hong Kong as well as the interests of the business and industrial sector in future. The people from the business and industrial sector should make the most of the coming few days before 1 June to register themselves as voters so as to make sure that there will be normal competition for the seats in the Legislative Council, and it will not result in a one-sided situation. Otherwise it will be too late to blame others. This is the main motive for me to cast an opposing vote.

Mr President, I so make my submission.

MR ALFRED TSO (in Cantonese): Mr President, I consider that the Route 3 (Country Park Section) Project is an item very much worth investing in. After the open invitation for tender, followed by the selection among the three consortia and some renegotiation, a series of conditions have been arrived at. This series of conditions are tabled here today to be considered by the Legislative Council whether to accept or not so as to allow the consortium to go ahead with the construction of this section of Route 3.

I want to point out that Route 3 will be highly beneficial to the residents and road users. We have to understand that the tolls to be levied in the future, when measured against the road users' time spent, fuel consumed and maintenance cost incurred for their vehicles, will appear justified in view of the benefits brought on by the completion of Route 3 which will be extremely valuable to both the users and society. Should there be no Route 3, it would be a great disadvantage to the people in the transport business and the residents of the New Territories. Therefore, the construction of Route 3 is very important. The residents of the New Territories, especially those who live in Tuen Mun and Yuen Long, all earnestly hope that the construction can commence as soon as possible. If it is due to today's dispute that the consortium eventually gives up undertaking the construction of Route 3, it will be very regrettable. I shall loathe to see this happen. I also think that, in the process of selecting the successful tenderer, all investors have been given a reasonable chance to consider whether they would opt to invest in this project. Today, we are to make a choice, that is, whether to start the construction as soon as possible or to run a risk. If today's dispute leads to a change in the conditions of the franchise and the consortium's subsequent withdrawal from the project, so that the commissioning of Route 3 is delayed or even the construction mode of Route 3 is thus changed, I shall be loath to see the impacts which the above-mentioned eventualities will have on the community.

I want to point out this again: even though the Democratic Party considers that the monitoring mechanism is not to the benefit of the public, as I have said before, Route 3 will bring great benefits to the users, and so we should not only look at whether the so-called monitoring mechanism is strict enough to prevent the consortium from profiteering. If such mechanism is so important, why did the Democratic Party not, by all possible means, force the Government to introduce this mechanism or a whole series of related conditions as part of the tender invitation deal? In such case, the consortia which tendered for this project would have clearly known that if they could not satisfy these conditions, they would not be awarded the contract for the project. Then, we would have been spared today's dispute on the monitoring mechanism which may result in a delay to the construction.

Secondly, concerning the suggestion that should the consortium reject the conditions of the franchise the Government may as well undertake the construction itself, this of course will be possible. But if this should be the case, then first, these would certainly be a delay and, secondly, since we had anticipated that we might be faced with such a situation, we ought to have forced the Government to invest \$7 billion in the construction of Route 3. Then the construction of the Route could have commenced in 1992 or 1993 and we would not have to be still debating whether to support or whether to pass this Bill today, in May of 1995.

Mr President, I think that it is time for us to make a choice. I personally oppose the Democratic Party's amendment. I hope that the Bill can be passed immediately so that the construction can commence at once. Let me stress again that the users have the right to choose. If they consider the tolls of Route 3 to be unreasonable, they are free to continue to use the highly congested Tuen Mun Highway or Tolo Highway to avoid paying the so-called unreasonable tunnel tolls.

DR YEUNG SUM (in Cantonese): Mr President, first of all, I would like to state that the Democratic Party supports the construction of Route 3 for we have also been urging the Government to expedite this project over the past few years. Our position is clear as far as the construction of Route 3 is concerned. Secondly, I would like to point out that the Honourable WONG Wai-yin moved this amendment on our behalf on grounds of two reasons. And I would like to explain to you briefly.

First, the Government has failed to keep its promise. Mr YEUNG Kai-yin, the former Secretary for Transport had, over the issue of the Western Harbour Crossing, explicitly made a promise that the toll increase arrangements would be seriously reviewed. But unfortunately, he is now holding a senior position in a consortium. And it is unfortunate that history repeats itself. The Government took the same disastrous road when it negotiated with the consortium concerned. This makes the Democratic Party very angry because the fact that Government had promised to seriously consider the issue showed

that they also noted there were problems in the toll adjustment mechanism. But regrettably, history repeats itself when the arrangements on Route 3 are reached by the Government and the consortium. We feel that the Government has not fully lived up to its promise.

Secondly, the incidents of the Western Harbour Crossing and the Route 3 this time make us feel that whenever there is a large-scale infrastructural project, a consortium will invariably claim that they will not take part if the fee or toll adjustment needs to be approved by the Legislative Council. Do think of our position as Members of the Legislative Council. We have to protect people's livelihood and promote economic growth. We have to strike a balance between these two and cannot stand on the side of the consortium all the time. A consortium participates in the construction of a large-scaled public project only because there is profit in it for them. We all know that the Route 3 project is a profitable one, it will never lose money. If it does, why would they tender for it? Nonetheless, they threatened that they would not participate in the project if toll adjustments have to be subject to this Council's approval. And the Government gave in. This being the case, consortia investing in large-scale public projects can completely ignore the Government as well as this Council. Just think, this Council as well as the Government have to give in under the threats of these consortia. The consortium concerned said that in any case, they would not participate if toll adjustments have to be approved by this Council. So, the Government has been frightened, and so was the Legislative Council. Then the consortium can dominate the operation of the Government as well as the Legislative Council. Will even an ordinary person yield to such a threat?

Finally, I would like to point out that Members of the Legislative Council will reject all applications for fee or toll increase. When we have a high inflation rate, such increase will certainly fuel the inflation if all public utilities ask for an increase higher than the inflation rate. No Member of this Council will object to public utilities' application for an increase lower than the inflation rate. Do not think that directly elected Members will promise everything in order to win votes. If a candidate proposes that public housing estates should be rent-free, do you think he will be elected or re-elected? So please do not harbour the misconception that a directly elected Member tends to give empty promises. In fact, he has to make wise decisions and political judgements. He cannot talk nonsense because he has a heavy political responsibility. So do not think that a directly elected Member would surely have no sense and tend to make empty promises.

I hope Members, before voting, will reconsider carefully whether we should bow to the threats of the consortia and whether we have had made an unwise judgement. I hope you will consider these two points seriously.

DR TANG SIU-TONG (in Cantonese): Mr President, I did not intend to speak at first. But after I heard the bickering between the two political parties, I think as an independent Member and an elected Member of west New Territories, I have to say a few words.

I think what matters most is the needs of residents of west New Territories. At present, the traffic problem of west New Territories is really difficult to solve. Even with various arrangements such as bus lanes, the external traffic of the whole of west New Territories is now lost in a quagmire.

Concerning the question of profit control, the Government has in fact been having that all along. Political parties may not agree with the Government's practice in this respect. However, members of the public obviously have other choices in relation to Route 3. Motorists may use Castle Peak Road, Tuen Mun Road and Tolo Highway as the alternatives. But to us residents of west New Territories, we need a route that enables us to travel to Kowloon in a very short time. Therefore, we are now thinking that Route 3 should be completed as soon as possible so that residents will be able to use it.

At present, a lot of land in northwest New Territories, such as the 200 hectares of land north of Tin Shui Wai, may be developed. The Government is also planning for its development. Should there be no Route 3, there would be no development for a lot of land. As to population, the original estimate was that west New Territories would have about 700 000 people, but now it is estimated that the population will be 1.4 million in the future. In view of the increase in population, transport facilities are very essential to us. I would like to call upon colleagues of this Council to support the Route 3 project because this is the only life line of west New Territories.

MR MARTIN LEE (in Cantonese): Mr President, I have heard some strange arguments today. For example, it is said that the consortium would be giving up if the Legislative Council were to play a monitoring role. Mr President, will that situation really arise? If we dare not monitor the consortium because we are so threatened by it, then the Government can likewise threaten us in future, saying that you people had better not monitor my work, otherwise the Government can also give up carrying out the project, thus nothing can be built.

Another strange argument is that the Democratic Party is said to be pursuing socialism. Should the Democratic Party pursue socialism, I think we are sure to lose in September. In fact, those who accuse us as believers of socialism are often those who dare not take part in direct elections. Why do they not give it a try? There is simply no market for socialism in Hong Kong. We all know that. So how could we have advocated socialism? If we as Legislative Council Members do not play our monitoring role, our function as a parliamentary assembly would have been lost by half. Indeed, Mr President, is it not practicable if all the infrastructural projects are undertaken by the Government? Certainly not. Is it pursuing socialism if every project is carried

out by the Government instead of contracting it out to a consortium? Such arguments are really very strange. Amongst the projects which have been granted fund for construction by the Finance Committee, many are undertaken by the Government, and which were approved unanimously by both the Liberal Party and the Democratic Party. So do we become supporters of socialism whenever we approve any infrastructural project to be undertaken by the Government? These arguments actually cannot hold water. Let me ask Members to think about this, the question now is a simple one, which is whether or not we want to have the function of monitoring. Those who want it will vote in favour of us, whereas those who do not want it will vote against us. It is as simple as that. Why talk about-ism this or -ism that?

SECRETARY FOR TRANSPORT: Mr President, may I first express the Administration's sincere thanks to the Honourable Mrs Miriam LAU and all other honourable Members who served on the Bills Committee to vet the Tai Lam Tunnel and Yuen Long Approach Road Bill. I am grateful for their tremendous input and efforts in examining the Bill, and for completing their work so expeditiously. May I also thank honourable Members for the views they have expressed this afternoon. In this respect, the Honourable WONG Wai-yin's criticism that the Administration has failed to keep the Council informed is, in my view, unfounded. The Administration in fact provided three sitreps to the Legislative Council Transport Panel before the Bill was introduced, and the very fact that the Bills Committee has been able to complete its deliberations to allow the Second Reading to be resumed today is indicative of the fact that there has been adequate time to study the Bill.

Proposed terms of the franchise

The Bill seeks to award a franchise to the Route 3 (Country Park Section) Company to build and operate the Tai Lam Tunnel and Yuen Long Approach Road. Under the proposed terms of the franchise contained in the Bill, the franchisee is committed to building the project, at its own expense, within a very aggressive construction programme of 38 months. The budgeted project cost is \$7,254 million, and any cost overrun will have to be fully borne by the proposed franchisee and will not be part of the construction cost on which the permitted return is based. In other words, cost overruns will not be passed onto the road-users.

I must emphasize that the package offered by the Route 3 (CPS) Company is the best available, achieved through a competitive tendering exercise. The proposed BOT franchise will allow this urgently needed project to be completed in the shortest possible time and at the lowest cost. The tolls proposed by the franchisee will provide a low and stable toll regime. The Administration has no hesitation in commending this Bill to the Legislative Council. Some Members have referred to land hoardings in northwest New Territories by the Sun Hung Kai Group. This is totally irrelevant. The project has no associated property development right whatsoever.

Measures to enhance transparency

During the discussion in the Bills Committee, honourable Members sought various assurances regarding transparency and the operation of the Toll Stability Fund. I am happy, on behalf of the Administration, to provide these assurances. Honourable Members quite rightly expressed concern that there should be transparency in the operation of the franchise. The Administration fully agrees that there should be transparency and we will adopt the following steps to enhance the transparency of the franchisee's plans and performance:

- (a) we will require the tabling in the Legislative Council in July each year (before the summer recess) the franchisee's plan as embodied in its three-year rolling projection of net revenue and its annual budget of operating costs, together with a statement;
- (b) we will table in the Legislative Council in October each year the franchisee's annual audited statement of Actual Net Revenue, and will make a statement on that occasion on both the figures and any application for a toll increase; and
- (c) the Administration will brief the Legislative Council Transport Panel on the Administration's findings before deciding by the end of October whether a toll increase should be agreed or whether we should proceed to arbitration. Honourable Members will then have the opportunity to debate the findings if they so wish.

Members have also expressed concern regarding the management and use of the Toll Stability Fund, in particular as regards the Financial Secretary's power under clause 31(4) to transfer excess money in the Fund to General Revenue, and the discretionary power of the Toll Stability Fund Management Committee under clause 43 to use the Fund in deferring toll increases.

Although the Financial Secretary has powers under clause 31(4) of the Bill to transfer money from the Fund to General Revenue, he will not do so unless he is of the opinion that the amount to be transferred is in excess of what is required for deferring future toll increases for the rest of the franchise period. The Administration does not, therefore, envisage that there will ever be a need to re-transfer sums from General Revenue back to the Fund as a result of there being insufficient money left in the Fund for the purpose of deferring toll increases.

Nonetheless, to allay Members' concern, the Administration agrees that before any money is transferred from the Toll Stability Fund to General Revenue under clause 31(4), the Administration will first seek the views of the Legislative Council Transport Panel and provide a full explanation for such a transfer. The Administration also undertakes that should moneys be transferred out of the Toll Stability Fund to General Revenue under clause 31(4) of the Bill, this will not lead to any toll increase resulting from there being insufficient

money left in the Fund to defer toll increases for the remaining period of the franchise. In the unlikely event that there is insufficient money left in the Fund because of any such withdrawal, the Administration will initiate immediate action to transfer back the requisite sums from General Revenue to the Toll Stability Fund up to the amount that has been withdrawn.

Under clause 31 of the Bill, the Toll Stability Fund Management Committee will be responsible for the administration and the application of the Fund for the purpose of deferring toll increases. Since the Fund will not be inexhaustible, an important task of the Committee would be to make the most effective use of the Fund in order to achieve the toll stability over the entire franchise period. Whether the Fund should be used to defer a particular toll increase will depend on the amount of money in the Fund, the particular circumstances of the toll increase, and the possible need to use the Fund to defer future toll increases. The management and operation of the Fund will be highly transparent. Clause 34 of the Bill requires the Management Committee to table in the Legislative Council the audited statement of accounts of the Fund, the auditor's report if any, and a report by the Committee on the administration of the Fund not later than 31 December following the end of the relevant financial year. Let me assure honourable Members that in the event that the Toll Stability Fund Management Committee decides that the Fund should not be used to defer a particular toll increase application for any reason, the Administration will clearly explain the reasons for any such decision to the Legislative Council.

Mr President, in the course of the Bills Committee's deliberations, a number of technical and textual amendments have been proposed. These amendments which will be moved respectively by Mrs Miriam LAU, Mr Steven POON and myself will not affect the terms of the franchise as contained in the Bill. The Administration will support these amendments.

Committee stage amendment proposed by Mr WONG Wai-yin

Mr President, I would now like to comment on the two amendments which will be moved by the Honourable WONG Wai-yin, namely:

- (a) to require Legislative Council approval by way of resolution for each and every toll increase; and
- (b) to change the membership of the Toll Stability Fund Management Committee.

The first amendment proposed by Mr WONG, if enacted, would fundamentally change the toll adjustment arrangements which are an integral part of the Bill. I must reiterate that the toll adjustment arrangements are part and parcel of the BOT package offered by the franchisee. Let us be very clear that this formula has not been imposed by the Administration. The consistent message we received in our initial soundings of private sector interest in the

project, as well as in the tendering exercise, was that this toll adjustment arrangement is a prerequisite to attract private sector interest in the BOT project. Tenderers were free to make counter proposals on the toll regime, and the fact is that all three bids which we received contained a similar toll adjustment mechanism.

As the Honourable Mrs Miriam LAU has remarked at the specific request of the Bills Committee, we enquired of the prospective franchisee whether it would still be prepared to undertake the project if the franchise was amended to require Legislative Council approval for toll increases. The consortium has made it very clear that should there be such a change to the toll adjustment mechanism, it would be unable to obtain bank financing and therefore it could not undertake the project. Honourable Members should therefore be under no illusion whatsoever the consortium will withdraw if the amendment is passed. This means no Route 3 (CPS) project. That would be totally against the public interest.

The Honourable LEE Wing-tat and the Honourable YEUNG Sum's comment that the Administration has not heeded this Council's views on calling for BOT projects is, with respect, one-sided. They have simply reflected their party's position which was not the majority view of the Legislative Council at that time. As far as the project is concerned, the bids received were examined by the Central Tender Board. We have obtained the best offer which is in the public interest. I am not in the position, in response to Mr LEE Wing-tat's request, to give any indication today as to whether future BOT projects will have similar toll adjustment formulas. Each project and approach must be separately considered and assessed.

As regards the second amendment proposed by the Honourable WONG Wai-yin regarding the membership of the Toll Stability Fund Management Committee, the Honourable Steven POON has already covered the main arguments against this. I fully concur with his views and see no need to rehearse the arguments. Suffice it to say that it is the Administration's view that the changes proposed are unnecessary. The management of the Toll Stability Fund is essentially an executive function best performed by the Administration. To include a Member of this Council on the Committee confuses the respective roles of the legislature and the executive.

I must ask why the Honourable WONG Wai-yin is so suspicious of civil servants sitting on the Management Committee. Their role is to safeguard the public interest in managing the Fund. There is no question of their protecting the franchisee's profit levels.

Moreover, as I have already explained, the Toll Stability Fund Management Committee will be fully accountable to the Legislative Council as to how the Fund will be managed. Therefore, the amendment cannot be supported by the Administration and I urge Members to vote against this.

May I thank the Honourable Mrs Elsie TU for her very succinct summary of the views of the Bills Committee and for highlighting the fact that by far the majority view of the Bills Committee was that the amendments which are to be proposed by Mr WONG Wai-yin are unnecessary.

Conclusion

Mr President, to conclude, I would like to emphasize that the package offered by the proposed franchisee and enshrined in the Bill is the result of a highly competitive tendering exercise. It is, as I have said, the best deal offered by the market.

The Tai Lam Tunnel and Yuen Long Approach Road project is urgently needed to relieve traffic congestion in Tuen Mun Road, to allow further development in northwest New Territories and to improve road connections to the border. Subject to the enactment of this Bill, the Government will award the BOT franchise immediately so that the project can be completed by mid-1998.

With these remarks, Mr President, I commend the Bill together with the amendments to be moved by Mrs Miriam LAU, Mr Steven POON and myself to the Council. Mr WONG Wai-yin's amendments cannot and will not be supported by the Administration as they will alter the basic terms of the franchise; I urge their rejection.

Thank you, Mr President.

MR PETER WONG: Mr President, I wish to declare the involvement of my firm as the auditors of the successful bidder of the franchise.

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).

**MEDICAL AND RELATED PROFESSIONALS (REGISTRATION)
(MISCELLANEOUS AMENDMENTS) BILL 1994**

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

Question on Second Reading proposed.

MR TIK CHI-YUEN (in Cantonese): Mr President, I rise to speak about the Medical and Related Professionals (Registration) (Miscellaneous Amendment) Bill 1994.

The bill proposes four areas of change in the existing legislation relating to the medical and related professionals. These changes are:

- (a) in respect of dental practitioners, to remove the preference to certain overseas qualifications;
- (b) in respect of nurses, to introduce requirements for practising certificates;
- (c) in respect of medical and related professionals practising in the public sector, to subject them to the same requirements as their private sector counterparts in matters of registration and the payment of fees; and
- (d) to remove stamping requirements on statutory declarations used in disciplinary proceedings relating to the medical, dental, midwifery and nursing professions.

The bill was introduced into this Council on 16 November 1994. A Bills Committee with six Members was formed in January 1995. The Bills Committee held two meetings and met the Administration twice. The Bills Committee also received a written submission from the Hong Kong Public Doctors' Association.

The Bills Committee has studied three areas of the Bill in detail. The first is about the issue of practising certificates for nurses. Clauses 26 and 28 of the Bill empower the Nursing Board of Hong Kong to remove the name of any nurse from the register or the roll if the nurse has failed to obtain a practising certificate within six months of registration or enrolment, or of the expiry of the certificate. The Committee holds the view that since the issue of practising certificates and the requirement of registration for the nursing profession serve two different purposes, it will be desirable to separate the two matters so that registration will not be affected by the non-application for a practising certificate. In response, the Administration agrees to allow a nurse who does not wish to apply for a practising certificate to retain his name on the register or roll upon application to the Nursing Board. Only those who do not apply for the certificate or retention of their names for reasons acceptable to the Board would have their names removed. The Secretariat of the Nursing Board will maintain administratively a separate list of those nurses issued with practising certificates. This administrative arrangement will remain until the revamp of the Nurses Registration Ordinance. Members are agreeable to this solution.

The second issue is about the proposal to standardize the payment of registration fee and practising certificate fee in respect of medical and related professionals in both the public and private sectors. The Bills Committee notes that the present proposal is to rationalize the system of registration and to ensure a parity of treatment between the medical and related professionals in both the public and private sectors. The Committee also notes that in respect of other professionals such as lawyers, accountants, surveyors, engineers, architects and so on a single fee schedule for registration and other licensing requirements apply in respect of both the public and private sectors. Nevertheless, the Bills Committee is concerned about how the proposal will affect the relevant personnel already serving in the public sector. The Administration clarifies that the new arrangement will apply to those who join the public sector after the enactment of the bill. The Administration also confirms that it has consulted the Medical and Dental Councils and other relevant boards and it has not received any objection to the proposal.

In this relation, the Bills Committee has received a submission from the Hong Kong Public Doctors' Association expressing objection to the proposal to standardize the payment of registration fee and practising certificate fee. The Bills Committee notes the Administration's response that there are no valid grounds to continue preferential treatment for doctors working in the public sector.

The third issue is about the level of fees in respect of both registration and practising certificates set for the various medical and related professionals. The Bills Committee is able to get the confirmation of the Administration that these fees are set according to the principle of full cost recovery and that there will be a costing exercise to be completed in 1995 with a view to updating the schedule of fees.

The Administration has proposed some Committee Stage Amendments to the Bill. The proposed amendments to clauses 11, 12(c), 18 and 43 will reflect the existing amounts of fees being charge since December 1994. The proposed amendments to clauses 27 and 29 are to clarify the effect of the provisions requiring registered and enrolled nurses to acquire practising certificates. The proposed amendment to clause 44 is to clearly define the term of registered dentist for the purpose of the Dangerous Drugs Ordinance.

Mr President, with these remarks, I commend the Medical and Related Professionals (Registration) (Miscellaneous Amendments) Bill 1994 to honourable Members.

MR MICHAEL HO (in Cantonese): Mr President, I rise to speak in support of this Bill. I support certain new arrangements that this Bill is introducing. They include the issue of practising certificates for nurses and the fees required for this purpose.

Mr President, during the deliberation of this Bill, I found that there were nurses who are neither registered/enrolled nor trained in Hong Kong practising as nurses in some private hospitals. Mr President, the Bill before us now seeks to amend the Nurses Registration Ordinance with a view to introducing practising certificates for nurses. Through this provision in law, it is hoped that adjustment and control can be exercised in the profession by setting requirements specifying which type of nurses can be registered or enrolled in accordance with the law before practising in Hong Kong. In the course of consultation with the legal advisers of the Nursing Board, I found that under the existing provision with regard to the management of nurses, it is not a breach of the law if a person claimed to be a nurse as long as that person did not claim to be a registered nurse or an enrolled nurse. So long as this loophole exists, today's amendment is meaningless. Mr President, while this Bill is not directly related to the Nurses Registration Ordinance that I mentioned just now, this Bill will be rendered meaningless if no appropriate amendment is made to the Nurses Registration Ordinance. In this connection, I hope that the Government can follow up this issue as soon as possible.

In addition, during the deliberation of the Bill I also found that the registration fee for different types of paramedical personnel is a lot more than that for doctors and nurses. At present, the registration fee for doctors is only some \$500 whereas that for nurses is some \$200. However, paramedical staff are required to pay \$1,030 for registration. This arrangement is completely disproportionate. During this period of time I have had discussions with the Health and Welfare Branch and the preliminary reply I was given is that it is mainly due to the number of applicants or the need for their registrations to undergo twofold processing by the Supplementary Medical Professions Board together with the Board governing the professions to which the applicants belong respectively that the cost becomes comparatively higher. I consider these reasons unacceptable and I hope the Health and Welfare Branch will undertake to rectify the enormous disparity in the registration fees between different professions speedily next year. It is also my hope that the Secretary for Health and Welfare will give a more specific undertaking in her reply later on.

Mr President, I support this Bill.

DR LEONG CHE-HUNG: Mr President, I rise to speak in support of the Medical and Related Professionals (Registration) (Miscellaneous Amendments) Bill 1994, in particular the policy and recommendations relating to the Dentists Registration Ordinance.

These amendments seek to rationalize the setting of qualifications for the purpose of registration as dental practitioners by removing the privilege to certain overseas qualifications.

Under the existing Dentists Registration Ordinance, holders of the United Kingdom, Irish and Commonwealth diplomas are automatically entitled to register as dental practitioners in Hong Kong. This is discriminatory and contravenes the international provision of General Agreement on Trade in Service.

The newly added section 4A(1) of the amendment Bill calls for the setting up of a Licensing Examination by the Dental Council, the passing of which qualifies a person to be fully registered.

The passing of this amendment Bill today therefore symbolizes the implementation of profession autonomy and the determination of a Hong Kong practice licensing system based on standard of practice. It will, I hope, be a model for all professions to take stock of.

I would also like to take this opportunity to say that as I understand the Medical Registration (Amendment) Bill will be tabled in this Council soon. It is better late than never of course. It has the same connotation as the amendments to the Dentists Registration Ordinance before us today, in bringing to fruition a Hong Kong system that is based on standard and which is fair and equitable to all concerned.

I support the Bill.

SECRETARY FOR HEALTH AND WELFARE: Mr President, I would like to thank the Honourable TIK Chi-yuen, and other Members of the Bills Committee for their most thorough examination of the provisions in the Medical and Related Professionals (Registration) (Miscellaneous Amendments) Bill 1994.

I shall be moving amendments later on. At this stage, I wish to respond to the Honourable Michael HO and confirm that I shall be pleased to consider in due course whether the registration procedures for allied health workers can be further simplified and streamlined and conducted in a more cost-effective manner.

The amended clauses 27 and 29 make it clear that no person should practise as a registered nurse, deemed-to-be registered nurse, enrolled nurse or deemed-to-be enrolled nurse without possessing a practising certificate.

Clause 43 needs to be amended with the implementation of the new fees and charges under the Pharmacy and Poisons (Amendment) Regulation 1994.

With the authentication of the Chinese language text of the Dangerous Drugs Ordinance in April 1995, some minor amendments have to be made to clause 44.

Mr President, I beg to move.

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

Bill read the Second time.

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

Committee Stage of Bills

Council went into Committee.

IMPORT AND EXPORT (AMENDMENT) (NO. 2) BILL 1994

Clause 1

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Mr Chairman, I move that clause 1 be amended as set out in the paper circulated to Members. This is a technical amendment to update the title of the Bill.

Proposed amendment

Clause 1

That clause 1(1) be amended, by deleting “(No. 2) Ordinance 1994” and substituting “Ordinance 1995”.

Question on the amendment proposed, put and agreed to.

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

Clauses 2 to 17 were agreed to.

INDUSTRIAL TRAINING (CLOTHING INDUSTRY) (AMENDMENT) BILL 1994

Clause 1

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Mr Chairman, I move that clause 1 be amended as set out in the paper circulated to Members. This is a technical amendment to update the title of the Bill.

*Proposed amendment***Clause 1**

That clause 1(1) be amended, by deleting “Ordinance 1994” and substituting “(No. 2) Ordinance 1995”.

Question on the amendment proposed, put and agreed to.

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

Clauses 2 to 8 were agreed to.

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Clauses 1, 3 and 4 were agreed to.

Clause 2

SECRETARY FOR TRADE AND INDUSTRY: Mr Chairman, I move that clause 2 of the Bill be amended as set out in the paper circulated to Members.

This clause seeks to increase the maximum penalty for possession of infringing copyright work for trade and business purposes to \$25,000 per copy and imprisonment for two years on a first and summary conviction. Subsequent convictions will be on indictment to reflect the gravity of the offence.

We have been advised by counsel that if only persons being accused for a second or subsequent offence could be tried on indictment, a District Court Judge hearing a particular case would unavoidably know from the outset that the accused person has had a previous conviction. This would be prejudicial to that accused person.

We therefore consider it desirable to make it possible to prosecute first offenders as well as repeated offenders on indictment. I would like to point out that under section 92 of the Magistrates Ordinance, it is still possible to try both types of offenders summarily. The proposed amendment would therefore give the prosecution greater flexibility in choosing the most appropriate court for trial.

Thank you, Mr Chairman.

*Proposed amendment***Clause 2**

That clause 2(1) be amended, by deleting everything after “substituting -” and substituting -

““on conviction on indictment -

- (a) in the case of a first conviction for that offence, to a fine at level 4 in respect of each infringing copy and to imprisonment for 2 years; and
- (b) in the case of a second or subsequent conviction for that offence, to a fine at level 5 in respect of each infringing copy and to imprisonment for 4 years.”.”.

Question on the amendment proposed, put and agreed to.

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

TAI LAM TUNNEL AND YUEN LONG APPROACH ROAD BILL

Clauses 2, 3, 4, 8, 10 to 15, 19, 22 to 25, 27 to 30, 33, 34, 35, 37, 38, 40 to 44, 46, 47, 48, 50 to 58 and 60 to 64 were agreed to.

Clauses 1, 5, 6, 7, 9, 16, 17, 18, 20, 21, 26, 31, 39, 49, 59 and 65

SECRETARY FOR TRANSPORT: Mr Chairman, I move that the clauses specified be amended as set out under my name in the paper circulated to Members. These are technical and textual amendments which have the support of the Bills Committee. They are drafting improvements which seek to enhance the clarity of the relevant provisions in the Bill. I commend these amendments to honourable Members.

*Proposed amendments***Clause 1**

That clause 1 be amended, by deleting subclause (2).

Clause 5

That clause 5(3)(a) be amended, by deleting “是” and substituting “會”.

Clause 6

That clause 6(2) be amended —

- (a) by adding “the Governor in Council is satisfied that” after “where”.
- (b) by deleting “52(2) and the Governor in Council is satisfied” and substituting “51(2) and”.

Clause 7

That clause 7(1) be amended, by adding “以其他方式” before “用作押記”.

Clause 9

That clause 9(2) be amended, by deleting “or” where it last occurs and substituting “of”.

Clause 16

That clause 16(8) be amended —

- (a) by deleting “在合理情況下”.
- (b) by adding “在合理情況下” before “前往”.

Clause 17

That clause 17(1)(a) be amended —

- (a) by deleting “指明關於” and substituting “就”.
- (b) by deleting “的規定” and substituting “而指明規定”.

Clause 18

That clause 18(2) be amended, by deleting “影響” and substituting “損害”.

Clause 20

That clause 20(2) be amended —

- (a) by deleting “使用”.
- (b) by adding “被用” after “引道”.

Clause 21

That clause 21(2) be amended, by deleting “均”.

Clause 26

That clause 26 be amended —

- (a) in subclause (1)(f), by adding “光” after “燈”.
- (b) in subclause (1)(i), by deleting, “為以下事宜訂定條文”.
- (c) in subclause (7), by deleting “影響” and substituting “損害”.

Clause 31

That clause 31(2)(c) be amended, by deleting “派生” and substituting “衍生”.

Clause 39

That clause 39(4) be amended, by deleting “預期的使用費增加一旦實施便可實施” and substituting “可實施預期的使用費增加（如予以實施的話）”.

Clause 49

That clause 49 be amended, in the definition of “車主”, by deleting “分期付款”.

Clause 59

That clause 59(2)(b) be amended —

- (a) by deleting “仲裁人裁定” and substituting “仲裁人的裁斷是”.
- (b) by deleting “該項裁定” and substituting “該項裁斷”.

Clause 65

That clause 65 be amended, in the Chinese text, by deleting the clause and substituting —

“65. 公共機構

《防此賄賂條例》（第 201 章）的附表現予修訂，加入 —

“78. 三號幹線（郊野公園段）有限公司。”。

Question on the amendments proposed, put and agreed to.

MRS MIRIAM LAU: Mr Chairman, I move that clause 16 be further amended as set out under my name in the paper circulated to Members.

The amendment seeks to rectify a drafting omission. Clause 16(1) and (2) of the Bill provides that the Company shall not install any utility within the toll area without the approval of the Commissioner, and shall not give consent to any other person to install any utility unless the Commissioner has previously approved the giving of such consent. Subsection (4) of that clause provides that the Commissioner may determine the circumstances in which his approval is not required for such installation. Under clause 16(5), the Commissioner shall not grant his approval under subsection (1)(a) or (2) or clause 16 unless he is satisfied that the safety of persons using or employed in the toll area and the passage of motor vehicles through the toll area, will not be adversely affected by such installation. Surely, whether the Commissioner grants approval or dispenses with approval for the installation of any utility, the requirement that he must be satisfied as to the safety aspect should be equally applicable. It is therefore proposed that clause 16(5) be amended to include reference to subsection (4) as well.

Mr Chairman, I beg to move.

Proposed amendment

Clause 16

That clause 16(5) be amended —

- (a) by adding “or make a determination under subsection (4)” after “(2)”.

- (b) by adding “or the making of or the terms of such determination, as the case may be” after “installation”.

Question on the amendments proposed, put and agreed to.

Question on clauses 1, 5, 6, 7, 9, 16, 17, 18, 20, 21, 26, 31, 39, 49, 59 and 65, as amended, proposed, put and agreed to.

Clause 32

MR WONG WAI-YIN (in Cantonese): Mr Chairman, I move that clause 32 be amended as set out in the paper circulated to Members. Since I have already spoken on the reasons of the amendment at the Second Reading of the Bill, I shall not repeat them here.

Actually, concerning this amendment to the membership of the Toll Stability Fund Management Committee, as observed by the Honourable Steven Poon just now, Mr POON was himself the first one to raise the question. His query was that as the money belonged to the public, why should it be wholly managed by three official members? As I understand it from his speech just now, Mr POON does not seem to object to participation by the public. He only objects that there must be a Legislative Councillor included in the membership by way of an express provision. If this be the case, Mr POON should amend my amendment to include two members of the public but, unfortunately, he has not proposed such an amendment.

The Democratic Party has to strongly stress here that the money in the Stability Fund is derived from the the revenue of the Route 3 (Country Park Section) in excess of the upper limit of the rate of return. In the 30-year course of the franchise, this money will not come under the general revenue account of the Government. It is 100% the public's money and should be spent for the benefit of the public. Therefore, why should there not be members of the public or Members of this Council on the Committee to discuss and decide how this public money is to be used?

Some colleagues seem to think that once there are Legislative Councillors on the Committee, they will turn things upside down and that Legislative Councillors are like big floods and ferocious beasts. Mr Steven POON has also specially emphasized that he even misses the days when the only thing the Legislative Councillors had to do was to raise their hands. Do we really want the Legislative Council to revert to a rubber-stamping role again? Do we want to see this happen? Do we want the reverse of democracy? I do not believe so. Then why should we look back on the days when the Legislative Councillors only had to raise their hands?

In addition, some colleagues also mentioned that the legislature should be separated from the executive and the Legislative Council should not be involved in the executive side of the conduct of business. The Government also says the same thing. We do not want to get involved in the executive side of business. Many executive decisions are still made by the Government. It is only that the Democratic Party feels that as the money indeed belongs to the public, why should there not be members of the public and Legislative Councillors, who represent public opinion, on the Committee? Some colleagues have mentioned that many public-run institutions appoint Members of the Legislative Council to their boards of directors. The second point of my amendment clearly states that a representative, not just any representative, is to be elected from among Members of this Council. We believe that the representative we select through such election must be one who is suitable to be a member of the Committee. Besides, during the Second Reading debate a while ago, I also stressed that there is a Disaster Relief Fund Committee which has two members who are our colleagues in this Council, namely, Mr HUI Yin-fat and Mrs Elsie TU, who were elected from among the Members of the House Committee of the Legislative Council. The Disaster Relief Fund, as the Secretary for Transport remarked, has a very high degree of transparency. Only when the Fund is in need of money will the Committee apply to the Finance Committee for an allocation in favour of the Fund. The Chief Secretary will then assume the position of the Chairman and, together with other members of the Committee, including our two colleagues in this Council, will decide in concert how this money is to be used. Since there is such a precedent, why is it that the Toll Stability Fund Management Committee cannot be like the Disaster Relief Fund Committee in having the participation of the public and the Legislative Council? I am totally at a loss as to what to make of this argument.

Therefore, Mr Chairman, I earnestly hope that my colleagues in this Council will support the amendment to clause 32 so that the public's money can really be used for the benefit of the public.

Thank you, Mr Chairman.

Proposed amendment

Clause 32

That clause 32 be amended, by deleting subclause (3) and substituting —

- “(3) The Committee shall consist of -
- (a) the Secretary for the Treasury who shall be the Chairman of the Committee (in this Part referred to as the “Chairman”);
 - (b) one member of the Legislative Council elected from amongst their number by the members of the Council; and

- (c) one Hong Kong permanent resident within the meaning of the Immigration Ordinance (Cap. 115), appointed by the Governor in Council.”.

Question on the amendment proposed.

MR STEVEN POON (in Cantonese): Mr Chairman, I do not want to speak more than is necessary on this issue. I hope that I have already explained clearly why I feel that there is no such need.

I just want to respond to a few points. Mr Frederick FUNG asked me just now if Members of the Legislative Council were big floods and ferocious beasts. I believe that Mrs Selina CHOW has already answered that. To have Legislative Councillors in an organization and to have Legislative Councillors in an organization through an express provision in law are two different things. We are not saying that Legislative Councillors cannot become directors of a company, but the Companies Ordinance does not provide that there must be directors who are Legislative Councillors. Therefore, I think there is some misunderstanding here.

Moreover, I have also mentioned just now that the question was actually raised by me and I have already accepted the Government's answer. Perhaps I should quote the last sentence which I copied from the tape, “I do not intend to insist, Chairman (that is, Mrs Miriam LAU). I just raise this point,” That is to say, I raised that point and I intended to listen to the Government's answer, but I no longer insisted. Since I am not schizophrenic, and I already agreed not to insist then, I will not add to or amend it now. Therefore, I cannot support this matter. I hope that Mr WONG Wai-yin will understand. Mr Chairman, I do not want to repeat it in detail here.

MRS MIRIAM LAU (in Cantonese): Mr President, the Honourable WONG Wai-yin's amendment seeks to change the membership of the Toll Stability Management Committee by reducing its number of official members from three to one and adding two unofficial members. Obviously, this amendment will turn the Committee from one which can be controlled by the Government to one which cannot.

In fact, during the deliberations of Bills Committee, we discussed with the Government whether the Committee could have one unofficial member in order to enhance its transparency and ensure that the Committee would not veto the use of the fund to defer a toll increase even though the fund was in a strong position. The Government explained that the composition and functions of this Committee adopted the model of the Western Harbour Crossing. The statement of accounts and report of the Committee would regularly be submitted to this Council in order to let the public know the actual financial position and management of the fund. Hence the degree of transparency was sufficient.

Moreover, the Government promised that it would consult the Transport Panel of this Council in case the company concerned wanted to apply for a toll increase. Mr WONG Wai-yin seems to have under-estimated the ability of the Legislators. Basically, a situation where the Committee refuses to use the fund to defer toll increases despite a sound financial position will not occur. Eventually, having accepted the Government's explanation and promise, the Bills Committee did not raise any objection.

No one would object that there should be transparency in the Committee; that it should submit clear statement of accounts and be able to give a full account of its operation. But a Committee with total official membership does not necessarily mean that it cannot do all these. Neither will it be true that a Committee with total unofficial membership will perform better. In fact, the accumulated fund will be paid into the Governments' General Revenue account upon expiry of the franchise. In view of this, although the fund cannot be regarded as public money before the expiry of the franchise, in nature it is.

On the ground that two Members of the Legislative Council sit on the Emergency Relief Fund Committee, Mr WONG Wai-yin questions why unofficial members cannot be members of the Toll Stability Fund Management Committee of Tai Lam Tunnel. In fact there is a great difference between the two. The Emergency Relief Fund Committee is funded by public money, the use of which is decided by the Committee. On the other hand, the fund managed by the Toll Stability Fund Management Committee of Tai Lam Tunnel cannot be regarded as public money because only the balance which is left in the future will be paid into the Treasury. So the nature is different. The fund has a special characteristic, this is, it will become public money in future. And it is the duty of the Government to manage public money. The balance of the Toll Stability Fund after being used to defer toll increases should be retained and transferred to the Treasury in future. Should the Management Committee commit any mistake, the Government will be held responsible for the fund. Hence it is more appropriate to have the Committee's membership filled by government officials only. The franchise granted to the operator of the Western Harbour Crossing is under similar terms as the franchise granted under this Bill. Both are having a fund management committee with the same functions. Under such circumstances, I do not see why the two management committees should have different composition. If so, will it create any unfairness?

Mr President, with these remarks, I object to the amendment.

MR LEE WING-TAT (in Cantonese): Mr Chairman, I rise to to speak in support of the amendment proposed by Mr WONG Wai-yin. This issue has also been discussed during a Bills Committee meeting.

Here is a weird question. The Toll Stability Fund Management Committee consists of three members, who are the Secretary for Transport, the Secretary for the Treasury and another Directorate grade official. And they are together to manage a sum of money which originally belonged to members of the public. Why do I say that it is the general public's money? It is because, according to legislation, there is a limit to the toll fees received in regard to the Tai Lam Tunnel. If the amount of toll fees received exceeds that limit, the sum in excess will be money given by the public to the company otherwise than under the law and only temporarily managed by the Committee. That sum of money will therefore not be General Revenue at all. This situation is similar to what honourable Members observed when discussing the fees increase proposed by the China Light and Power Company Limited. Members remarked that if the amount of profits after the fees increase was more than the permitted level of profits, the amount in excess would not be the Government's money or the company's money, but the general public's money which would merely be temporarily managed by the company. In the present case, if the money in excess is not the Government's money, why should it be managed by the government officials? I am really puzzled.

Secondly, why should there be three government officials to manage the money? It is because they will not have three ideas. Will the opinions of the Secretary for the Treasury, the Secretary for Transport and the Director of Accounting Services differ when deciding how to manage the sum of money? Of course not. Why not only one government official to represent the Administration in monitoring that sum of money? Why do we think that public participation is necessary? The prime reason is that, with that sum of money, any toll increase can be deferred to a certain extent when an increase becomes necessary. As far as I can remember, the Administration has not given a 100% guarantee that if the Company proposes a toll increase in a certain year, that whole sum of money will be used to offset the increase in the first instance, and that the application for toll increase will only be approved if that sum of money is still unable to cover the rate of increase. I hope that I have not got it wrong. And today, I can hear not a word of guarantee from the Administration that the sum of money will be used in that way. If that is the case, it will be unfair to those members of the public who use this tunnel. It is because if the amount of profits received by the Company is higher than the level of profits stipulated, the sum of money in excess should belong to the general public and not the Administration. I really cannot understand the explanation that the Administration has been giving us.

Mrs Miriam LAU said that the sum of money concerned should come under the General Revenue or whatever category, which I could not hear clearly. Anyway, she felt that it was more appropriate for the Administration to manage this sum of money. But she could not explain the reason for it. How will the participation of two non-government representatives in the Management Committee render that sum of money more difficult to manage? I cannot understand. Even if the Management Committee is formed by a government official, a non-official member appointed by the Governor and a Legislative

Councillor, there are still two members directly or indirectly controlled by the Administration. How will that render the Fund difficult to manage? Therefore, from a liberal point of view, I deem that there is no reason not to allow the public to manage this sum of money which belongs to them.

SECRETARY FOR TRANSPORT: Mr Chairman, as I have already explained, the Administration considers that the amendment proposed by the Honourable WONG Wai-yin to change the membership of the Toll Stability Fund Management Committee is totally unnecessary. The management of the Toll Stability Fund is an executive function which can best be performed by the relevant government officials. This is no different from the day to day management of public finances undertaken by the Administration. Furthermore there will be total transparency. Let me briefly recap.

The Management Committee will be fully accountable to the Legislative Council in the administration of the Fund. Clause 34 of the Bill requires the Management Committee to table in the Legislative Council the audited Statement of Accounts of the Fund and a report on the Administration of the Fund by 31 December following the end of the financial year. In addition, the Legislative Council Transport Panel will be consulted on the use of the Fund in deferring toll increases. In fact, in response to the Honourable Mr LEE Wing-tat's point, I have already given assurances that should there be not sufficient money left in the Fund, the Government will initiate immediate action to transfer the necessary sums from General Revenue.

As regards the Honourable WONG Wai-yin's comparison to the Emergency Relief Fund, we are not, with respect, comparing like with like. The Emergency Relief Fund has an advisory committee. It is not executive in nature and there is, therefore, no conflict of interest between the roles of the executive and the legislature.

Mr Chairman, the amendment proposed by Mr WONG represents a very fundamental change in the franchise conditions and is unacceptable. I urge Members to reject the proposed amendment.

Question on the amendment put

Voice vote taken

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

Mr WONG Wai-yin 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, Dr David LI, Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr Conrad LAM, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin and Mr LEE Cheuk-yan voted for the amendment.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr PANG Chun-hoi, Mr TAM Yiu-chung, Mr Andrew WONG, Mr LAU Wong-fat, Mr Ronald ARCULLI, Mr Martin BARROW, 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 Marvin CHEUNG, Mr Timothy HA, Mr Simon IP, Dr LAM Kui-chun, Miss Emily LAU, Mr Eric LI, Mr Steven POON, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Dr TANG Siu-tong, Miss Christine LOH, Mr Roger LUK, Mr James TIEN and Mr Alfred TSO voted against the amendment.

THE CHAIRMAN announced that there were 18 votes in favour of the amendment and 36 votes against it. He therefore declared that the amendment was negatived.

Question on the original clause 32 standing part of the Bill put and agreed to.

Clause 36

MR STEVEN POON (in Cantonese): Mr Chairman, I move that clause 36 be amended as set out in the paper circulated to Members. The purpose of the amendment is to incorporate into this Bill the definition of “Actual Net Revenue” in order to enhance the integrity of the Bill.

Proposed amendment

Clause 36

That clause 36 be amended —

- (a) by renumbering it as clause 36(1)

- (b) in subclause (1), by deleting the definition of “Actual Net Revenue” and substituting -

““Actual Net Revenue”(實際淨收入) means, in relation to any year, the gross revenue from whatever source of the Company for that year (other than any revenue or other receipt of a capital nature received in respect of any act, event, omission or circumstance which occurred after the start of construction but on or before the operating date and interest income) calculated on an accruals basis in accordance with the Company’s normal accounting principles less -

- (a) interest expense; and
- (b) operating costs for that year,

all as calculated and adjusted (if appropriate) in accordance with the provisions in the project agreement for the computation of net revenue;”.

- (c) by adding -

“(2) In the definition of Actual Net Revenue, “interest income”(利息入息), “interest expense”(利息開支) and “operating costs”(經營成本) have the meanings respectively assigned to them in the project agreement.”.

Question on the amendment proposed, put and agreed to.

Question on clause 36, as amended, proposed, put and agreed to.

Clause 45

MR WONG WAI-YIN (in Cantonese): Mr President, I move that clause 45 be amended as set out in the paper circulated to Members.

I stated my reasons for the proposed amendment during the Second Reading of the Bill just now, and therefore I will not repeat them here. The reason I propose this amendment is that the Democratic Party stays firm in representing the public and that we find it necessary to fight for something that is in the interests of the public. Just now during the Second Reading of the Bill. I already pointed out that the toll adjustment mechanism not only made the Legislative Council a mere figurehead, but also ignored the public’s interests.

I would like to respond to a number of points. Just now a colleague from the Liberal Party had talked of nationalization right from the start — that whatever done by the public sector is regarded as having been nationalized. I distinctly remember that during the budget debate this year, the Honourable Mrs Miriam LAU from the Liberal Party strongly queried the Government on the fact that in the expenditure part of this year's budget, traffic and transport happened to be the only item that had negative growth. In its response then the Government argued that many of the relevant projects were undertaken by the private sector, including the Western Harbour Crossing, Route 3, and so on; and as such the Government was of the view that, it would not be necessary for the Government spend too much. At that time, both Mrs Miriam LAU and I had similarly queried the Government and stated that the Government's responsibility must not be totally taken over by consortia of the private sector. Private consortia should only supplement the Government in the provision of more infrastructural facilities, and not replace the Government as the over-all providers of such facilities. Therefore, it is beyond my understanding why some colleague had mentioned "nationalization" just now.

Let me stress once again that while the transparency and the degree of democracy of both the Legislative Council and the Government are improving with time, it is even more necessary for us to be accountable to the public. In fact, two years ago when Meeting Point and the United Democrats of Hong Kong were yet to merge, I had met the Financial Secretary on behalf of Meeting Point on the budget, and I had repeatedly asked the Government to solely finance the construction of Route 3 on the ground of the urgency of the project. Just now some Members such as the Honourable Alfred TSO had also said that Route 3 was badly needed and should be built as soon as possible. The Democratic Party fully supports that it should be built as soon as possible. According to what Mr Alfred TSO had said just now, he should really have supported my proposal two years ago and demanded the Government to solely finance its construction. In fact, if the Government solely financed the construction, the project could have commenced a long time ago as it would not have been necessary to wait for this bill to govern the franchise to be submitted to the Legislative Council for consideration. Also, the drafting of this bill and consulting the Chinese Government had taken a good year and a half. Had colleagues of this Council supported my views at that time and asked the Government to solely finance its construction, I believe that the project would have been completed by half now, and there would not have been this debate on this franchise bill today. But I do not understand why not many Members at that time supported the building project to be financed solely by the Government.

The Government said that it was not impossible for the Government to finance the construction project solely, however, the Government, as always, argued on the same ground that expenditure on other areas such as welfare, would be cut, and that the number of schools, hospitals, centres for the elderly and hostels for the elderly would be reduced. In the past during an economic recession, the Government often said, "The cake we have is only as big as it is,

and if you want a bigger share, then the remaining shares will become smaller.” However, let us not forget that the financial position of the Government is now a sound one and our fiscal reserve is rather bounteous; the financial position of the Hong Kong Government today is no longer what it was 10 years ago and the “cake” has become much bigger now. If the Government does not share out bigger portions even when the cake is bigger than before. I think the Government, as Dr the Honourable David LI had put it during the budget debate, is a Scrooge. Since the cake we now have is bigger than before, why can we not have a bigger piece? I absolutely cannot agree with what the Government said that if we had spent more on one area, then less would be spent on others.

Besides, why do we support the option for the Government to fully finance the construction? Firstly, the toll will definitely be less than what will be charged by a consortium of the private sector and this is in the public interest; secondly, it will be favourable to the Government as the income from the tunnel can go to the general revenue every year. In fact, this income is a rather steady one for the Government.

Many colleagues have doubts about the Legislative Council. But is the Legislative Council so unreasonable as to “oppose whatever increase proposed”? Recently when the Tate’s Cairn Tunnel proposed toll increase, the Democratic Party had also made quite a number of queries. However, we supported the toll increase application eventually. It is our responsibility to query. But if we find the increase reasonable after queries, we will support it. Of course we will oppose it if it is not a reasonable one.

It is now unlike what it was in 1993 when Mr YEUNG Kai-yin said that we were compelled to pass bills at gunpoint. However, it does ring similarly now, that is, should we not support it or should we propose amendments, any amendment, however slight it may be, it seems, the Secretary for Transport will say that it is a fundamental change and that such significant change will render the consortium unable to obtain loans. Is it really true? Looking at my amendment to clause 32 just now, I cannot see any significant change. That amendment merely proposes to include in the Committee some members of the public and a Legislative Council Member who represents the public. Will that so affect the consortium that it cannot secure loans? And will that cause the banks to decline granting loans to the consortium?

Let us put aside the amendment to clause 45 and let me take as an example the amendment to clause 32 once again. Just now Dr David LI voted in favour of the amendment to clause 32. He is a banker, and as a representative of the banking sector, Dr David LI also does not seem to agree much with what the Secretary for Transport has said, that is, my amendment to clause 32 is a change so significant that banks will not lend money to the consortium.

We would feel very much worried should that be the case. This Council has also strongly demanded that the Northwest New Territories (NWNT) Line be extended to as far as the town centre of Tuen Mun. But then the Government will argue that if we force the Government to ask the Kowloon-Canton Railway Corporation to have the terminus of the NWNT Line in the town centre of Tuen Mun, it will delay the construction of the Line. So do we want the Line to be completed sooner or do we want the line to have its terminus in the town centre? By that time will we again be forced to support the option not to extend the line and have the terminus in the town centre? Therefore, I think whilst the Democratic Party fully supports the construction of Route 3, the project has to be in the public interest.

Just now the Honourable Frederick FUNG opposed this amendment of mine on the ground that my amendment “has not gone all lengths”. He thinks that whenever any application for increase is submitted to this Council, we can only say “no” if we do not agree. However, if the consortium wants to increase the toll, they will have to submit another application with a new increase, and if we think that the increase is still unreasonable and reject the application, the consortium will naturally lower the increase. Then this amendment and what Mr Frederick FUNG said will be in tune, as we will have greater power.

Mr President, finally I would like to reiterate our principle on behalf of the Democratic Party. We would like to stress in particular that it is not our intention not to build Route 3, a rather important trunk road. Instead, just as we said during the debate on the Western Harbour Crossing Bill that we had the apprehension that once we agreed to it and set the precedent, all consortia would in future force the Government or the Legislative Council to agree with the inclusion of a toll adjustment mechanism which is not in the public interest. Therefore if my amendment to clause 45 is not supported by colleagues of this Council and thus is not carried, the Democratic Party will be forced to vote against the bill at the Third Reading, just as we eventually voted against the Western Harbour Crossing Bill two years ago to show that we did not support it. We have no alternative but to do that.

Just as the Honourable LEE Wing-tat had asked, would the Route 3 project definitely never see construction if our amendment was carried? The answer is no. Mr LEE Wing-tat is right to say that if colleagues of this Council can unite and work together and pass the amendments, I trust that we will get a clear message across to the consortium. If all of our colleagues can give such a message, I absolutely believe that the consortium will give way and discuss with the Government once again the issue of monitoring of toll increase.

*Proposed amendment***Clause 45**

That clause 45 be amended, by deleting the clause and substituting —

“45. Amendment of Schedule 1

(1) Where a toll is increased in accordance with this Part and the project agreement, the Commissioner shall by notice published in the Gazette amend Schedule 1 to vary the relevant toll.

(2) A notice under this section shall be of no effect unless laid before and approved by a resolution of the Legislative Council.

(3) A notice laid before the Legislative Council under this section may not be added to or varied by the Legislative Council.

(4) For the avoidance of doubt it is declared that the company shall not give effect to more than 1 increase in the tolls in 1 year.”.

Question on the amendment proposed.

MRS MIRIAM LAU (in Cantonese): Mr Chairman, I pointed out in the Second Reading debate that the relevant consortium indicated unequivocally in black and white to Members of this Council that they would not be interested in this project if toll increases require approval from the Legislative Council. We have no ground to believe that the consortium's statement of their position is an empty threat. So, an immediate effect of Mr WONG Wai-yin's amendment, if passed, would be the consortium's withdrawal from the project. As a result, it would be impossible for Route 3 (Country Park Section) to proceed to completion in mid-1998. Even if tender for the project is re-opened or, as suggested by Mr WONG Wai-yin, the Administration self-finances the construction of the project item, years of delay would result. This is the last thing residents in northwest New Territories want.

Everybody knows that the construction of the Route is meant to meet an urgent need and so cannot brook any delays. On a number of occasions, Mr WONG indicated he was rather concerned about Route 3 and was of the view that works should start early so that the road can be completed early. He, however, is now proposing an amendment that would make it impossible for the road to be constructed. I have given the matter some thought for quite a while but still fail to understand Mr WONG's position, which appears to me to be almost schizophrenic.

The consortium insists that there should be a toll adjustment mechanism to ensure they may increase tolls, when they feel there is a need to do so, according to a certain formula, without interference from the Administration or this Council. This is perhaps due to the fact that there have been numerous occasions where fare increases were indiscriminately opposed to in this Council. The consortium feels insecure and therefore insists on having the toll adjustment mechanism. Maybe, Members should conduct some introspection themselves.

Indeed, the establishment of a toll adjustment mechanism does not mean that the Legislative Council would be by-passed. Nor does it mean that the consortium may act arbitrarily, because the Bill has clear provisions to restrict toll increases. Today's debate in this Council is to decide whether or not the toll increase mechanism and standards of increase pursuant to the mechanism as provided for in the Bill are acceptable. A determining factor to consider is whether under the mechanism the total return on investment for the consortium is set at a reasonable level.

Mr WONG queries the accuracy of the consortium's estimates on traffic flow and on the mix of vehicles using the road, because this will affect standards for tolls and their increases. In fact, the consortium's estimate is slightly lower than that of the Administration's. However, the consortium does not have a crystal ball; nor does the Administration; nor does Mr WONG. The consortium's estimation or the Administration's may be correct; or they may both be wrong. What matters most is that, under the established mechanism, the consortium's return in terms of profit will not exceed a level we deem reasonable and acceptable.

If the Administration's estimation is correct, that is there is a slightly higher traffic flow, the consortium's rate of return would be slightly higher, increasing from 15.18% to 16.20%. As a matter of fact, even if the Administration's estimation is wrong, thereby causing a slightly better rate of return, the consortium's return on investment will not exceed the upper limit of the income specified by law, that is 17.08%. This, compared with similar projects in other Asian Pacific regions, in which investors demand a 15% to 25% rate of return, does not appear to be unacceptable even if the consortium is lucky enough to have a 17.08% rate of return. Will the consortium be that lucky? No one knows for sure. I do not think the Democratic Party is willing to guarantee the good rate of return. The Liberal Party certainly is not. If traffic flow is lower than that estimated by the consortium, the consortium will need to shoulder its own losses and bear investment risks in other aspects. In general, the Liberal Party does not regard as excessive the return that the consortium can get under the franchise. The tolls are acceptable. In the circumstances, there is no reason why the toll adjustment mechanism should be rejected.

Lastly, Mr WONG mentioned quite a number of times that failing the consortium the Administration can undertake to complete the project. He made some comments on this a short while ago. In the debate on the Western

Harbour Crossing Bill, Mr WONG put forward the same argument. At that time, four members of Meeting Point had already indicated their objection during the Second Reading debate. Mr WONG then made his points very clearly. I quote what he said: "In the numerous discussions that took place, and considering the fact that even if the relevant amendment is passed but the consortium backs out, it is still the responsibility of the Administration to build the crossing, Meeting Point (of which Mr WONG was then still a member) therefore has decided to oppose the Bill in its entirety and to request the Administration to build the crossing with its own funds."

It seems that Mr WONG maintains that all facilities should be built by the Administration. Strangely enough, however, the United Democrats of Hong Kong at the time still indicated it would support the Bill and the idea that relevant works projects should as far as possible be contracted to interested private parties. After Mr WONG has become the spokesman on transport policies for the Democratic Party, it appears that his ideas have influenced the Democratic Party. Now, even the Democratic Party says that if a consortium backs out of a project, the Administration can take its place. If this is the case, I wonder how much money the Administration has to spend on project works.

Construction costs then for the Western Harbour Crossing were of the order of \$6,000 million, and those for the present Tai Lam Tunnel and Yuen Long Approach Road are \$7,200 million. The future Route 16 and other roads would each require several billion dollars. Is the Administration that rich? Whichever way one looks at it, \$7,200 million is a huge sum. My own calculation shows that this sum, if saved, may be used to build 126 middle schools, 10 ordinary hospitals, three Pamela Youde Nethersole Eastern Hospitals, and a number of homes for the aged and child care centres, all of which are community facilities that benefit residents.

It has always been the Liberal Party's position that the Administration should encourage private parties in investing in infrastructural projects to allow the Administration to divert the resources saved in developing investments in other items that satisfy the needs of the community. From my own viewpoint, I still hold that the Administration should increase investment in building other roads. In addition to contracting out to private parties for building these roads, the Administration should continue to build flyovers and roads not contracted out. This is my position and the Liberal Party's. So, if, on reasonable terms, a consortium is willing to take up the project, there is no reason why we should turn it away and then demand that the Administration do the building on its own.

Mr WONG mentioned that in the Budget debate I questioned the Administration for the paltry amount spent on infrastructural projects. That, the Administration explained, was because a number of projects have been contracted to private parties. I did criticize the Administration for the paltry amount spent. However, if the Administration insists on taking up projects that may be contracted to private parties, how many projects can the Administration

swallow? What I was saying was that other than contracting projects to private consortia, the Administration should shoulder the responsibility of completing some of the projects on its own. I was not saying that no private parties should be allowed and the Administration should complete all projects.

Mr Chairman, with these remarks, I oppose the amendment.

MRS ELSIE TU: I will be short. Mr President, I just wish to protest against Mr WONG's claim that he represents the public. Those of us who oppose his amendment, including the Commissioner for Transport, also believe that we represent the public in supporting this necessary project. To support Mr WONG's amendment means scuppering the Bill and that is not in the public interest. Thank you.

MR FREDERICK FUNG (in Cantonese): Mr President, I oppose the amended motion by the Honourable WONG Wai-yin and I also oppose the Government's original Bill.

I am of the opinion that the most important argument this time in respect of Section 45 lies in whether it should be led by the protection of the profit of the franchised company or the protection of the consumers' rights. I think that the mechanism proposed by the Government is led by the protection of the profits of the franchised company but ignores the consumers' rights because this mechanism protects the profits of the franchised company. When it asks for a fee increase, the Ordinance provides it with a mechanism to enable it to arrive at a certain profit level. The final rate of increase may be lower than the inflation rate or vice versa but there is no guarantee that it will be below the inflation rate. I think that this mechanism itself is inappropriate. I think that as a private management company, its profits should be protected but at the same time it should realize that it has to bear its own investment risk. There is no guarantee that every business transaction will make profits. The company will lose in the event of mis-management.

We propose a mechanism which is known as the "CPI — x", that is inflation minus a certain number. This number may be 1, 2 or 3 and this method is led by the protection of consumers' rights, that is when the consumers have to use this highway but face with a fee increase, they would know that the rate of increase would not be higher than the inflation rate and the increase would not exert additional pressure on the spending power. I think that this method is more important and appropriate. On the other hand, it could be used to test the ability of the franchised company to make profits, that is when it has sound management, improved technology and is in line with computerization development, even though the rate of increase is small (that is lower than the inflation rate), it does not mean that it will be profitless. May be it could earn more. Because I think that there are problems with this mechanism, therefore I do not support it. I do hope that you colleagues could understand that it is not

that I do not support that the Legislative Council should be vested with supervisory power, what I disagree is the mechanism itself. The amendments by Mr WONG Wai-yin does not challenge this mechanism and thus I oppose the amendments by Mr WONG Wai-yin.

Of course, someone will ask: FUNG Kin-kee, why do you not join that Bills committee and why do you not propose any amendments? I think that there is not any difference between proposing and not proposing. I have had that experience before. I participated in the work to consider the Western Harbour Crossing Bill and had to attend several meetings a week. We devoted all our efforts to assist the Government in considering that Bill so that the Western Harbour Crossing Bill could be dealt with before the end of last year. However, I found out that no matter what opinion I put forward, whether it be a major or minor one, the Government would say that once any opinion was put forth, the consortium would withdraw. I thought that I had fallen into the trap. I expect that this time the Government would use the same way and take the same approach when it tables the Bill in respect of Route 3. As expected, everything is clearly shown today. Therefore, participation in the consideration of the Bill basically is tantamount to falling into the trap set by the Government to enable it to conduct consultation superficially and listen to our opinions, but in fact it is a replica of the Western Harbour Crossing Bill in which case no change could be made. For this reason I prefer not to take part in the work of the bills committee. It is apparently shown that the Government when handling this Bill, would not give us any chance to make amendments because the Government has enough votes to pass the Bill. Therefore, what the Secretary for Transport said today is basically the same as what he said when amending the Western Harbour Crossing Bill and there would be completely no change in the principles. Thus I now repeat what I have just said, the Government basically has pre-determined everything and all the procedures involved are just a mere public "show".

I disagree with what Mr WONG Wai-yin has just said in that if his proposal were accepted, the Government got to make another proposal when the Legislative Council disagreed and the rate of increase in the new proposal would be lower than that proposed in the original proposal. Could you make two guarantees? Firstly, the rate of increase surely is lower than the inflation rate, that is when it is based on the rights of the consumers, will its rate of increase be lower than the inflation rate? Secondly, could it be guaranteed that the Liberal Party will be the majority, or else it would be a replica of today's situation and loss is inevitable. As for Mr WONG Wai-yin's so-called proposal to table it for re-consideration by the Legislative Council, I could see no guarantee in that. On the contrary, I really attach importance to that mechanism which, I hope would be led by the protection of the consumers' rights.

Another point I would like to mention is that, in fact, I do not mind whether it is constructed by the Government or the consortium. So long as the mechanism is led by the protection of consumer rights, what is wrong with it then? We need not fund it and we need not worry about it. Everything is

handled by the consortium. However, I think that the problem lies not in whether it is constructed by the Government or the consortium, the problem that give rise to argument is whether such a mechanism is acceptable. I do not accept it but I find that I have no chance to raise my objection to the Government. Thus I have to mention the reasons why I do not accept it. According to what the Government has said, if we hand over any project to the consortium in the future and if it brings out the same justifications and the same reasons that is it will withdraw if there is any amendment, then we will have no other alternatives. The only way out is either the Government builds it or to accept all the terms put forth by the consortium. I do not see there is a third way. Therefore, I fail to see why there are so many people reprimanding Mr WONG Wai-yin, saying that his proposal that the road be built by the Government is wrong. If we do not agree to the system set by the consortium, why is not it handed over to the Government? If we do not accept the system set by the consortium but do not amend it because of the fear that it will withdraw, then the Government is not a Government, and the Legislative Council is not a Legislative Council. The consortium will be the Government. The consortium will be the Legislative Council.

Mr President, I oppose the amended motion by Mr WONG Wai-yin and I also oppose the Government's original Bill.

MR JAMES TO (in Cantonese): I would like to raise one point only. Mr Frederick FUNG said just now that the 'CPI-x' mechanism should be adopted. I hope to share my thoughts with him. To me, this mechanism is in fact impracticable. I think this idea can still work with regard to companies such as the Hong Kong Telecom which is able to reduce the cost through technological innovations or improvements. I do not know how well Mr FUNG has researched the finance projects of roads. But when this idea is applied to a road, is it the case that more vehicles will be attracted to use the road if the consortium made management improvements? Is it that by speeding up the collection of toll or making the surface of the road smoother or even providing cool air from areas in the vicinity, people will come to use Route 3 even if they have to make a detour, hence increasing the traffic flow as a whole? The answer is negative. Therefore, I hope that Mr FUNG will not apply the same solution invariably to every problem. The 'CPI-x' formula is impracticable for road projects.

We respect the arguments and reasons advanced and held by our colleagues and we rely on reasons in making judgements. Yet, we cannot accept Mr FUNG's proposal where this kind of project is concerned. It is because this kind of project cannot have its cost reduced by improving its management or introducing advanced technology because the traffic flow on roads is subject to many objective factors. In this connection, we would suggest that the committee is to consist of other people, in which case the committee can take into consideration a myriad of factors. The consortium can even relate its grounds to the committee. For instance, it can say that the Government is 'playing a

trick' on it as vehicles cannot by any means enter Route 3 and so on. Having contemplated a diversity of objective factors, members of the committee can then judge whether or not the rate of increase is reasonable in light of the justifications, rationale, traffic flow and so on. Under such circumstance, various factors such as management, traffic flow and so on will be taken into account.

I simply hope to share my thoughts on 'CPI-x' with Members. I personally find it very difficult to understand how this formula can facilitate project financing for roads and, in the meantime, protect the interests of consumers.

DR YEUNG SUM (in Cantonese): Mr Chairman, if every one of our colleagues is as conscious and sober as Mr WONG Wai-yin, I believe that there would not be those cases of so-called schizophrenia. All along, Mr WONG Wai-yin's endeavour has been well-intentioned, hoping to strike a balance between the economy and people's livelihood. This is tantamount to the notion of "solidarity among employees and employers" upheld by the Liberal Party. Therefore, we cannot look at this matter simply from the perspective of an investor.

In fact, what we are dealing with now is a constitutional problem about the Legislative Council being completely divested of the right to monitor in future. Mr Frederick FUNG should in fact join us in protecting the right of the Legislative Council in monitoring the constitutional system. On the question of what methods are to be employed to achieve this end, further discussions can be held in the course of exercising such a right.

I would like to state solemnly that this is the second time the Democratic Party opposed the institution of a mechanism which makes toll increase automatic. I think we will lose again this time but I hope to put in on record that the Democratic Party will stage fierce opposition against the Government should it make such a move again for the third time.

SECRETARY FOR TRANSPORT: Mr Chairman, the amendment proposed by the Honourable WONG Wai-yin appears to be innocuous but, if carried, the consequences will be catastrophic. It sounds the death knell for the project. This is neither bluff nor a threat. Indeed, as I have intimated earlier, the consortium has stated categorically in writing in response to clarification sought from the Bills Committee, that any requirement to subject toll increases to the approval by the Legislative Council would mean that they would not be able to raise the requisite capital for funding the project. The stark reality, therefore, is that the consortium will withdraw.

I can understand the Honourable WONG Wai-yin's concern that toll increases should only be allowed if fully justified. The proposed toll adjustment mechanism has sufficient safeguards to protect the public interest. Let me

explain briefly. Toll increases will not be automatic. Any toll increase application and the supporting accounts will be scrutinized by the Administration. The franchisee's revenue will be capped and any excess will be put into the Toll Stability Fund. Moreover, in keeping with the assurances that I have already given, this Council will have ample opportunity to scrutinize the operation of the toll adjustment mechanism, including any application for a toll increase. All of this, I repeat, will be highly transparent.

The target internal rate of return of 15.18% is very competitive compared to similar BOT projects undertaken either locally or overseas. There will only be three anticipated toll increases in the 38-year life of the franchise. The opening toll for private cars, for example, is only \$15 in 1998 prices. The closing toll will be \$30 in the year 2005, which equates to something like \$3 in today's prices. This certainly cannot be described as excessive under any stretch of the imagination. As the Honourable Mrs Miriam LAU has said, the consortium will not get an excessive return.

The Honourable WONG Wai-yin's reference to what could or should have been done two years ago is perhaps best left for leisurely debate. But let me say that when it comes to undertaking public projects, it is not just a question of money. Priorities have to be determined. As the Honourable Mrs Miriam LAU has quite rightly pointed out, government funding of the Route 3 (CPS) project, at a cost of \$7.2 billion would have been at the expense of many health, education and welfare projects.

Apart from this, there are also many other factors that need to be taken into account, for example, the capacity of the Works Departments in undertaking such projects. What we have to decide today is to get on with the Route 3 (CPS) project. The Administration firmly believes that the BOT approach now proposed is the best solution.

Mr Chairman, the Honourable WONG Wai-yin has made it very clear that the Democratic Party supports the construction of Route 3. I have no doubt that this is in fact their position, and thank them for their support. But the fact remains that if this amendment is carried the consortium will withdraw and the project cannot proceed. The Government must adopt a practical, workable approach and that is what we have done in putting forward this Bill today.

Mr Chairman, I make no apologies for speaking so bluntly today, and I urge Honourable Members to vote against the proposed amendments so as not to jeopardize the project which is so urgently needed by the community, especially the residents of northwest New Territories.

Question on the amendment put

Voice vote taken

THE CHAIRMAN said he thought the “Noes” had it.

Mr LEE Wing-tat 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 Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Rev FUNG Chi-wood, Mr Michael HO, Dr Conrad LAM, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin and Mr LEE Cheuk-yan voted for the amendment.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Dr David LI, Mr TAM Yiu-chung, Mr Andrew WONG, Mr LAU Wong-fat, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr LAU Wah-sum, Dr LEONG Che-hung, Mrs Elsie TU, Mr Peter WONG, Mr Vincent CHENG, Mr Moses CHENG, Mr Marvin CHEUNG, Mr Frederick FUNG, Mr Timothy HA, Mr Simon IP, Dr LAM Kui-chun, Miss Emily LAU, Mr Eric LI, Mr Steven POON, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Dr TANG Siu-tong, Miss Christine LOH, Mr Roger LUK, Mr James TIEN and Mr Alfred TSO voted against the amendment.

THE CHAIRMAN announced that there were 16 votes in favour of the amendment and 35 votes against it. He therefore declared that the amendment was negatived.

Question on the original clause 45 standing part of the Bill put.

Voice vote taken.

THE CHAIRMAN said he thought the “Ayes” had it.

Mr WONG Wai-yin 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.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr TAM Yiu-chung, Mr Andrew WONG, Mr LAU Wong-fat, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Peter WONG, Mr Vincent CHENG, Mr Moses CHENG, Mr Marvin CHEUNG, Mr Timothy HA, Dr LAM Kui-chun, Mr Eric LI, Mr Steven POON, Mr Henry TANG, Dr Samuel WONG, Mr Howard YOUNG, Dr TANG Siu-tong, Miss Christine LOH, Mr Roger LUK, Mr James TIEN and Mr Alfred TSO voted for the motion.

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr Conrad LAM, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin and Mr LEE Cheuk-yan voted against the motion.

THE CHAIRMAN announced that there were 28 votes in favour of the motion and 16 votes against it. He therefore declared that the motion was carried.

Schedules 1, 2, 3 and 4 were agreed to.

**MEDICAL AND RELATED PROFESSIONALS (REGISTRATION)
(MISCELLANEOUS AMENDMENTS) BILL 1994**

Clauses 1 to 10, 13 to 17, 19 to 26, 28, 30 to 42 and 45 were agreed to.

Clauses 11, 12, 18, 27, 29, 43 and 44

SECRETARY FOR HEALTH AND WELFARE: Mr Chairman, I move that the clauses specified be amended as set out in the paper circulated to Members. The purpose of amending clauses 11, 12(c) and 18 of the Bill is to reflect the new fees and charges being implemented under the Dentists (Registration and Disciplinary Procedure) (Amendment) Regulation 1994 and the Medical Practitioners (Registration and Disciplinary Procedure) (Amendment) Regulation 1994.

The amended clauses 27 and 29 make it clear that no person should practise as a registered nurse, deemed-to-be registered nurse, enrolled nurse or deemed-to-be enrolled nurse without possessing a practising certificate.

Clause 43 needs to be amended with the implementation of the new fees and charges under the Pharmacy and Poisons (Amendment) Regulation 1994.

With the authentication of the Chinese language text of the Dangerous Drugs Ordinance in April 1995, some minor amendments have to be made to clause 44.

Mr Chairman, I beg to move.

Proposed amendments

Clause 11

That clause 11 be amended, by deleting “\$500” and substituting “\$835”.

Clause 12

That clause 12(c) be amended, by deleting “75” and “250” and substituting “125” and “420” respectively.

Clause 18

That clause 18 be amended, by deleting the clause and substituting —

“18. Forms

The First Schedule is amended -

(a) in Form 4, by repealing -

“Fee paid: \$450.

or free for the reason
stated below -

..... “

and substituting -

“Fee paid: \$835.”;

(b) in Form 4A, by repealing -

“Fee paid: \$500.

or free for the reason

stated below -

..... “

and substituting -

“Fee paid: \$835.”.”.

Clause 27

That clause 27 be amended, by deleting the proposed section 10A(7) and substituting —

“(7) This section applies to -

(a) a person registered under section 9; and

(b) a person deemed to be a registered nurse by virtue of section 26(b).”.

Clause 29

That clause 29 be amended, by deleting the proposed section 16A(7) and substituting —

“(7) This section applies to -

(a) a person registered under section 15; and

(b) a person deemed to be an enrolled nurse by virtue of section 26(b).”.

Clause 43

That clause 43 be amended, by deleting “350” and substituting “585”.

Clause 44

That clause 44 be amended, by deleting the clause and substituting —

“44. Interpretation

The Dangerous Drugs Ordinance (Cap. 134) is amended -

- (a) in section 2(1), in paragraph (a) of the definition of “registered dentist” by repealing everything after “(Cap. 156)” and substituting -

“but who is not qualified to be so registered by virtue of having been registered under the repealed Dentists Registration Ordinance 1940 (1 of 1940, see Cap. 156, 1950 Ed.); or”;

- (b) in the Chinese text, in section 2(1), by repealing paragraph (a) of the definition of “註冊牙醫” and substituting -

- (a) 根據《牙醫註冊條例》（第 156 章）註冊，但不是憑藉已根據已被廢的《1940 年牙醫註冊條例》（1940 年第 1 號，見《1950 年版香港法例》第 156 章）註冊而具備資格根據《牙醫註冊條例》（第 156 章）註冊的牙醫；或”。

Question on the amendments proposed, put and agreed to.

Question on clauses 11, 12, 18, 27, 29, 43 and 44, as amended, proposed, put and agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

IMPORT AND EXPORT (AMENDMENT) (NO. 2) BILL 1994

INDUSTRIAL TRAINING (CLOTHING INDUSTRY) (AMENDMENT) BILL 1994**COPYRIGHT (AMENDMENT) BILL 1995****TAI LAM TUNNEL AND YUEN LONG APPROACH ROAD BILL** and**MEDICAL AND RELATED PROFESSIONALS (REGISTRATION)
(MISCELLANEOUS AMENDMENTS) BILL 1994**

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

PRESIDENT: I will take the Tai Lam Tunnel and Yuen Long Approach Road Bill separately from the other four Bills. The question is that the following four Bills be read the Third time and do pass:

IMPORT AND EXPORT (AMENDMENT) (NO. 2) BILL 1994**INDUSTRIAL TRAINING (CLOTHING INDUSTRY) (AMENDMENT) BILL
1994****COPYRIGHT (AMENDMENT) BILL 1995** and**MEDICAL AND RELATED PROFESSIONALS (REGISTRATION)
(MISCELLANEOUS AMENDMENTS) BILL 1994**

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

Bills read the Third time and passed.

PRESIDENT: The question is that the Tai Lam Tunnel and Yuen Long Approach Road Bill be read the Third time and do pass.

Question on the Third Reading of the Tai Lam Tunnel and Yuen Long Approach Road Bill put.

Voice vote taken.

THE PRESIDENT said he thought the “Ayes” had it.

Mr WONG Wai-yin 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.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr TAM Yiu-chung, Mr Andrew WONG, Mr LAU Wong-fat, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr LAU Wah-sum, Mrs Elsie TU, Mr Peter WONG, Mr Vincent CHENG, Mr Moses CHENG, Mr Marvin CHEUNG, Mr Timothy HA, Mr Simon IP, Dr LAM Kui-chun, Mr Eric LI, Mr Steven POON, Mr Henry TANG, Dr Samuel WONG, Mr Howard YOUNG, Dr TANG Siu-tong, Miss Christine LOH, Mr Roger LUK, Mr James TIEN and Mr Alfred TSO voted for the motion.

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr Conrad LAM, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin and Mr LEE Cheuk-yan voted against the motion.

THE PRESIDENT announced that there were 30 votes in favour of the motion and 16 votes against it. He therefore declared that the motion was carried.

Bill read the Third time and passed.

PRIVATE MEMBER'S MOTIONS

PRESIDENT: I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates and Members were informed by circular on 22 May. The movers of the motions will have 15 minutes for their speeches including their replies and another five minutes to reply to proposed amendment. Other Members, including mover of amendment, 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.

URBAN REDEVELOPMENT POLICY

MR JAMES TO moved the following motion:

“That, as the Government has been using delaying tactics in regard to the motions carried by this Council in 1992 and 1994 urging the Government to review its urban redevelopment policy, thereby ignoring the interests of people affected by urban redevelopment in Hong Kong, this Council expresses extreme regret and reproves the Government for such an attitude and behaviour, and urges the Government again to complete its review on urban redevelopment policy immediately, promulgate the findings and recommendations and, after wide public consultation, implement appropriate measures to ensure that people affected by urban redevelopment would be rehoused in the same locality and reasonably compensated.”

MR JAMES TO (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper.

When I was lobbying colleagues to speak on and support the motion I moved today, their response was “why again a motion about urban redevelopment”. Yes, we have to discuss this issue again. It is lamentable we have to. Three years ago, I moved a motion urging the Government to review its urban renewal policy. At that time, I received a sleeping mat at the door of the Legislative Council Building, the residents feared that redevelopment might render them homeless. One year ago, I moved another motion reproving the Government for its failure in completing the review after stalling for a long time. I then received a mop, the Chinese character for which is the same as that for delaying, symbolizing the delaying tactics employed by the Government. Today, I move this motion strongly reproving the Government’s delaying tactics. What I just received is a model of a residential building representing the people’s worries and helplessness that their homes will soon be demolished. What I heard is their disgruntled and reviling remarks against the Government. They criticized the Government as being indifferent and as acting like a big liar used to “close-shop” operations. They also criticized the Government for ignoring the people’s sufferings and complaints.

I have indeed run out of tolerance and cannot behave like a silent lamb. I cannot but question the Government’s sincerity again. I hope the Government will not keep on employing delaying tactics.

I have no idea whether it is due to the Government's incapacity to carry out the review or it is because the Government thinks that urban redevelopment is not really a serious problem and the issue of the interests of the affected residents is not so important or urgent. To which year, which month and which date the Government is going to postpone the review of urban redevelopment? Or if the report was already completed, but the Government dares not publish it, what it is trying to hide?

I had wanted to ask the Secretary for Planning, Environment and Lands (SPEL) to take the blame and resign today. But unfortunately, Mr EASON, the former SPEL, who promised this Council to conduct a review three years ago, has already left. Despite that, I would still like to remind Mr Bowen LEUNG, our new SPEL, through today's motion that he should neither ignore any motion that has been carried by this Council, nor be as indifferent as his predecessor by adopting delaying tactics. Instead, Mr LEUNG should complete and publish the review report on urban redevelopment in no time. Afterwards, he should consult the public in order to formulate relevant policies under which all affected residents could be rehoused in the same locality and reasonably compensated. In addition, they could have improved living conditions.

Some colleagues asked me why I was so infuriated. It is because I really appreciate the sufferings of the residents and understand the uncertainty and their worries that their homes might be affected by redevelopment at an unknown time. Despite that, however, the Government just ignore these people's feelings. It is really shameful.

I would like to take this opportunity to review briefly what had happened in the past so that Members can see what the Government had done was really too much.

Today is 24 May 1995. On 24 June 1992, that is 35 months ago, I, for the first time, moved a motion urging the Government to set up a task force to undertake a comprehensive review of the issue of property acquisition by private developers for redevelopment and to formulate policies to ensure that the tenure of the affected residents is protected. That motion was carried by this Council and the Government also started the review.

Since then, I kept asking the Government about the progress of the review and when public consultation would be carried out. The answer I got was "work in progress". On 4 May 1994, I moved another motion urging the Government to complete the review as soon as possible. The motion was carried by a majority.

However, 12 months have passed now and even the report of the Police Management Review, which is terribly complicated, has also been completed. That report, which comprises 41 volumes and weight 72 pounds, was finalized in two-odd years' time. But nobody knows when we can read the report of the urban redevelopment review.

As a representative of the people, I on behalf of those affected, have to express my regret and sharply reprove the Government, and especially the Government officials of the Planning, Environment and Lands Branch for their serious dereliction of duty in reviewing the problem of urban redevelopment. The Democratic Party would like to reiterate the importance of urban redevelopment to our future community development and urge the Government not to turn a blind eye to the interests of the affected people.

Why in essence do we need urban redevelopment? There is no reason other than the need to improve our environment, in residential sanitary, traffic and community terms. But the prevailing practice is to have urban improvement at the expense of the interests of a small group of people. The redeveloped area might be splendid in a heavenly way, to people living in the older areas, however, it is merely a shadowy dream. These people might be watching the new buildings and beautiful environment across the street from their small rooms, bed spaces or caged beds in buildings that are not yet considered for redevelopment. Another eviction and repossession await them. Eventually, they will have to move to a remote place, away from the neighbourhood and support they are familiar with. Is this what we hope to see in urban redevelopment? Is this a humane way of treating these people?

As those who are adversely affected have not benefitted from urban redevelopment, then who are the actual beneficiaries? The answer is clear. It is the property developers and the Government. We should not conceal the fact that enormous profits hide behind redevelopment. If the main or the sole objective of redevelopment were urban improvement rather than obtaining the handsome profit which comes from the tremendous potential of redevelopment sites, the Government would have enacted legislation stipulating reasonable compensation and formulate a policy to ensure that people affected would be rehoused in the same locality.

With these remarks, I beg to move.

Question on the motion proposed.

PRESIDENT: Mrs Selina CHOW has given notice to move an amendment to the motion. Her amendment has been printed in the Order Paper and circulated to Members. I propose to call on her to speak and to move her amendment now so that Members may debate the motion and the amendment together.

MRS SELINA CHOW moved the following amendment to Mr James TO's motion:

“To insert “as far as practicable” after “rehoused in the same locality”.”

MRS SELINA CHOW (in Cantonese): Mr President, this is the third time in four years this Council is debating on urban redevelopment. That this issue is being discussed again and again is because of the lack of resolution and courage on the part of the Government to implement urban redevelopment such that the progress has been sluggish and other complications have arisen. In the past the Government has wanted to redevelop the urban area without having to spend a penny. So it had heavily depended on the participation of private developers, and a host of problems thus arose. Now that the Government has clearly stated that the Land Development Corporation (LDC) will take the lead in urban redevelopment, this should go a long way towards avoiding major disputes.

I agree to reproving the Government as urged for in the motion. As a matter of fact, the Liberal Party has all along been very concerned about the progress of urban redevelopment, as well as the compensation and rehousing arrangements for to the affected residents.

The Liberal Party believes that there must be reasonable compensation, particularly because residents affected by urban redevelopment are mostly low income families and elderly people who have been paying low rent. Therefore, any compensation must be at such a level as to enable these people to pay rent at market rates long enough into the future in order that they will not wear a sad face all day long worrying about their housing problem.

As regards rehousing, I hope we will take a more macro-view instead of insisting on rehousing or even rehousing in the same locality regardless of need. It is always easier said than done. If rehousing in the same locality is to be achieved, Hong Kong may have to pay a high price. The entire redevelopment programme may even have to come to a halt.

The amendment I am proposing today addresses specifically the question of rehousing in the same locality contained in the motion. The Liberal Party is of the view that the Government should, as far as is practicable, rehouse residents affected by redevelopment who have no other accommodation. Rehousing in the same locality should be provided where possible, subject to the premise that this will not slow down the pace of the redevelopment scheme.

Nevertheless, it is an undeniable fact that there is simply not enough land in the urban areas to fully rehouse all residents affected by redevelopment. This is not going to change according to the subjective view of Members from the Democratic Party.

In fact, under the current circumstances, the LDC may try to build some housing units themselves or purchase some vacant units in the urban districts to rehouse residents affected by redevelopment who have no other accommodation. Nevertheless, the Land Development Corporation Ordinance contains no provision to the effect that the LDC shall be responsible for rehousing. Rehousing residents affected by redevelopment is by and large the

Government's responsibility, but the Government is passing the buck to make the LDC responsible for it.

Although the Government is passing the buck, the LDC is already working on rehousing and trying its best to help the Government, having regard to the need to have the urban redevelopment scheme fully implemented as soon as possible. But ultimately it is the Government which is responsible for taking the overall interests of Hong Kong into account, for taking care of the residents who are in need under the principle of equity, and for keeping away those who are not in need but are doing what is, in effect, queue-jumping or keeping those economically better-off people from getting a share of the already scanty resources. As a matter of fact, the rehousing criteria as set down by the LDC are far more generous than those for public housing, and if we insist on rehousing in the same locality it would be unfair to those who are on the waiting list for the public housing.

In fact when we talk about redevelopment and rehousing, ought we first to ask ourselves: are we putting the overall benefit of urban redevelopment in the first place, or are we putting rehousing in the same locality in the first place? For Members intending to support the motion, has it ever occurred to them that the motion has defined rehousing in the same locality as the prerequisite for urban redevelopment? So, does it mean that if the Government fails to arrange rehousing in the same locality then there will be no redevelopment? Would that not be depriving residents in the redevelopment area and the nearby areas of the chance to improve their living environment? If Members themselves are uncertain as to what the prime objective is, citizens will probably be misled and unnecessary social contradictions will arise.

The stance of the Liberal Party is very clear. The Government has the responsibility to arrange reasonable rehousing for residents affected by redevelopment who have no other accommodation. Where circumstances permit, local rehousing in the same locality should be provided as far as is practicable. If this cannot be done, residents should be rehoused in nearby areas, so that the urban redevelopment scheme can get under way as scheduled. It should be borne in mind that the more protracted the redevelopment process, the more the variables. For example, the possible fluctuation in property prices may influence the purchase prices at different stages of the project, such that some of the property owners may be at a loss as to what to do.

The amendment aims to take care of the rights of residents affected by redevelopment in particular and the overall interests of the people of Hong Kong in general. I believe that Members from the Democratic Party and other Members should support this amendment, which aims to balance the interests of all parties without sacrificing the interests of any one party.

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

Question on the amendment proposed.

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

MR LEE CHEUK-YAN (in Cantonese): Madam Deputy, although I am new to the Legislative Council, I understand that the motion now under debate is not new to this Council at all. To many tenants who are living in the old buildings of the urban areas, they are true stories of their sufferings.

Now I would like to tell a true story about a tenant who has rented a place in an old building. He is a worker almost 60 years of age. I hope that his story will help us understand the present situation of the residents in old buildings.

Mr YAU is a single man who is 56 years old. He is a transportation worker, but because he has been underemployed for a long time, his salary is about \$4,000 per month. Before 1992, Mr YAU had rented a room of about 70 sq ft in an old building in Tong Mi Road, Tai Kok Tsui for a few hundred dollars per month and had lived there ever since. However, in 1992, because the property developer wished to recover possession for redevelopment, Mr YAU as well as dozens of other tenants of the building had to move out. With a few thousand dollars of compensation, Mr YAU rented another room in Tai Kok Tsui which was partitioned by boards. Later, because Mr YAU did not get along well with the other tenants of the flat, he moved to a room of 60 sq ft in an old building of Tong Mi Road and paid a monthly rent of \$900. This year, the property developer recover possession for redevelopment and Mr YAU had to move again. Initially, Mr YAU wished to rent a similar room, but the rent of a room of 70 sq ft had then become \$2,000 which was beyond what Mr YAU could afford. After many months of searching, Mr YAU finally rented a roof-top hut situated on the 10th floor of an old building in Tai Kok Tsui together with two other single men. Each of them had to pay a rent of \$1,300 per month. Now, as a roof-top dweller, Mr YAU would not know when the hut would be cleared by the Buildings Department in which case he would have to move yet again.

Mr YAU has moved three times during these four years. Like a rolling stone, he has been moving around in the old district. He paid twice as much only to rent an even worse place to live. Mr YAU used to climb three sets of stairs to reach his place, now he has to climb nine. Not only does he have to live with the problems of low wage, underemployment, aging and so on, he also has to live under the constant fear that his place will be cleared. When will he have a stable place to settle down?

My honourable colleagues, Mr YAU's story is actually the portrayal of many tenants living in old buildings. To the working class of the lower social strata and the elderly, having to move as a result of redevelopment of old buildings, is an unending nightmare. Today they have moved from unit A to unit B, but when unit B has to be redeveloped some other day in the future, they will have no choice but to become rolling stones once again. Therefore, if developers have to redevelop a certain building, they should certainly be

responsible for the resettlement of the tenants in the same locality and the payment of reasonable compensation. Indeed, as some colleagues have pointed out, semi-official bodies like the Land Development Corporation and the Housing Society have policies for rehousing those affected by redevelopment in the old districts in the same locality. Why then did the Government allow private developers to reap profits from redevelopment at the expense of the settlement rights of these tenants?

The Government has often put much emphasis on the principle of non-intervention. It thinks that excessive intervention in the redevelopment plans of private developers will disrupt urban redevelopment. The Legislative Council passed a motion to urge the Government to review its policy on urban redevelopment three years ago and now the Government has still not submitted the findings of the review. Perhaps because the Government officials do not have any housing problems themselves, they will never approach the question of settlement rights from the point of view of the “rolling” residents. I hope the policy will be implemented immediately and not delayed and delayed as Mr James TO said.

The right to settle is a basic right which the public should be able to enjoy. The Government should not shirk its responsibilities in this respect. On the one hand, the increase in the pace of urban redevelopment has resulted in a greater number of tenants having to move from the old buildings; on the other hand, the remaining number of units available in the old buildings of the same district has decreased. Therefore, those who have to move as a result of redevelopment, that is, the “innocent rolling stones”, are finding it more and more difficult to resettle themselves. To add to their predicament, rent has been on the rise. I would therefore reiterate that the Government should enact legislation to provide that private developers should rehouse tenants who are affected by redevelopment in the same locality.

As regards the demand for rehousing in the same locality, although I have joined this Council only recently, I know that the relevant motion was unanimously carried in this Council last year. Therefore, I cannot understand why Mrs Selina CHOW has moved a “regressive” amendment. The Liberal Party should clearly tell the public whether they have moved an amendment in contravention of the rights of the tenants only because the property developers have objected to the proposal to rehouse the tenants in the same locality.

Finally, I wish to speak on the question of compensation. Under the present laws, the compensation payable to tenants affected by redevelopment is 1.7 times the rateable value of the premises concerned. Compensation equivalent to 1.7 times the rateable value would only enable the tenants to rent similar premises for about six months. If the expenses incurred in moving and renovation and the increase in rent as a result of a reduction of old premises are taken into consideration, the amount of compensation now provided under the law is really insufficient. In fact, two years ago when the motion to set compensation at 1.7 times the rateable value was carried in this Council, Mr

LAU Chin-shek actually intended to move an amendment to raise the rate to twice the rateable value, together with compensation for expenses incurred in moving and for the loss of fixtures. Unfortunately, the motion to set the rate at 1.7 times moved by the Government was carried by capturing two more votes. Mr LAU Chin-shek therefore could not move his amendment.

I think the present rate of compensation should be raised at once to give tenants who are affected by redevelopment more protection. As many social workers' groups have been suggesting for many years, the statutory rate of compensation should be raised to three times the rateable value. In addition, compensation for expenses incurred in moving and for the loss of fixtures should be made payable so that the total amount of compensation would approximately be equivalent to one year's rent for a similar place in the same locality. The procedures for increasing the rate of compensation are simple. Therefore, I ask the Government's representative to give an unequivocal promise in his later reply that the statutory rate of compensation will be raised in this session of the Legislative Council. If not, I will move a Private Member's motion in this Council to effect a big rise in the rate of compensation concerned.

Mr President, with these remarks, I support Mr James TO's original motion and oppose Mrs Selina CHOW's amendment.

MR ALBERT CHAN (in Cantonese): Madam Deputy, urban renewal in Hong Kong commenced in the '60s and has been under way for nearly 30 years. Nevertheless, whether in the improvement of living environment of the residents in dilapidated areas or in the enhancement of the value and effectiveness in the use of urban land, all the work done by the Administration in the last few decades was a failure. The present stagnation in urban renewal is entirely attributed to the lack of foresight, a comprehensive plan and concrete commitment on the part of the Administration.

First, we can look at the Administration's concept of "urban improvement". Since the "Urban Renewal Pilot Scheme" implemented in Sheung Wan in 1969, "urban improvement", in the eyes of the Administration, has been taken to mean the demolition of old buildings in the dilapidated areas, and the construction of new ones, without any regard to the regeneration of the old community as a whole.

There are problems of various kinds in the dilapidated urban areas of Hong Kong which include Yau Ma Tei, Tsim Sha Tsui, Mong Kok, Western District, Wan Chai, Kowloon City, Tsuen Wan and Kwun Tong. These areas are usually hotbeds of prostitution, gambling and drug activities. Aggravated further by poor sanitation, aging population and crowded living environment, the dilapidated areas can be regarded as the malignant tumours of a healthy society. The unrest in big cities is mostly closely related to the problems harassing such areas. If the dilapidated areas in Hong Kong are not properly

managed and redeveloped, they will gradually become time bombs with profound effect on society. But regrettably, the so-called Urban Renewal Scheme in Hong Kong only places emphasis on land resumption and redevelopment for the purpose of reaping colossal profits. Redevelopment of the entire community has long been neglected and as a result, no progress has ever been made in urban renewal in Hong Kong in the past few decades.

In the face of the existing problems in dilapidated areas, we think that a large-scale urban renewal is necessary. In the past decade or so, the Administration appeared to have placed great emphasis on urban renewal. However, very much has been said while extremely little has been done. As far as urban renewal is concerned, what the Administration has done most vigorously is the evasion of responsibility, particularly the responsibility to rehouse the residents concerned, while reaping profits as much as it can.

This accusation is not without evidence. First of all, in the early period when the Hong Kong Housing Society (HS) implemented the "Urban Improvement Scheme", the Administration extended a loan of \$100 million to and reduced the land premium payable by the HS. However, since March 1981, the Administration has demand full land premium from the HS in regard to the redevelopment scheme, thus weakening the financial ability of the HS in expanding the scheme. Later in 1988, the Administration created the Land Development Corporation (LDC), seemingly with the intention to expedite the process of urban renewal. Nevertheless, the Administration required the LDC to operate under the so-called prudent commercial principles and merely injected \$100 million in its capital. At the end, only those kinds of redevelopment which could bring staggering profits to the Administration or the LDC within a short period of time were expedited. And what were turned out after resuming the land were not residential buildings but commercial premises. Besides, owing to the lack of commitment on the part of the Administration, the LDC had in the past no alternative but to co-operate with private developers in order to earn capital and to keep itself viable. Hence, the LDC has been accused by quite a number of people as being colluding with private developers.

As a result of the Administration shirking its responsibility as mentioned above, the environment of the areas in most urgent need of redevelopment has further deteriorated because the necessary work was repeatedly delayed. What is even more ridiculous is that while the Administration did not make concrete commitment to the Urban Renewal Scheme, it has classified some dilapidated areas as "comprehensive redevelopment areas", thus depriving the individual landlords of the right to redevelop the property. Let us take the case of the seven streets in Tsuen Wan as an example. At the end of 1989, the Administration designated this area to be a "comprehensive redevelopment area". In 1992, the HS applied for redevelopment of that area and it was finally approved by the Town Planning Board. However, three years have now elapsed but not even a date for the redevelopment has been decided by the HS. In these few years, the landlords in the seven streets of Tsuen Wan have been living in

uncertainty. Nobody is willing to spend money on repairing and maintaining the public facilities. The living environment is getting poor and the quality of buildings has degenerated, posing a danger to the residents. Not only is the quality of life of the residents worsening, but the landlords are also suffering from financial losses like depreciation of the property value and development right being frozen and so on.

Even with the repeated complaints from the residents of the seven streets of Tsuen Wan, there is still no sight of a solution to that problem. Hence there are lamenting cries from the residents like “Nobody knows the redevelopment date, and the residents can only idly wait.” Earlier on, a fire broke out in a building in Tsuen Wan District resulting in casualties. This shows that the environment of that areas has already worsened to a deplorable state. In my opinion, if the HS is not going to solve this problem as soon as possible, members and the Executive Director of the HS’s Executive Committee should be accountable and should resign. Besides, I also reprove the Administration for holding a candle to the devil in regard to this issue and for refusing to offer any help to the HS which, as a result, had to delay time and again the redevelopment project for want of financial resources.

Madam Deputy, in 1992 and 1994 respectively, this Council passed motions urging the Administration to review its urban redevelopment policy. But hitherto, much has been said but nothing has been done. I strongly urge the Administration to announce the new policy without delay and to make concrete commitment, including injecting capital into redevelopment schemes as European countries and the United States do. Take Britain for instance, the British Government decided to commit as much as £1.67 billion, which is equivalent to HK\$20 billion, in redeveloping the dockland in London. With the present huge fiscal reserve of over \$100 billion, the Hong Kong Government indeed has ample financial ability to support the Urban Renewal Scheme, so that the residents in the dilapidated areas can really benefit from redevelopment instead of being pushed around like something discarded.

Here I would like to give a piece of advice to Governor PATTEN. If the Administration allows the dilapidated areas to deteriorate into slums, this will be regarded as a shame on the Hong Kong British Government as well as a demonstration of the lack of resolution on the part of the sunset Government. In view of this, not only should the Hong Kong Government formulate the redevelopment policy again without delay, but the Governor should also map out the long-term blueprint in regard to urban renewal in his policy address in October.

Madam Deputy, with these remarks, I strongly support the motion moved by the Honourable James TO for the third time within four years.

MR LAU WAH-SUM (in Cantonese): Madam Deputy, I have been a member of the Land Development Corporation (LDC) since 1992 and I would like to clarify two points: first, the unreasonable allegation of collusion between officials and the business sector arising from the co-operation between the LDC and private developers; second, the issue of rehousing in the same district.

First of all, I would like to tell Members that at the very beginning, the Administration only extended a line of credit for \$100 million to the LDC. In another year or so, that is in 1996 or 1997, you will notice the completion of two large-scale redevelopment projects west of the Central Market. By that time, members of the public will know the kind of benefits derived from the redevelopment projects; for example, there will be more sitting-out areas. However, these two construction projects will need more than \$2 billion to complete. How can we embark on the projects with only \$100 million? If we go ahead with that mere \$100 million, I think it will be impossible for the redevelopment work to complete in Hong Kong even in a century. Therefore, the only alternative for the LDC is to co-operate with private developers. I can tell Members that in the co-operation, the LDC is always in a very advantageous position in the sharing of profits. We make good use of the ability and the financial power of the developers in order to complete these developments as soon as possible. The co-operation between the LDC and the private developers is not permanent. Since we only obtained a loan of \$100 million at the start, we could not but co-operate with others. After we get profits from this kind of co-operation, we intend to develop on our own in the future. The advantage of co-operating with private developers is that the development projects can be finished earlier. As you all know, when we discussed the construction of buildings by the Hong Kong Housing Authority (HA), it was mentioned that six years were needed from the time a piece of land was allocated to HA to the completion of the housing blocks. According to that sort of speed, how many years will we need for the redevelopment, from demolishing the old buildings until the new buildings are completed? Please take a look at the LDC's construction sites in the Central. When the projects are completed, I hope that members of the public will appreciate the speed of redevelopment. And this can only be possible by co-operating with the developers.

Secondly, it is the issue of rehousing. The LDC will certainly try its best to rehouse the residents concerned in their original district or nearby districts. Nevertheless, sometimes this can never be done, because it takes a very long time to build the new buildings after the old ones have been pulled down in the original district. In view of this, we have already built some flats in the nearby areas in order to rehouse the residents concerned. However, we cannot do the same in every district. Some people living in Kowloon are reluctant to move to Hong Kong Island, while some on Hong Kong Island refuse to move to Kowloon. If there is a restriction

8.00 pm

MADAM DEPUTY: Mr LAU, I have to interrupt you because it is now eight o'clock and under Standing Order 8(2) this Council should now adjourn.

ATTORNEY GENERAL: Madam Deputy, with your consent I move that Standing Order 8(2) should be suspended so as to allow the Council's business this evening to be concluded.

Question proposed, put and agreed to.

MR LAU WAH-SUM (in Cantonese): The Administration has given the LDC with the responsibility of taking care of the residents concerned. But while the LDC has to plan redevelopment projects, it also has to rehouse the residents; its resources are really too limited to cope with both tasks. I hope that the Administration will, after reviewing the redevelopment policy, transfer to the HA or the Hong Kong Housing Society the duty of rehousing the affected tenants. And the LDC will, of course, be responsible for arranging compensation to the landlords concerned. If the public wants to have the redevelopment work accomplished earlier, this is the only way. If the LDC is to rehouse the residents concerned on top of the redevelopment work, the whole process will definitely progress more slowly.

I hope that the Administration will tackle these two problems as policy issues without delay, help the LDC in rehousing the residents concerned as this is the most difficult task. The difficulty does not lie in constructing buildings, but in having the residents rehoused in order to recover the piece of land.

With these remarks, I support the motion that the Administration should review its redevelopment policy as soon as possible.

MR FREDERICK FUNG (in Cantonese): Madam Deputy, this is the third time since the beginning of the 1991-92 Legislative Council Session that a motion to the present effect was moved and debated in this Council. The last time, was but a year ago when this Council during a similar motion debate sought to reprove the Government. If the Government has been "smart" enough, it should publish the result of the review on urban renewal policy as soon as possible to avoid further "censure" from the Members. Today, Mr James TO unrelentingly moves the third motion on the same subject, the wording being all the more censorious. In my view, the Government has "really asked for it".

In fact, 35 months have lapsed since the first motion but the review conducted by the Government remains all talk and no cider. The Secretary for Planning, Environment and Lands told us on 4 May last year that the review would take "at least" six months to complete but that substantive progress would be

expected by early August 1994. Well, another 12 months have passed since then, what and where is the “substantive” progress that the government has been talking about? I hope that the new Secretary for Planning, Environment and Lands will tell us whether there will be concrete result from the review. Many people do cherish the hope that the Secretary can furnish us with a clear explanation and put an end to the “black-box operation” whereby the public is always kept in the dark. It is our earnest hope that the Government will terminate that “see-saw” or dilly-dallying tactics which enables the private developers to continue victimizing the residents in the redevelopment process.

I have recently received a petition from the Joint Conference of Illegally Vacated Tenants of Fa Yuen Street, requesting that a review be conducted over the practice of illegal recovery of possession of property. In fact, in the past few years, as a Councillor representing the Kowloon West Constituency, I have been receiving from time to time similar requests for help. With one additional complaint comes another sigh over the Administration’s way of handling the matter concerned. I firmly believe that the Government is competent at safeguarding the well-being of the public. Yet when viewed against the backdrop of the private developers’ interests that need to be catered for, the Government’s attitude becomes vacillating.

The protection for the public has been reduced since the deregulation of rent control some years ago. The general public has to, on the one hand, bear the brunt of soaring rent while, on the other hand, be subject to the eventuality that developers may recover possession of their flats at any time. During the urban renewal process, the pockets of private developers swell. If this is not the case, there will be no incentive for them to undertake the redevelopment projects. If the Government continues to handle private redevelopment projects with such lax attitude, the residents living in the districts to be redeveloped will enjoy no protection at all. Since urban renewal has brought windfall profits, it is unquestionably the unshirkable responsibility of the developers to ensure that displaced tenants be reasonably compensated and rehoused in their original districts. Unfortunately, the law can do nothing with regard to the developers. Thanks to the loopholes in the legislation, even if those who “harass” the tenants are arrested, the masterminds behind the operation are never implicated and they may continue preying upon the residents.

There are three key parties in the urban renewal process: the Government, the developers and the residents. However, the residents living in the districts to be redeveloped are always the passive lot, starting from the stage of renewal planning up to the stage when developers proceed with the works. The displaced residents are usually the middle and lower classes who are not organized; therefore, their negotiation prowess, when pitted against that of the consortia, equals David pitting against Goliath. Victory of the former over the later is a miracle only possible in a biblical story but never in reality. The consortia may engage some people to proceed with recovery of possession of property through long-term harassment and psychological warfare until the tenants are forced out. Even the diehards would find less and less spiritual support seeing that the tenants

are being forced to move out one by one. This would be the opportune time for the developers to take the flats back. The Land Development Corporation and the Housing Society may even recover possession by virtue of the Crown Lands Resumption Ordinance. The residents are helpless in face of the powers conferred by legislation upon these institutions. It is doubtful whether the tenants can, with the meagre amount of compensation, rent flats of comparable sizes in the same districts for long.

In view of the foregoing, I believe that the Government must expeditiously formulate a relevant policy to resolve the compensation and rehousing problem of those residents living in the districts to be redeveloped. In the renewal process, the residents are not free to choose and yet they have been living in the same district for many years. I cannot see why the tenants should not be rehoused in the original districts wherever possible but have to be forced to move to other districts and to adapt themselves to a totally new environment.

With these remarks, I support Mr James TO's motion and oppose the amendment.

DR YEUNG SUM (in Cantonese): Madam Deputy, all along, the Government's attitude towards urban renewal has been to give a free rein to private developers to follow their own investment strategies. No guidance is ever given and no requirement imposed in respect of the developers' responsibilities in the course of the redevelopment. Whenever government departments scrutinize renewal proposals, they only focus on whether they are in keeping with town planning standards and on the assessment of the land premium payable. But they have not examined the impacts on brought the community by the renewal projects, nor have they endeavoured to protect the rights of residents and property owners.

In fact, the Government knows it well that demolition of older building will entail the rehousing of a huge number of residents. This is because the proportion of owner residents in the old areas is relatively low, and most of the residents are middle to low-income people who still have no chance to move to public housing estates and who cannot afford to buy their own property. Not providing them with rehousing is to force them to move to some even worse old buildings, illegal rooftop structures or even to the streets as street sleepers. Whichever consequences it might lead to, more social problems. will arise as a result and a heavy price has to be paid by the community.

Superficially, it seems that sloving the problem of housing is one's own responsibility, and that it may be done through market mechanism. However, in solving the problem of losing accommodation as a result of urban renewal, we have the trouble that the market mechanism is not working. At a time when owning property has become a luxury, it is impractical that we should expect that people of the middle and lower classes can solve their accommodation problem through market mechanism. As the renewal has placed residents in a quagmire of "old flats not available, new flats not affordable", how can the

Government just sit back and take no action? Is it that as long as the developers are making a profit, it does not matter that people in vast numbers are driven to become street sleepers?

All along, the Government has been saying that the costs will be too high for the developers to rehouse the residents, and in that case, no more developers will want to undertake the renewal projects, and the result is that old areas will be getting worse. My view is that had the Government been dealing with renewal in a responsible manner, the problem simply would not have arisen. First of all, the Government is certainly able to help developers to reduce the costs of rehousing. One of the ways is to make use of the rental public housing units of the Housing Authority (HA) to relocate those who are eligible for public housing. I hope that the Government will give serious consideration to this. The terms are for the developers to bear in full the relevant costs, including the land premium, construction and administration costs. As long as the HA can provide the units for this purpose in its planning of public housing construction, it will not cause any delay to the “moving-in” time of people who are already waiting for public housing. In fact, there are quite some residents in old areas who have been waiting for public housing for years. Besides, if the Government can allocate land for the Housing Society (HS) or the Land Development Corporation (LDC) to construct rehousing units for the residents, these two organizations will be able to play a more significant role in urban renewal, so that whilst the residents can be properly rehoused, the progress of renewal can also be speeded up.

On the other hand, for those tenants who ask for compensation in cash, the present legislation stipulates that the compensation can only be 1.7 times the current rateable value of the premises concerned, which is really too small a sum. For residents who have to solve their accommodation problem, this amount is totally inadequate. The Democratic Party is of the view that the compensation should not be less than the compensation levels set by the LDC, namely, it should be five times the current rateable value of the premises. Why does the Government not think about this point?

Madam Deputy, it has been three years since a motion was carried by the Legislative Council in 1992 to demand that the Government should review its urban renewal policy. I would like to tell the story of an urban renewal project that has been delayed for quite some time to let Members of this Council see the sufferings of some members of the public during these three wasted years.

In 1992, the Town Planning Board designated five streets in Kennedy Town as a Comprehensive Development Area. In other words, the right of residents in the area to carry out renewal on a small scale by themselves was taken away. There are over 350 residential units so affected, and 70% of the residents are tenants. Subsequently, when the HS was granted the right to develop this area, flat-owners of the area then waited for the HS to make the purchase offer. However, the HS has still not made the offer to date. During this period of waiting, a lot of building maintenance work was shelved, and the

buildings are getting more decrepit. However, nobody has cared about this and the environment is getting worse every day, leaving the residents in unspeakable hardships. It was found that the HS only came to realize that it did not have the financial resources to carry out the project after it obtained the redevelopment right. When the Democratic Party held a discussion with the HS yesterday, we learnt that the HS would lose as much as \$300 million if it were to go ahead with the project, and that its negotiation with the Government for fund injection was still without result. It is in these circumstances that residents by the thousands are living in the fear of concrete fragments of their buildings falling on their heads, and they cannot but wait helplessly for the day of renewal project is to be carried out.

Furthermore, let us take the example of the renewal project of Queen's Street, Sheung Wan. In September, 1992 the Executive Council approved that the renewal project of Queen's Street, Sheung Wan was to be carried out by the LDC. However, it was merely after half a year's negotiation for the purchase between the LDC and flat owners and that the proportion of ownership purchased by the LDC was hardly half of the total, the LDC was then too impatient to wait and applied to the Planning, Environment and Lands Branch for approval to invoke the Crown Lands Resumption Ordinance (CLRO). And in the negotiation for purchase between the LDC and flat owners, the LDC often mentioned that they were waiting for the approval by the Government to apply the ordinance, and that owners eventually would have to sell their property to the Government. Under these circumstances and such psychological threat, how could owners have had a reasonable and equitable purchase offer? The CLRO should be invoked to resume property the ownership of which cannot be ascertained or of which the owner concerned has passed away, so as to enable the renewal project concerned to go ahead smoothly. However, who would have thought that the CLRO has now become the most powerful weapon of the LDC to carry out renewal projects? The Government must seriously reconsider whether it was because the prices offered were too low that the LDC had to apply the CLRO on so many occasions before the purchase could be completed. Also, the Government should explain this to the public as soon as possible. Indeed, the Honourable James TO has been pursuing this matter for years, and I hope that the Secretary for Planning, Environment and Lands can provide some definite answers in his reply later on.

Madam Deputy, we no longer can tolerate this absurd kind of urban renewal policy. As a matter of fact, we are in support of the urban renewal programme, but we cannot support such a ridiculous policy. With this policy keeping on dragging the heels of our community development, public interests will be undermined. I find the Government's slighting attitude most deplorable, and I demand that the Government should not make any more excuse in its reply today and to say for certain when the new policy will be announced.

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

MISS CHRISTINE LOH: The Honourable James TO's motion rightly highlights the difficulties and fears of people affected by urban renewal. For those people, urban renewal is often a bitter experience made worse by a system that refuses dialogue and denies them information. Urban renewal uproots people and knocks down their homes. The compensation offered by the Landlord and Tenant (Consolidation) Ordinance is a mere 1.7 times the rateable value — an amount that is so meagre that residents often are forced to appeal to the Lands Tribunal.

I have assisted a group of residents in Wan Chai for more than a year. I understand their frustration very well and their distrust of the Government as a result. The Administration should not be surprised therefore when people threatened by urban renewal become adversarial. In the present system, there is precious little else that they can do.

Yet, Hong Kong has thousands of hectares slated for urban renewal. This land could be, and should be, used to meet our housing, commercial and industrial needs. In June last year, the previous Secretary for Planning, Environment and Lands stated that he expected urban renewal to provide over half of the annual production of flats by the private sector for the next few years. But this will be impossible without a comprehensive urban renewal policy which addresses the concerns of all those involved.

I fear that the reason for excessive delay in presenting an urban renewal policy is that an executive-led government is incapable of striking the political balance required for a successful policy. This Government has a tendency to view political solutions with distrust. But balancing competing interests is political. Market mechanisms alone cannot strike the balance between compensation, profit and community benefit.

Urban renewal involves Hong Kong's most valuable commodity — land. The goal of urban renewal should be to rejuvenate areas blighted by inadequate building structures and poor environmental hygiene. Urban renewal should improve district transport and provide better community facilities. Gearing these community goals to the financial reality of property development requires the tools of an open political process. Decisions on redevelopment must be checked by political procedures of access to information, public consultation and, if necessary, recourse to an impartial judiciary.

This Administration, however, seems highly reluctant to provide any of the above. While citing this and that difficulty, the Administration has quietly abandoned responsibility for urban renewal. The Government's past efforts to involve the private sector in urban renewal was an excuse to rid itself of the financial and administrative commitment to urban renewal while reaping substantial land premiums. The result is an urban renewal process bent on finding the money necessary to force out tenants in order to redevelop lucrative sites. It does not seem to be about improving communities.

The majority of urban renewal schemes in Hong Kong have involved converting low-density housing into high rise commercial buildings. The burden for rehousing those affected falls on our already over-burdened public housing programme. The Land Development Corporation has been unable to cross-subsidize its less viable projects, nor has the Government granted it permission to co-ordinate rehousing with the Housing Society. For its part, the Housing Society's own Urban Improvement Schemes have been on hold for two years pending a government review.

Madam Deputy, an executive-led government is only credible so long as it leads. The Government has shirked responsibility on urban renewal and instead turned its redevelopment policy towards massive reclamation projects.

Perhaps today the new Secretary can explain to this Council why the Government is putting hundreds of hectares of reclaimed-land next to some of the districts most in need of urban renewal and yet the Government is still unwilling to use the newly reclaimed land to kick start the urban renewal process for these districts. The fact is that unless people now living in areas such as Tai Kok Tsui, To Kwa Wan and Kwun Tong can be rehoused on nearby reclaimed areas, urban renewal and upgrading can never begin in those districts.

Perhaps the Secretary can also elaborate on the inner workings of his Branch and more fully explain the role of the Lands Department in urban renewal. I have been led to believe that urban renewal is stalled because the Lands Department refuses to approve any land allocations which do not maximize land premiums paid to the Government. If that is true, it seems that the long-term objectives of the Planning Department have become hostage to the financial imperatives of the Lands Department.

Madam Deputy, with the Land Fund already over \$65 billion, surely the Branch should have the vision to use some of the reclamation coming on line to channel investment and upgrading into other areas in need.

Compensation is the main sticking point of urban renewal largely because compensation must come from money leftover after a developer pays land premium to the Government. It is plainly obvious that urban renewal in most dilapidated areas is not financially viable if land premiums, compensation, construction costs and all must be paid up-front by the developers.

If the Government is serious about urban renewal then it must be willing to use the full range of its financial tools in order to turn projects into reality. For example, the Government can offer loan injections, defer or discount land premiums, make land swaps and give bonus plot ratios.

That said, I am concerned by Members of this Council who believe that all the solutions to urban renewal are to be found in the administrative and financial reserves of the Government. Experience shows that large-scale, successful urban renewal is impossible without the resources and discipline of

the private sector. The role of the Government is to mediate between competing interest while at the same time offering the full range of its financial tools to make urban renewal a financial reality. I would like to see the new Secretary make this one of his primary top priority to get sorted out for the people of Hong Kong. I would support the motion and I would abstain on the amendment.

MR CHIM PUI-CHUNG (in Cantonese): Madam Deputy, since this topic was discussed twice before, we have, up to now, only nine Members to speak on this motion. Mr Bowen LEUNG, the Secretary for Planning, Environment and Lands, who was Deputy Secretary of the Branch, is not responsible for anything which happened in the past though he is now the Secretary. But it will be his responsibility after today's debate. I hope Mr LEUNG, who is still in the prime of life and had served in an important position as the private secretary of the Governor, can discharge take his responsibility for the community and do his best by applying his knowledge in that Branch.

Madam Deputy, although today's motion was twice discussed, I have reservations about the last part of the motion which urges that people affected by urban redevelopment be rehoused in the same locality. Personally, I feel that it would be marvellous if the Government could pay compensation or arrange rehousing for them. There are in fact a lot of technical, environmental and practical problems if people affected by urban redevelopment must be rehoused in the same locality. This can hardly be achieved notwithstanding personal wishful thinking. So, regarding the last part of the motion, I now have some reservations although I might have supported it in the last two debates. I support the first part of the motion because the Government has, in fact, failed to seriously handle the problem over the past few years. Hence I would like to reiterate one thing: I hope the Secretary will be courageous enough to be decisive: do not attempt the impossible, but deliver what must be done.

I have absolute reservations about the Honourable Mr LAU Wah-sum's praise for the Land Development Corporation (LDC). Of course, my own problem has been solved, there are no more interests for me and I should not mention it again. I just wonder how could the LDC be as good as what Mr LAU said? Fellow Members should understand that it just put a piece of fat meat originally belonging to the former owners into its own pocket. So how can it be described as great? What are the monthly salaries of the high ranking executives of the LDC? And what have they done? The objective laid down when LDC was established in 1988 by the Government was to implement urban redevelopment. But redevelopment should not entail deception or depriving others of their rights and interests. If the Corporation has insufficient funds, it should ask the Government for it. It should make it clear to the Government that \$100 million was inadequate and it needed \$1 billion. How could it expropriate the interests of the original owners by co-operating with private developers and then bragged about its achievements?

In reality, all it did was to invoke the Crown Lands Resumption Ordinance (Chapter 124).

I am quite familiar with the Ordinance (Chapter 124), which lays down four conditions under which land can be resumed. First, sanitary problems; second, obstruction to other people's development; third, in relation to war. None of these three is controversial and should not be invoked any more. The fourth is the only contentious one because it is a condition relating to public interest which is for the Governor in Council to decide. It was the last time when the Honourable Mrs Selina CHOW participated that a piece of land in the Central was resumed under the Ordinance. Thereafter the Government has refrained from invoking Chapter 124 again. Although the Members of the Executive Council are bound by collective confidentiality or collective responsibility, it is a fact that it was stated that at that time this Ordinance would not be invoked again. So although the LDC has been repeatedly saying that it would apply to the authorities for invoking this Ordinance to facilitate the redevelopment of Queen Street, it is fundamentally impossible. It is improper for the Corporation to threaten the owners with such a statement.

Today's motion only urges the Government to review its policy. Will it be reasonable if even a review is impossible? Personally, I think that in some urban renewal projects, such as the Kowloon Walled City, which is really for the provision of public facilities, it was ill fortune for the owners since the provision of public facilities is a good thing. However, how can it be regarded as reasonable if the land is developed by the Hong Kong Housing Society and the LDC jointly with private developers. Personally I think that if the Government is of the opinion that the LDC is so great and its chief executive is so responsible, the Government has the obligation and responsibility to allocate funds to it to undertake redevelopment work, especially the two projects just mentioned by Mr LAU Wah-sum. I estimate that future profits will hit \$7 billion or \$8 billion. Even though land prices may drop, the profits will still reach \$4 billion or \$5 billion, which can be used in other redevelopment projects. The Government has not meant to make the LDC profit-making, so why is it so keen on making money for the Government? The Government's objective of establishing the LDC is to undertake urban renewal projects rather than to make money. So any profit made should be used in a way that the original owners are to get reasonable compensation. This is the most important thing. So I hope Mr LAU, as a director of the LDC, will bring this point to the Board of Directors in future: Do not aim at profit-making or take pride in making profit. It should know that their major responsibility is to have the work done.

A Member of the Executive Council told a newspaper that Mr Andrew LI, the present Chairman of LDC, had mentioned that the LDC needed another 3 000 flats. Mr LI hoped the Government could lower the price or forego the land premium. But after getting what he wanted, he will after all only get a chance to show his ability in making money. So I think these several billion dollars should be used in the redevelopment of the entire older urban area.

Meanwhile, the LDC should offer a more reasonable price to the owners of property in Queen Street and Sham Shui Po where up to now acquisition is still impossible. If LDC does not want to undertake the redevelopment project, the redevelopment plan should be withdrawn so that private developers and the original owners can go ahead with the project themselves. However, the LDC imposes restrictions on them on the ground of town planning. Then what can be done? What can other people do? So the Secretary for Planning, Environment and Lands should review the policy now.

Madam Deputy, with these remarks, I support the two amendments and the original motion.

MR RONALD ARCULLI: Madam Deputy, I have compared the present motion with the last two motions and in essence there is really very little difference in substance. Many of the points made by Members in the earlier debates have not changed, and indeed, many of the difficulties that we have mentioned have not disappeared. They are still with us. However, I have got to give the Honourable James TO one thing for consistency. He is doggedly in his request asking for rehousing of residents of affected premises in the same district. I do not think I would want to repeat all the arguments as to the feasibility or the practicability of that particular request, but perhaps you would have thought that after this period of time we would at least be able to come up with some new ideas. I confess I have not as yet heard any. Perhaps in the review, in the urgent review that no doubt the Administration is going to undertake as a result of today's debate, they may come up with some new ideas.

I would not want to go on with this debate without at least answering some of the criticisms that have been directed at the private developer, which I believe is both untrue and unfair. In terms of the rhetoric that we have heard, in terms of the slogans, again, little has been different in that respect. But a request, really, for flat for flat, or house for house, or shop for shop relocation seems to me to really be asking for something that is beyond the capability of those who are involved in the industry. I just wonder whether those who advance that proposition is suggesting that once someone has become a landlord, do you actually acquire the tenant for life? And indeed, if that is so, who then will be landlords? Pretty soon we will have no landlords. Then where will those who need to rent or do not want to buy, or cannot afford to buy, live? What will they do? I must, therefore I think, seriously question the workability of such a proposition.

Madam Deputy, I now want to say a few words on the question of compensation. I think the private sector, the property sector, have always made it quite clear that they have no problems with reasonable compensation. Of course, what is reasonable really is perhaps similar to "how long is a piece of string". But perhaps we could use the compensation that is payable or paid by the LDC as some sort of comparison. All I say is this, that if the LDC regards

the level of compensation paid for by the LDC as reasonable, then you have got to look at the compensation paid in the context of what the LDC was formed for, what it does, the fact that it is a non-profit-making organization, and the fact that its profits are really ploughed back into the urban renewal process. So quite clearly, they have far more resources, as it were, at their beck and call. On the other hand, private developers, property developers, have shareholders they are answerable to. Without being ashamed they are in business and when you are in business you are there to make money, like anyone who is in business. They are no different.

So, in terms of buying property, be it a property developer or indeed any one of us, surely it is understandable that we would always want to pay the lowest price possible. Sometimes that might be a reasonable price. Sometimes you might pay a little higher. But that is the swings and roundabouts of purchasing things at different times. And indeed, sometimes property developers overpay and they do lose money. Perhaps all of us tend to forget that, but we do have fairly sharp cycles in the property markets in Hong Kong.

Madam Deputy, in May 1994 during the second debate, I made the point that the review that we are about to undertake must ensure that we carry out urban renewal for the benefit of all. It makes no sense at all to impose conditions that will deter rather than encourage urban renewal. Well, quite a few months later I do not think that position has actually changed, and I think when the Administration considers their position and considers what suggestions to come up with, I hope that they will not forget that because there is nothing worse than coming out with a plan that will, as it were, have to be aborted because it pleases nobody at all. Apart from anything else it proves to be not workable.

In conclusion, I would like the Honourable James TO to perhaps clarify the latter part of his motion. He asks the Administration to take extensive consultations including, I hope and I assume, all the relevant industries, not least of which my constituents. But I have a query about his request for ensuring that residents will be rehoused locally and reasonably compensated. What would happen if, as a result of the consultation, the public, including those who are on the Waiting List for public housing, feel that rehousing in the same district or locally is really not on and that they are being passed over? Would the Honourable James TO accept that proposition?

Madam Deputy, with those comments, I regret that I cannot support the motion.

THE PRESIDENT resumed the Chair.

MR STEVEN POON (in Cantonese): Mr President, urban redevelopment is a complex issue involving four parties: the landlord, the tenant, the developer and the Administration. In the course of redevelopment, the first two things that need to be taken care of are acquisition of properties and compensation for residents.

The purchase of properties by developers from landlords is a commercial act in which purchase prices are negotiated by purchasers and vendors. The Administration is not entitled to intervene.

The amounts of compensation that need to be paid to residents are regulated by the Landlord and Tenant (Consolidation) Ordinance, an ordinance passed in this Council. If a resident is not satisfied with the compensation, he or she may appeal to the Lands Tribunal, which will fix a reasonable compensation according to law. What actually happens is that compensation paid by developers to residents usually exceeds that required by law. So there is no question of unreasonable compensation made by developers.

Why then are there so many disputes in urban redevelopment despite the existence of laws governing property acquisition and compensation for residents? The reason is that urban redevelopment has uncovered the problem of insufficient public housing. Urban redevelopment transfers such social problems to developers. This causes difficulties and gives rise to social unrest and disintegration.

Urban redevelopment takes place chiefly in old areas, in which scores of tenants may be found living on a floor in an old building. They have been on the list of those who should have long been given public housing. However, they have been forced to live in dilapidated buildings in crowded conditions because there has not been sufficient public housing. Once these old buildings are demolished, their housing problem, which has been covered up, becomes uncovered. The compensation they get should enable them to afford the rent in another accommodation of a similar size for one one to two years. This, however, is not a reality because most of the tenants in these old buildings simply cannot afford the rents of nearby new buildings as the rents are much higher than those of their original old ones. When they manage to rent a place in another old building, they succeed only in moving from one crowded, dilapidated place to another. This just means that their housing problem first surfaces and then is covered up again, without ever having been solved at all.

Mr President, the poor living conditions in old areas are a social problem. The problem becomes transferred to developers who initiated redevelopment. I think it is rather impossible for developers to take the social responsibility of rehousing residents in the same locality.

Being commercial organizations, developers operate according to commercial principles. Requesting developers to shoulder the responsibility of rehousing residents in the same locality would make redevelopment commercially unviable at the end of the day, making it impossible to redevelop. As a result, old areas and dilapidated buildings stay the way they are. The living conditions of tenants there continue to deteriorate. These tenants remain forgotten by society. Consequently, no one benefits.

Developers find it impossible and commercially unviable to rehouse tenants in the same locality because they cannot find housing units there. The reason is that, to do this developers must first construct buildings for rehousing purposes in the vicinity of the areas under redevelopment, but land is not available there. Even if it is, it does not belong to the developer or is not wholly owned by one.

Usually, on a floor of caged apartments in an old building, we can find scores of tenants dwelling there. To rehouse them in socially acceptable living conditions of today would require space four to five times that of their original dwelling places. That is to say, one floor of caged apartment would require four to five floors of a new building for rehousing. This is hard to achieve from either a commercial or practical viewpoint.

The phrase “rehousing in the same locality” is nice to hear; but what implications does it have? Many are not clear about or even avoid discussing the answer to that question. Even if developers own premises in the same locality for renting out to tenants affected by redevelopment, a number of questions arise: Would developers be required to waive payment of rents, or collect rents at the same level as for public housing, which are hardly sufficient to cover maintenance costs? Should rent increases for such premises in future match those of public housing? How should rehousing eligibility standards be set and prospective tenants scrutinized? Would developers be charged with the responsibility of continued management of these premises? Are tenants rehoused in this way still entitled to public housing? Should there be premises with different specifications to cater to the different financial and family back grounds of those rehoused? All of these questions cannot be easily answered, but developers would surely be discouraged by them.

Mr President, as I said, the problem of rehousing can be traced to insufficient public housing. Redevelopment only uncovers the problem but does not create it. The Administration should come to grips with the source of the problem.

I have always maintained that rehousing problems uncovered by urban redevelopment can only be effectively solved by the Housing Authority. The Administration should grant lands to the Housing Authority at no premium. The Housing Authority should utilize the lands as a kind of social welfare and conduct rehousing in accordance with existing rules. For Hong Kong, one Housing Authority is sufficient. Developers need not set up individual housing

authorities among themselves. Perhaps, the Administration may consider transferring to the Housing Authority for rehousing purposes the compensation paid by developers to tenants required under the law. In fact, I made this proposal in a similar debate in June or July 1992 and I did so as well personally to the Chairman of the Housing Authority. I hope the Administration may follow up the matter. On 1 July 1992, the Administration promised to complete as soon as possible a review for the Land Development Corporation. It has been three years since, and the review remains unfinished. I hope the Administration can expedite it.

I so submit.

MR LEE WING-TAT (in Cantonese): Mr President, I rise to speak on a number of main points. Some other main points have been discussed by my colleagues, which I will not repeat.

The first point is about the overall objectives of the Urban Renewal Scheme. As the Honourable YEUNG Sum and the Honourable James TO have said, if by urban redevelopment the Government aims to ameliorate the urban environment, or to take the opportunity of redevelopment to resolve some of the existing inadequacies in urban planning and provision of amenities, or to improve on the run-down and over-crowded living environment, then the Government must commit itself financially to such redevelopment. If the Government wants to give out a mere \$100 million (in fact, the Land Development Corporation did not get \$100 million, only tens of million) to fully redevelop Wan Chai, Quarry Bay and the several districts on the Kowloon Peninsula, that will really be fantasy. If that could be done, then the Hong Kong Government would really be a super Mr Fix It. Using only a few tens of million dollars to face-lift to everybody's satisfaction an urban area with hundreds of thousands of population would be a fabulous myth. Now the problem is this. The Government wants to undertake a big project, but is only willing to furnish scanty resources and monies, not to mention provision of land.

The second point is about urban redevelopment undertaken by the public and private sectors. Obviously, as everybody knows, private developers have to consider the question of profits. Therefore, it is out of the question to rely on private developers to address the needs of all residents affected by urban redevelopment, unless the developers are philanthropists. Therefore, my personal view is that if urban redevelopment is undertaken by the public sector, including the Land Development Corporation (LDC) and the Housing Society, it can be better planned, better run, more systematic and with better results. There is one important aspect about urban redevelopment projects undertaken by the LDC and the Housing Society, which I pointed out some time ago in a Legislative Council Housing Panel meeting, and that is about the amount of resources available to them for rehousing the affected residents, that is to say, the tenants. This is something the urban redevelopment scheme fails to take care

of right from the beginning up to the present moment. Private developers handle this matter by means of a simple rent compensation scheme, but this compensation will be used up very soon and in the end residents' housing problem will be left unresolved. The only thing solved will be developers' real estate development, so that they can make profits out of it. As for the residents, they just move from one run-down area to another run-down area.

If the project is undertaken by the public sector, including the LDC and the Housing Society, the Government must provide resources of some sort, the simplest one being land. In the last meeting of the Legislative Council Housing Panel, we discussed an idea called Link Projects. It is similar to the redevelopment scheme for the public housing estates. In the redevelopment scheme for public housing estates, the Housing Authority or the organization concerned will first be given a piece of land at a specific location where a new building will be built. The first batch of residents affected by redevelopment in nearby old housing estates will then move into the newly built building. The first batch of vacated old buildings slated for demolition will be ready for the second batch of affected residents to move in. By means of such step-by-step approach, there will be sufficient numbers of flats. The same procedure can be applied to urban redevelopment.

Right now several large pieces of land are available in the urban area. One of these lies within the West Kowloon Reclamation area. However, it is regrettable that according to the Outline Zoning Plan, the Government has not allocated any land to either the Housing Society or the LDC for the purpose of carrying out the Linked Projects. I hope in his reply later Mr LEUNG will say whether or not the Government is interested in studying the workability of such Linked Projects. The second large piece of land will be the one in the Southeast Kowloon Reclamation area after the existing airport has been relocated. Plenty of land should be available there for the building of Linked Projects. If the Government is really determined to get on with this but stops short of giving assistance to the Housing Society or the LDC in terms of land resources, it will be very difficult for the institutions concerned to carry out their work. The Chairman of the LDC, Mr Andrew LI, said last week that money was not their concern, for they had earned quite a lot. The problem now is whether land is available to rehouse the affected residents. If the LDC or the Housing Society can be allotted the first batch of land, then by means of Linked Projects, I believe they will have less difficulties in carrying out the urban redevelopment scheme.

The fourth point is about the problem which invariably arose in the past few years whenever the Government, the Housing Society or the LDC initially designated a certain area as subject to urban redevelopment. The problem is that many people would move to live there. From redevelopment being first announced to redevelopment eventually getting under way, the process may take two to three years or even seven or eight years. The seven streets in Tsuen Wan is a case in point. From the moment redevelopment was first announced up to now, the population of that particular district increased by 50%. I have

discussed with the LDC and the Housing Society to see if there are ways to freeze the number of tenants at the time redevelopment is announced, so that when redevelopment actually takes place, there will not be a sudden upsurge in the number of residents. It is this problem that accounts for the LDC and the Housing Society's refusal to be responsible for rehousing tenants, because there are vast numbers of tenants to be rehoused.

The last point relates to the Housing Authority (HA). I am a member of the HA, and I think the HA should lend a helping hand. The problem is that the HA has its own terms of reference, such as clearance of the Temporary Housing Areas and administering the waiting list for residents of squatter areas. As regards what help the HA can give, I think that, given HA's experience and ability in conducting projects, if land is allocated by the Government, the HA can build at a speed faster than the LDC and the Housing Society. And this will help solve the rehousing problem.

Mr President, with these remarks, I support Mr James TO's motion.

PRESIDENT: Mr James TO, do you wish to speak? You have five minutes to speak on the amendment.

MR JAMES TO (in Cantonese): Mr President, this is my reply in respect of the amendment.

Firstly, rehousing in the same locality mentioned by Mrs Selina CHOW refers to such manner of rehousing as far as possible. In the absence of other accommodation, residents should be provided with rehousing in the same locality as far as possible. Please note that she was saying "as far as possible". In addition, she thinks that it is undesirable for people who have means to abuse resources and for people who do not have real needs to jump the queue in getting public housing. This, I basically agree to.

Rehousing in the same locality is already an established policy of the Housing Society and the Land Development Corporation (DC). However, Mrs CHOW's demand is only for an "as-far-as-possible" same-locality rehousing. This demand is even weaker than the established policy of the Housing Society and the LDC, both of whom have been under severe criticism.

Secondly, we all intend to prevent the phenomenon mentioned by Mrs CHOW from happening, that is, we want to prevent people who have means from abusing resources and those who do not have real needs from jumping the queue. Indeed, the LDC has a system in which residents' incomes and accommodation are examined. In addition, rents, which are fixed at an affordable level, are linked to their incomes. Such a system should clear Mrs CHOW's worries.

Furthermore, Mrs CHOW was saying that rehousing in the same locality is impossible and therefore should be done as far as possible. As a matter of fact, LDC and the Housing Society know very well that the aim of redevelopment is to improve the environment and to benefit residents. One of the principles they hold is therefore that redevelopment should be deemed a wrong move if it fails to improve the environment for the residents. They very much hope the Administration can provide reclaimed land and funds to enable them to implement rehousing in the same locality. I would like to share with Members a document entitled *West Kowloon Development Statement Consultation Digest* published in May 1994 by the Planning Department. In this document, the Planning Department for the first time acknowledges the importance of same-locality rehousing. I am glad that the Planning Department one with a conscience. Let me quote part of what is said on Page 21 of Consultation Digest: "So far no rehousing obligation is attached to redevelopment by the private sector (except the LDC). There is a need to provide affordable local rehousing in West Kowloon due to high concentration of low income and elderly tenants. Possible sites which could help meet the rehousing demand in West Kowloon have been identified." Hence, it can be seen that the government department concerned confirms, after research, that there should be same-locality rehousing in the concept of planning. The sites needed for same-locality rehousing have also been identified. So, I do not believe that identifying land for such manner of rehousing is a problem.

Moreover, I hope Members can support my original motion. A motion put last year with identical wording about same-locality rehousing was carried by 28 votes without any votes against. This constituted a consensus in the Legislative Council. However, this year, we took a step backward because of an amendment we passed. That is to say, last year we demanded same-locality rehousing, but this year we demand same-locality rehousing as far as possible. It seems that, at a conceptual level, the Legislative Council has taken one step backwards on its own accord and in the absence of any new circumstances or new ideas.

Frankly, I do want to convince Members that I am trying to press the Administration to quicken its work, and to implement same-locality rehousing. If the Administration cannot implement the same, it should explain to us, with good reasons. It may achieve, say 90% or 80% same-locality rehousing, and we may reach a compromise. If the Administration adopts a stalling attitude, fails to complete any report and cannot give good grounds for its inaction, then after a year we say: Let us take one step backwards. We may end up with having to take yet another step backwards saying that same-locality rehousing is not really necessary, when the Administration fails again to complete any report on the matter in the following year. This will not help solve the problem. So, I very much hope that Members can support my original motion. Same-locality rehousing should not be qualified. "As-far-as-possible" same-locality rehousing would mean an "as-far-as-possible" urban development, an "as-far-as-possible" collusion between businessmen and the Administration, an "as-far-as-possible" crown land resumption, and residents will need to suffer "as-far-as-possible".

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, the Administration share Members' desire for an open discussion on the urban redevelopment policy and has made known its intention to review the present position to work out strategies to facilitate and expedite urban renewal. Therefore, I thank Members for voicing their views in the debate, though some of them do take time to consider. Members also said the Government did not seem to have any comprehensive, long-term planning, and demanded an explanation from the Government tonight. In response to Members view, I would like to explain tonight in detail the Government's line of thought and its current plan. This might take quite some time. It might take what Members have spent altogether in their speeches.

To begin with, it is necessary, I believe, that we clarify the concepts involved. Right now many people are either discussing or criticizing the issues brought about by urban renewal. In fact, what these people are referring to might be the problems brought about by rebuilding buildings instead of a large scale urban redevelopment that we generally conceive of. Urban renewal and rebuilding buildings are two different concepts. So, insofar as urban renewal is concerned, we admit that urban renewal is a complex issue both technically and emotively. Why? Because it affects groups in the community whose interests do not always coincide. Yet we have to go through this process and those interests must somehow be reconciled. First, the community as a whole clearly has an interest in urban renewal to improve the urban environment and to ensure that obsolete buildings are redeveloped to make the best use of land to supply the housing, open space, recreational and community facilities, shops and workplaces we need. Second, are the property developers, who have a commercial interest in redevelopment and without whose financial resources and expertise many urban redevelopment projects would virtually have happened at all. Finally, and perhaps most importantly, are the many people whose homes and workplaces are to be affected by redevelopment. No urban renewal policy which is to have any chance of winning acceptance in the community can ignore their interests.

The complexity of the issues involved in urban renewal I have related just now has caused the review to take more time than we would have wished. But I must reject the allegation in the Motion that the Administration have employed delaying tactics. It would not serve the Administration's interest in delaying this important matter. It is simply that the complex and difficult issues take time to address and require us to proceed carefully. The Administration indeed have to devote a considerable portion of staff resources to examine the issues in detail. I am nevertheless pleased to say to Members today that our review is now substantially complete after a long series of consultation within the Administration and with the agents involved in urban renewal. Some of the views are very similar to what Members expressed just now. We shall soon be ready to consult outside the Administration, including Members of this Council and the many groups with an interest in the subject.

Although we would still need to finalize a number of details, I would like to describe today some of the main ideas and concepts which the Administration have been developing and which we think would offer a way forward on urban redevelopment in future. Yet I must stress that these are not yet policy proposals but rather suggestions which we believe will set the direction of policy on this issue.

I would like to begin by drawing Members' attention to the scope of the problem. This can be broken down into four fundamental aspects which any urban renewal strategy has to address:

First, site assembly. Developed land is almost always occupied by existing buildings in multiple and fragmented ownership. Before redevelopment can happen, all the separate property interests — often literally hundreds — must be acquired;

Second, relocation of residents and businesses in the affected area. This is perhaps the most difficult problem of all and the one with the greatest human consequences;

Third, financial viability. We have to balance the interests of property owners on one hand, and the revenues needed on the part of developers to pay for the land, construction and other costs on the other. The Honourable Dr YEUNG Sum made reference to a project in Kennedy Town which the Housing Society has nearly ventured not to proceed in fear of losing \$300 millions. Now consider the risks private developers participating in urban renewal have to take into account if even the Housing Society, with so much support from the Government, would have had such a worry.

Fourth, social gain. We need to consider whether and how the mechanism of urban redevelopment can be best employed to bring about improvement to the redeveloped area in terms of reduced living density and improved community facilities. We will also need to balance this against the social cost brought about by redevelopment.

Urban redevelopment in Hong Kong has traditionally been undertaken by either private developers or agents such as the Land Development Corporation (LDC) and Housing Society. The difficulties I have just described make redevelopment more risky than green field sites to a private developer. But private developers have done much in the past and it would be useful both to Hong Kong's development and private flat supply to see them continuing in this area. Nevertheless there are cases where redevelopment is only marginally viable or not viable at all. In addition, as more and more old low-rise properties have already been redeveloped, private sector redevelopment is becoming less attractive and harder to implement. In recognition of this problem, the Government set up the LDC in 1988 to undertake projects which are too difficult and too risky for private developers acting alone. As some

Members have mentioned, the early years of the LDC have not been without problems — and many valuable lessons have been learned — but overall the LDC has achieved some important successes. There are a number of valuable urban renewal projects now being constructed, which would not have gone ahead without the LDC. We now want to build on that foundation as the operation of the LDC reaches maturity and moves on to its second phase of projects.

Mr President, I would now wish to describe the solutions which the Administration have been developing to tackle the problems I have just related.

First, site assembly. In many instances resumption is the only realistic way to bring together the separate property interests needed for urban renewal projects, which is often the greatest obstacle to urban redevelopment. We therefore envisage continued use of the LDC mechanism. We have considered very carefully whether the use of resumption powers should be extended to projects proposed directly by private developers. On balance, our conclusion is that this would be going too far. The resumption of private property by Government using statutory powers is a very serious step and not to be undertaken lightly. Private developers are, after all, commercial interests and we believe it would be wrong to use Government's powers to support a private development scheme directly, even though there may be significant community benefits in doing so.

Nevertheless, it has also been put to the Administration that in cases where developers have worthwhile projects, they should be able to approach the LDC to implement them on a joint venture basis. If this idea is found to be agreeable, the Administration may wish to consider setting some criteria, in conjunction with the LDC Board, on the type of scheme which would be suitable. These criteria would include the level of housing production and community benefits arising from the scheme. All the rules which apply to the LDC's other schemes can continue to be applied to such joint ventures and the developer would be expected to fund the LDC's acquisition efforts and relocation package.

The Administration can also consider ways to speed up LDC projects by, for example, setting up a special team to undertake resumption work in support of its schemes. Of course, there will continue to be checks and controls to protect the rights of the affected owners. Indeed we are looking at tightening these up by making greater use of an existing provision under the LDC Ordinance to employ independent valuers to verify that the LDC's offers in purchasing properties are fair and reasonable.

Participation by property owners themselves in individual redevelopment projects is another possible solution to the site assembly problem. The LDC has already experimented with this approach but it has proved much harder to implement in practice than it sounds in theory. This is because it is extremely difficult to persuade a large number of individual property owners to redevelop

and to get them to agree on the terms on which this should be done, especially regarding the financial arrangements. Also, we should not lose sight of the fact that redevelopment projects face certain financial risks and smaller property owners might not wish to invest the value of their homes and businesses in such projects. Nevertheless, we believe owner participation has a role to play, particularly where there are larger owners with properties which are capable of separate redevelopment. Inviting such owners to participate in projects will reduce the need for resumption, and simplify the acquisition process.

The next problem is the relocation and rehousing of tenants as opposed to owners. Experience has shown that it would be necessary to cater for both domestic and commercial tenants.

Let me start with looking at domestic tenants first. The experience of the LDC is that some tenants are willing to accept cash compensation for the disruption involved in relocating to other private rental property. There are therefore merits in continuing with the option of cash compensation. But we also recognize that the ability to rehouse tenants is a major factor in the success or otherwise of urban renewal projects. Indeed, the supply of rehousing flats is a major constraint on the LDC's operations. Clearly, land will be necessary for building rehousing flats. Land has been made available to the LDC for such purpose in the past. More would be needed in the urban area in future. An alternative would be for the LDC to co-operate with the Housing Society which also has experience in redevelopment projects and expertise in the provision of affordable housing and management. There is therefore an opportunity for synergy between the two bodies. The LDC could become the land assembly and redevelopment agent and contribute funds to enable the Housing Society to be the rehousing agent in redevelopment schemes.

We would also wish to examine one of the original concepts behind the establishment of the LDC, which is urban decanting. The approach involves the granting of a site to the LDC to kick off rehousing arrangements for a particular scheme. When that area is subsequently redeveloped, flats in that new development are used for decanting residents from the next scheme. This means a renewed emphasis on housing in LDC projects rather than commercial development, although we still wish to see the LDC continue providing new commercial space to service the redeveloped properties and ensure balanced development. Additional land may have to be injected into the system from time to time.

Mr President, I must pause here to sound a note of caution, one that we have to mention. We recognize the desire of many residents to remain close to their old homes and the difficulties they face if compelled to move away to other districts. But rehousing in the same district is simply not possible for all cases. A Member asked why the Planning Department would have raised this possibility at all in a report on West Kowloon. It has to be clarified that the West Kowloon referred to in that report is more a sub-region than a district like Mongkok or Yau Ma Tei. If we are talking about a place of that size, it might

be possible that there are land available for such an arrangement. In fact, that is what we will do. The only thing is that, rehousing in the same district is simply not possible for all cases.

Urban renewal requires the lowering of development densities in the main urban areas and that means that some of the original residents have to move away. Simply building ever higher blocks of flats is not the solution. Infrastructure provisions such as transport, sewers, water supply and all the other essentials of urban life cannot support ever increasing numbers of people in the same amount of space. The urban environment can only become further degraded and most of the planning gains lost if we go down that route. Therefore, the Government supports in principal the Honourable Mrs Selina CHOW's amendment to the motion. The Government fully recognizes the problems redevelopment brings to the tenants. The current Landlord and Tenant (Consolidation) Ordinance provides that the compensation landlords should pay to the tenants should be 1.7 times of the rateable value. In reality, the compensation is actually much higher than that.

Members talked about increasing the payment of compensation, but in the end money alone might not be the whole solution to the problem. We recognize the fact that many tenants have a need for housing, and a moment later we will introduce a concept which gives private developers more opportunities to work with the LDC. Working in co-operation with the LDC might lead to more possible solutions to address the rehousing issues. But on the other hand, let us not forget that the Housing Authority (HA) already has arrangement in place to advance the waiting time by six months to those redevelopment-affected tenants whom have already enlisted in the Waiting List. In other words, when affected by redevelopment, tenants who have applied for public housing and whose names have appeared in the Waiting List for six months will have their waiting time advanced to 12 months as a result of redevelopment. To those who have yet lodged any application, whose names are not in the Waiting List, and who lodge an application only as a result of redevelopment, they will be taken as having lodged an application for six months already. According to past experience, a private redevelopment project, or other redevelopment projects as well, takes time to implement, and under this arrangement, if tenants are not selective on the districts, than most likely when the building concerned is about to be demolished the HA would have already been able to arrange certain public housing units for these tenants, though these units may not be in districts of their choice.

On the other hand, the HA policy is that compassionate rehousing can be arranged to persons with special needs, like single elderly or families with special needs. The aforementioned arrangements will be able to address, I believe, part of the, if not the whole, issue. We may continue to seek further improvement.

Turning to commercial tenants, the Administration is aware of the need to provide options for those affected by redevelopment. We know that some will continue to be content to accept cash compensation and wind up their businesses. Others will however want to remain in businesses. It may therefore be useful if interest-free loans could be devised to enable such operators to fit out new premises to relocate and possibly upgrade their businesses. It may also be possible to offer commercial units in rehousing blocks or in the redevelopment projects themselves to affected tenants.

Another problem encountered in redevelopment cases are informal businesses operating without proper tenancies and often occupying very small spaces underneath staircases. They are eligible only for *ex-gratia* allowances under the current policy. The level of these allowances may have to be reviewed to moderate the effect of redevelopment on them.

As regards financial viability, the opportunity for private developers to enter into joint ventures with the LDC will help reduce the risk of projects and mobilize private capital. A linked site approach could also be tried out, as Members have pointed out. Let me explain the concept involved. This could take the form of granting a site to the LDC or the Housing Society for the construction of rehousing flats to be linked specifically to a particular project. Alternatively, a site on new land, possibly on reclaimed land or in the New Territories, could be granted to a developer to be developed in the normal way, on condition that he also took on the development of an urban renewal site which was not, in itself, commercially viable. The developer would pay a premium based on the value of both sites and would be expected to use profits from the viable site to subsidize the non-viable one. I should emphasize that this is a new idea and requires careful consultation with the industry and with the Sino-British Land Commission. Initially we envisage limiting the early phase of this approach to LDC projects.

Mr President, I have given a brief overview of the ideas on which the Administration wishes to exchange views with Members of this Council, the general community and professionals in the development industry in the near future. I do not pretend that they represent a panacea. As a matter of fact, there is no quick and easy solution to the problems of urban renewal, as experience in cities throughout the world shows us. What we have to do is identify long-term strategies to at least reduce and moderate the individual problems inherent in urban renewal, for some of them admit of no complete solution.

Mr President, it behoves me to say something about timing. I have heard attentively from Members tonight in this debate; much of it thoughtful and constructive; and some critical. I shall take all these views into account and put the ideas I outlined into a consultation document; short but going into rather more detail than I have been able to tonight. That document will be sent to the Planning, Land and Works and Housing Panels of this Council, District Boards and to other organizations and groups with an interest in this issue for their

views and comments. I hope to do so before summer this year. Based on the views to be collated, we shall work out our final proposals and an implementation strategy by autumn this year. Thereafter, we intend to select a number of pilot projects to test out the measures to be adopted.

Mr President, in spite of the fact that Mrs Selina CHOW has moved an amendment to the motion, I am afraid that the rhetoric of “extreme regret” and reproval in the wording of the Motion and the amendment forces me to oppose it on behalf of the Administration. Nevertheless, I hope that Members will agree that what I have said tonight demonstrates our commitment to getting to grips with this vitally important issue. I also hope that I can look to Members for their support and assistance in formulating workable policies which will lay the foundation of a better urban environment for Hong Kong in the decades to come.

Thank you, Mr President.

Question on the amendment 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.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr Martin BARROW, Mrs Miriam LAU, Mr LAU Wah-sum, Mrs Elsie TU, Mr Peter WONG, Mr Moses CHENG, Mr CHIM Pui-chung, Dr LAM Kui-chun, Mr Steven POON, Mr Howard YOUNG, Dr TANG Siu-tong and Mr James TIEN voted for the amendment.

Mr Martin LEE, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr Conrad LAM, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin and Mr Roger LUK voted against the amendment.

Miss Christine LOH abstained.

THE PRESIDENT announced that there were 17 votes in favour of the amendment and 18 votes against it. He therefore declared that the amendment was negatived.

PRESIDENT: Mr James TO, you are now entitled to reply and you have eight minutes 24 seconds out of your original 15 minutes.

MR JAMES TO (in Cantonese): Mr President, first of all, I would like to say “thank you” to all Members; at the same time, I am really very grateful to the Government that it finally responded today. Although the Government said that what it put forth today was not a policy, whether it was a balloon or a proposal, what the Government put forth today can still enrich the content of our discussion. Then we do not have to move a motion again next year to condemn the Government because that will be very distasteful.

Like most people in Hong Kong, the Democratic Party affirms urban redevelopment. We are not against the developers making profit because without them, there would not be a balanced participation in society. Most colleagues think that in the past three years, the Government did have put things off. The Government said that it has not intended to have delays and it has had deployed much manpower to deal with the problem. But I have not seen the Government doing so. Frankly speaking, the Planning, Environment and Land Branch has many problems on hand in the past few years. If this the case, however, the Branch should have requested the Government to provide them with more staff, to create a few more principle assistant secretary positions or hire more staff to handle the entire task which should be accorded priority. The problem as I see it not only appears in the Planning, Environment and Lands Branch but in other policy branches as well. One simple example: the Principle Assistant Secretary of the Security Branch with the police and police manpower portfolio is almost dying of exhaustion because of his workload. Should the Government consider more flexible deployment of administrative officers?

The Government really put the Land Development Corporation (LDC) into a difficult position in the past. Just now the Honourable LAM Wah-sum said that the LDC had done a lot of good. No one says that the LDC has done nothing good. Instead, it does have some achievements. Nevertheless, as the Honourable CHIM Pui-chung has said, the LDC was only dealt a hand of good cards, it can take other people's land to fatten itself, and share the profit with the developers. While what it builds are good things, and no one says that they are not good, the pain, bitterness, resentment and suffering behind them all are covered up.

Therefore, we are not saying that any particular deed of the LDC is bad. It was only that the Government had put the LDC in such a position that it had to be unscrupulous. It had gave the LDC a credit line for \$100 million but the LDC only used \$30 million and had to pay interest for it. Are we to ask the LDC to mortgage the Crown Lands Resumption Ordinance for a \$5 billion loan from the bank? This is impossible. Hence, the LDC could not but sacrifice the interest of many residents and property owners of the first phase. After it has made profits in billions of dollars, it can turn around to be charitable. This is no different from giving charity after robbing someone. Mr CHIM is one of our familiar victims, but many victims do not have the chance to voice their views in this chamber.

What the Secretary for Planning, Environment and Lands has said seems merely to spread the responsibilities. The good thing is that his proposals will make use of the individual strong suits of the various organizations and enable each to have its own edge over others. For example, he sees that the Housing Society and the Housing Authority have a large number of rental units while the LDC, having robbed others and forced the property owners to receive cash compensation, has a profit of a few billion dollars and therefore has the money to do charity and can co-operate with the two organizations.

However, it appears that the Government has not yet resolved the problem, that is, what about the Government's role? It seems that its role was confined to doing only one thing. It is that when Chairman Mr Andrew LI said they needed land in Kowloon West or other areas to rehouse the people, the Government gave them the first plot. This is the so-called kick-off. The LDC can then rehouse the people one by one at a leisurely pace. But can a piece of land or a small plot really ensure that profits will keep rolling in? Unless the LDC applies the commercial principles to the very extreme, that is, to give very little compensation and try to impose harsh rehousing conditions; otherwise, the Government's idea of merely to spread its many responsibilities around while itself making no commitment is just like what the Honourable Mrs Selina CHOW called "redevelopment at no cost". There never can be such a big bargain. The Government must at the same time take care of the extra-social benefits, improvement of the environment and the well-being of the public and it has to invest in other welfare services as well.

In addition, we must not forget that after the environment of an area has been improved, the local residents are not the only ones to benefit. When its vicinity is developed, whether by a private developer or anyone else, there will be a thing called "added value" and the Government's revenue from stamp duty and the like will also increase. But the Government takes no account of all these invisible benefits at all. There is no such bargain as "development at no cost". If the Government is not willing to inject capital or allocate land, all its other efforts are just like "using a cup of water to put out the fire of a cartload of firewood", simply futile.

The other proposal of the Government, on the whole, centres all the while around financial viability. I do not object that the project must be viable. Anything not viable simply cannot be done. But should we consider the priority? If a district is particularly dilapidated or urgently in need of improvement, does it merit a higher priority? If an old district is extremely run-down, with drainage pipes broken, sewage everywhere, poorly kept law and order and is also a hotbed of crimes, the Government has to redevelop it even if it has to pay for it. There are costs that the Government has not taken into account. For example, in Tsuen Wan, 40% of the police manpower is spent on patrolling; and when patrolling the neighbourhood of the Lady Trench Methadone Clinic, the police has to do the so-called highrise patrolling, to see if there are drug addicts giving shots to themselves or harassing the residents. All these costs are not taken into account by the Government. Does Tai Koo Shing need highrise patrolling by the police? There is no need. Hence, has the Government considered the money thus saved? In fact, much of these savings must not be forgotten.

Now, it seems that without even flying a balloon to test the wind, the Government has decided not to help private developers acquire land, saying that to do so would be going too far. I congratulate the Government that it still has retain a bit of conscience. However, the Government next said it would hire independent valuers to appraise if all is reasonable. The problem arises from here. I, of course, do not wish to see property owners demanding huge compensation and unrealistically wishing to receive the profits upon redevelopment. But actually, should property owners share part of the profit gained after redevelopment? It is true that the LDC has the power to acquire land so that areas where redevelopment has not been possible can now be redeveloped. But please remember, determining whether land with separate titles can be redeveloped may often be very subjective. Therefore, we need to be very careful. If the Government designates comprehensive redevelopment areas too easily but abandons the plans whenever there is a slight fluctuation in the property prices, then the residents of Tsuen Wan, West Point and so on will have much to suffer. The Government needs to review the whole process, not just the example cited just now.

Moreover, as regards the Crown Lands Resumption Ordinance as mentioned by Mr CHIM Pui-chung just now, there have been many cases of abuse. Take Tsuen Wan again as an example. In a particular case, only 4% of the land resumed was needed for building a bridge and there was just adequate land for the road to pass through. But instead, the whole lot was resumed and subsequently auctioned away. How can this be considered the behaviour of a government with moral principles? Mr CHIM Pui-chung said that the Executive Council rediscovered its conscience and would not dare to apply the Ordinance this way in future. I do not know if what he said was true, but I hope that he was right. I also hope to know in the coming year, if the Executive Council membership changes, whether the Government will still apply the same principle to resume land. This is also a great doubt to me.

Mr President, I cannot make a reply to all the Members who have spoken one by one. I conclude my speech here but I hope that everyone would put forth detailed suggestions for the Government's reference so that urban redevelopment can be better conducted.

Question on Mr James TO's motion put.

Voice vote taken.

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

Mr James TO claimed a division.

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 Martin LEE, Mr SZETO Wah, Mr TAM yiu-chung, Mr Andrew WONG, Mrs Elsie TU, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr Conrad LAM, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong, Miss Christine LOH, Mr Roger LUK and Mr LEE Cheuk-yan voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary and Mr Martin BARROW voted against the motion.

Mr Allen LEE, Mrs Selina CHOW, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Peter WONG, Mr Moses CHENG, Mr Steven POON, Mr Howard YOUNG and Mr James TIEN abstained.

THE PRESIDENT announced that there were 23 votes in favour of the motion and four votes against it. He therefore declared that the motion was carried.

DEVELOPMENT OF FISHING INDUSTRY

MR LEE WING-TAT moved the following motion:

“That, in view of the implementation of the port and airport development works resulting in the deterioration of the marine ecological quality of Hong Kong waters, the marine catches of fishermen have been significantly reduced thus seriously affecting their livelihood and the survival of the fishing industry, this Council urges the Government to put in place expeditiously a policy on fishing industry to ensure that the industry can survive and develop, and to review the rate and calculation of ex gratia payment for the affected fishermen so that such payment accurately reflects their losses.”

MR LEE WING-TAT (in Cantonese): Mr President, this session of the present term of the Legislative Council is coming to an end soon. As one of the Members returned from the first direct election of Hong Kong, I have all sorts of feelings welling up in my heart when I look at my work over the past four years. Today when I move the motion in relation to the fishery development and the issue of compensation on behalf of the Democratic Party, I am worried as well as angry. This subject has been our concern ever since my colleagues of the Democratic Party and I became Members of the Legislative Council. I cannot remember on how many public occasions we discussed this matter with government officials through every possible means. We put forward suggestions, arguments and data, hoping that the Administration would review its policy and actively tackle the problem. However, government officials could always manage to spend two to three years' time going round and round, refusing to face up to the problem. Only when they could not evade any longer, they conducted some sort of research and study in order to linger on for another year or two, or even two or three years. We are angry because such delay will only make the lives of the fishermen even more difficult; we are angry because we cannot accept that, living under the same sky as we are, some people and organizations have to suffer and are treated so unfairly, whilst the Government will ultimately be benefited from the airport projects.

Mr President, I would like to explain briefly what impact the infrastructural projects have on the fishermen and how badly they suffer.

During the '80s, though Members may not be aware, the catch of the local fishing industry was on the increase and reached its peak at 234 000 tonnes in 1989. But ever since the commencement of the Airport Core Programme (ACP) projects, the quantity of catch has been decreasing. The total catch for the year 1993, when compared to 1989, dropped by 15 402 tonnes, representing a decrease of about 6.7%. And for the same period between 1989 and 1994, the number of fishing vessels dropped from 3 800 in 1989 to 2 600 in 1994, reduced by a substantial 32%.

In our view, the decrease in catch is a result of the sand-dredging and mud-dumping works which have caused damage to the marine ecology in the inshore waters. To quote a piece of evidence, the fish production of the inshore maricultural fishing grounds for that particular period decreased by 12%. Besides, the fact that the number of fishing vessels saw a bigger reduction than fish catch shows that fishing vessels which quit are mostly those less productive ones previously operating in the inshore waters.

Quitting is not an option which the fishermen would like to take. But other than that, what alternatives do they have? According to a survey conducted in 1992 by the office of the Honourable Albert CHAN and us in conjunction with a fishermen's association in Cheung Chau, the catches of the fishermen in Cheung Chau were only 10% to 40% of those in the past and the loss of income per year ranged from \$30,000 to \$200,000. In addition, the loss incurred as a result of damage of fishing gear by pieces of debris in the mud actually amounts to tens of thousands of dollars. Amongst these inshore fishermen, many of them have children attending schools, so, they could hardly switch to blue-water operation even their vessels so allowed. For this reason, though reluctantly, many fishermen had no alternative but to cease operation.

As to those fishermen still operating, life is not easy for them either. At present, there is an area of 1 734 ha of gazetted spoil ground but this does not include the area of waters affected by illegal dumping. The marine ecological quality in the nearby waters is impaired by dumping. It may take years for marine life to rehabilitate and the damage caused could even be permanent. As a result, the fisheries resources of Hong Kong are gravely diminished.

The Democratic Party has always held that the Government is duty-bound to offer compensation to the fishermen suffering a loss as a result of reclamation, dredging or dumping projects. On 7 May 1993, as a result of our persistent demand, the Government applied to the Finance Committee for an increase in the *ex gratia* allowances for the affected fishermen from \$58.6 million to \$255 million. As we knew that the fishermen suffered heavy losses, we were not satisfied with the amount of compensation. But since the fishermen were in urgent need of the payment, we therefore endorsed the proposed appropriation and continued with our effort to fight for an increase in the amount of compensation.

Over the past two years, we constantly contacted the fishermen to look at the situation. We also had meetings with the Agriculture and Fisheries Department (AFD), the Planning, Environment and Lands Branch and the Economic Service Branch to discuss the problem of the basis currently used for calculating the *ex gratia* allowances and asked the authorities concerned to clarify what data were taken into account in the calculation of the *ex gratia* payment. My colleague, Dr the Honourable YEUNG Sum, will elaborate on this point later in his speech with a detailed analysis. Now I only want to point out that the *ex gratia* allowances at present paid by the Government to the affected fishermen are not up to the level approved by the Finance Committee

on 7 May 1993. As stated in the paper FCR (93-94)25, the *ex gratia* allowance payable to the inshore fishermen should be equivalent to five years' net income for vessel owners or operators. It is five years' net income. But according to the fishermen in Cheung Chau, most of the fishermen were only granted *ex gratia* allowances of around \$9,000, it is \$9,000 for all the three years. We cannot imagine, may it be three years or five years, that the net income of the fishermen was even less than \$9,000 for the whole period, that is less than \$200 a month. We cannot understand how AFD officials arrived at such findings which totally contradicted common sense. If the net income for five years' work was even less than the payment under the Comprehensive Social Security Assistance (CSSA) scheme, the fishermen should have given up their operation long ago.

Mr President, at numerous meetings held over the past two years, Mr Albert CHAN and I asked each and every time how the basis on which the AFD conducted the survey came about. We also asked whether we could see the findings of the survey and whether we could have the formula for *ex gratia* allowance for discussion. Regrettably, the answers were all "noes". On the contrary, we were asked to trust the calculation as being accurate and scientific. How could they do that? Mr President, government officials were in fact aware of the situation I referred to. Two months ago, Mr Albert CHAN and I exchanged views with the Deputy Secretary for Planning, Environment and Lands, Mr Canice MAK who then promised to review the matter of *ex gratia* allowance. Last Friday, Mr CHAN and I went to see Mr MAK again. But unfortunately Mr MAK was indisposed and Mr Stanley WONG, then the acting Deputy Secretary, had a meeting with us and the representatives of the affected fishermen. However, very unfortunately indeed, the answer Mr WONG gave us was only to the effect that the Government has exhausted all administrative measures to ensure that amount of *ex gratia* allowance was as reasonable as possible, and any significant change in policy would not be considered until the relevant consultancy study was completed 10-odd months later.

Having heard Mr WONG's answer, we were very disappointed at the Government. Let us think about it. A review lasting 10-odd months will certainly take us to early 1997. The findings have to be submitted to government departments concerned which will reassess the policy. And then the Executive Council's approval has to be sought. All these will take another year or so. That is to say, the new formula for calculating the compensation will not be ready until early 1998. By then, almost all the ACP projects will be completed and there will not be any new payment of compensation. How is this review able to help those fishermen who have to live in hardship in this interim period? We have been raising the issue of compensation for affected fishermen for a long time. However, after all these rational discussions and waiting with patience, what we get at the end is nothing but further waiting. If the fishermen were to wait for a fair outcome without having to worry about their living it might be easier for them to be patient. But what they are now facing is a matter of subsistence. Do we ask them to wait with empty bellies for the study to conclude and then for a review on policy to be conducted? Having said that, I

hope the officials of the Economic Services Branch and the Planning, Environment and Lands Branch will once again consider seriously whether they can conduct some sort of short-term and simple survey and study the basis for calculation so as to change the way of compensation within a short period of time. We are not asking for a change in policy with absolutely no grounds. But, why can the Government not render more assistance to the fishermen in the meantime? Does it want to force the fishermen to seek assistance under the CSSA scheme, or otherwise, adjust the *ex gratia* allowance to a reasonable level only when terms such as “fishing industry”, “fishermen” and “shrimp trawlers” should become history?

Mr President, the Democratic Party would urge the Government to review the *ex gratia* allowance as soon as possible with particular reference to the following five aspects:

First, the Government should assess the amount of compensation payable to the affected fishermen of various affected fishing grounds in one go to ensure that the payment in total is equivalent to the net income from their operation in those fishing grounds for a period of five years.

Secondly, when releasing the allowances, the Government should clearly explain the basis for calculation by listing the fish catches of various types of fishing vessels operating in individual fishing grounds per year, the number of fishing days of these vessels in individual fishing grounds per year, the range of prices of the catches and so on.

Thirdly, the area of fishing grounds which are contaminated by illegal dumping of mud should be identified and *ex gratia* allowances should be paid to the fishermen operating in these fishing grounds.

Fourthly, compensation should be paid to the fishermen for the damage caused to their fishing nets and fishing gear as a result of airport-related projects in the course of their operation.

Fifthly, the compensation of the appeals board should be changed to reduce the number of government representatives to a minority while more fishermen and representatives of fishermen associations should be included to ensure that appeals are dealt with more fairly.

As regards the development of the fishing industry, I hope that the Government will set out a long-term policy as soon as possible and undertake to take measures for fisheries conservation such as the provision of artificial reefs. The Government should widely consult the people within the fishing trade to make sure that the policies concerned are in line with practical operation in the industry. At the same time, the Government should undertake to enable the marine ecology to rehabilitate after the completion of the major port-related and infrastructural projects so that the fisheries resources will be able to continue to grow.

Mr President, to review the amount of *ex gratia* allowances and set out policies for the continuous growth of the fishing industry are matters of extreme urgency that should brook no delay. I hope, today, the Government can bring us a positive message.

With these remarks, I beg to move.

Question on the motion proposed.

MR STEVEN POON (in Cantonese): Mr President, as the people of Hong Kong are more and more health conscious, they are more restrained in the consumption of “red meat”, and more of them prefer to eat fish. Fish has become a major foodstuff indispensable to the general public, and therefore, fish supply to the 6 million population of Hong Kong must be guaranteed. Meanwhile, Hong Kong’s continual development plus the protectionist policies adopted by various countries as regards fishing in their waters have seriously threatened the livelihood of tens of thousands of fishermen who make a living by engaging in the fishing trade. For this reason, the Government must come up with a comprehensive and up-to-date fishery policy, both for the benefit of the entire 6 million population of Hong Kong and for addressing problems of immediate concern to the fishermen.

The foremost subject to address in any fishery policy should relate to fish supply. Let us not forget that the policy should aim to supply a major foodstuff to the 6 million Hong Kong population, and so the quantity as well as the quality of the fish supply must be somehow guaranteed. With over-fishing in international waters and growing demand for fish in China as China’s economy develops, it will be increasingly difficult to ensure abundant supply of high quality fish. This is a problem any fishery policy will have to address.

Hong Kong’s fish capture in 1993 reached 227 000 tonnes, of which 96% came from marine capture, and the other 4% came from marine culture and inland culture. The fishing fleet from Hong Kong are facing competition from the fishing fleet of neighbouring countries in international waters, while their operations in China’s coastal waters are also subject to restrictions. Furthermore, nearby countries are also imposing restrictions as regards fishing in their waters. All these have combined to exert considerable pressure on the fishing fleet from Hong Kong.

Being an economic city, Hong Kong has had little leverage in negotiations in the international arena. If fish supply to the population of Hong Kong were to be guaranteed, if the livelihood of hundreds of thousands fishermen were to be protected, the Hong Kong Government should, I believe, take a more assertive approach in the international arena to seek more rights and more fishing space for our fishing fleet. In case of disputes, the Government should also stand up to support our fishing fleet.

Another problem with regard to marine capture is the diminished fish capture in Hong Kong waters. Currently, 10% of the total fish capture comes from operations in Hong Kong waters. The diminished catch is due to the contamination of sea water as a result of development at Hong Kong's coastal areas, which consists of massive reclamation, large-scale dredging for marine fill and dumping of debris. Moreover, with the new airport being built and related development on Lantau being underway, plus the prospective development of the No. 10 Container Terminal, waters where fry are nurtured are being damaged ecologically. All these will constitute a heavy blow to Hong Kong's fishing industry. The Government's fishery policy should seek to address these problems on three fronts. First, fishermen operating in Hong Kong waters should be reasonably compensated for the losses they suffer. Diminished in fish capture constitutes pressure on the fishermen's livelihood, and so the Government should make generous arrangements for them. Second, every development item should be stringently required to undergo environmental impact assessment, so as to limit the damage incurred by development on marine ecology. Third, marine rehabilitation projects should be actively implemented on a large scale, with artificial reefs deployed so that fry in Hong Kong waters can survive and grow

As regards fish culture, there are currently 20-plus marine fish culture zones which supply more than 3 000 tonnes of live marine fish every year. However, the various development projects in Hong Kong have contaminated sea water and have resulted in anoxia which seriously threatens the water quality of these fish culture zones. In 1993 alone 15 red tides were reported, resulting in 11 incidents of death of fish. The Government should give more generous *ex gratia* compensation to marine culturists, for they are the people who have suffered from, and paid the price for, Hong Kong's development.

As a matter of fact, as Hong Kong's development accelerates and its population expands, Hong Kong people's demand on marine activities is also increasing, to the extent that they would compete for available marine space with marine culturists. Marine culture will fade away in the foreseeable future, and the Government's fishery policy should prepare for this eventuality. Make hay while the sun shines.

Production from marine fish culture has been decreasing over the past few years, and this trend is even more obvious with regard to inland fish culture. In 1993, inland fish culture supplied 5 700 tonnes of fish, about 20% less than that of 1983. As fish ponds in the New Territories are being transformed into high-rise buildings, the days of fresh water fish culture are numbered. As a matter of fact, freshwater fish culture supplies merely 10% towards total fish consumption. Most of the freshwater fish supply comes from Mainland China, and this trend is going to continue. In the end, freshwater fish culture may totally disappear in Hong Kong. So the Government's fishery policy should take full account of this in order to take good care of freshwater fish culturists and to be well prepared for their need to switch to other trades.

Coming back to our fishing fleet, their catches constitute 70% of Hong Kong's fish supply. Right now 90% of the fish capture comes from beyond Hong Kong waters, and the fleet's operation areas are far away from Hong Kong. Operating in these locations requires more than government support in the international arena. It requires modern fishing boats, equipment and technology. The Government's fishery policy should support our fishing fleet in terms of finance, equipments, technology, training and so on. State-of-the-art technology is of paramount importance to ensure that the fishing industry of today can operate efficiently. Facilities ranging from satellite communication, satellite-guided navigation to fish detection all depend on additional capital and new fishing technology. These are areas where the Government should give support.

Mr President, much has been said about our industrial development and our financial status, but rarely has our fishery policy been under discussion. With Hong Kong's reversion to Chinese sovereignty, our fishery policy will have to be compatible with our political environment: in areas where we need to rely on Mainland China's fishing industry, let us face the reality and be well prepared; and in areas where there is room for development for our fishing industry, we should invest more resources. We should not just follow the beaten track, and our fishery policy must catch up with the development of society.

DR TANG SIU-TONG (in Cantonese): Mr President, it is a general global trend to protect the environment. The Government has substantially enhanced the promotion of environmental protection in recent years so that Hong Kong will not lag too far behind in this respect. However, at the time when the Government is actively promoting environmental protection, it concurrently proceeds with its infrastructural development plan and strategic sewage disposal plan by dredging for marine fill from the seabed, enlarging marine dumping areas, undertaking reclamation works in Victoria Harbour as well as being poised to discharge sewage into the South China Sea through oceanic outfalls. The Administration's self-contradictory attitude is an all too common feature with which we are well acquainted. The Government builds with one hand and destroys with the other hand, resulting in damage done not only to marine ecology, but also to the local fishing industry.

As far as 20 years ago, the Government has been designating the waters to the south of Cheung Chau as marine dumping areas. Four years ago, the Government enlarged the marine dumping areas in order to cope with the excavated material arising from the New Airport Project and the West Kowloon Reclamation Works. As a result, the catches of the fishermen were drastically reduced almost by half. At the same time, the Environmental Protection Department launched a pilot scheme to dump the sludge of the Sha Tin sewage treatment works into the waters opposite Waglan Island. That has resulted in a high content of cadmium in shellfish, thereby providing further evidence that marine dumping areas do have adverse impacts on marine ecology.

Since 1991, those fishermen who suffer from reduced marine capture following the expansion of marine dumping areas have been negotiating with the Government for a better compensation deal, but no agreement has been reached after several years of negotiation. That is the reason behind the 300-strong fishing fleet demonstration in Victoria Harbour in May 1994 in protest against the Government's indifference to the livelihood of fisherfolks and for the sake of fighting for reasonable compensation. The focus of contention is that the Government only pledges to grant *ex gratia* allowance to the fishermen but the fishermen have requested that compensation in lieu of *ex gratia* allowance be granted, regardless of the size of the fishing vessels and regardless of whether the vessel operates off-shore or in-shore. The amount of compensation will definitely be higher than *ex gratia* allowance. The Government's firm stance of refusing to compensate can of course save public funds but the crux of the matter is whether it is really fair to the fishermen who are genuinely being affected. The Agriculture and Fisheries Department requires the fishermen to furnish substantive evidence to prove that a certain project causes changes to the water quality of a certain zone and that such quality deterioration has affected marine capture. Only if such a case is substantiated can the fishermen become eligible for compensation. However, it is not an easy thing for the fishermen to prove the existence of a causal link. The fishermen "make a living out of waters that they fish in." It is therefore the Government's unshirkable responsibility to compensate the fishermen because the diminished catches are a result of the dumping activities of the Government. The prevailing conditions for compensation and the methodology to arrive at the amount of compensation are over-strict, over-rigid and inflexible, rendering it difficult for the fishermen to claim compensation. If the fishermen are lucky enough to receive compensation, the amount may not be sufficient to compensate them for their actual loss. That the level of compensation varies with time and place has also caused contradiction among the fishermen. I therefore agree that the system has to be practically reviewed so as to protect the rights and interests of the fishermen.

Apart from the impact of dumping activities on marine ecology, the discharge of sewage not fully treated has resulted in serious water pollution. The situation at Tolo Harbour warrants our particular concern. Information reveals that there were 27 red tides in Tolo Harbour in the past four years, the occurrence of which is clearly more frequent in Tolo Harbour than in any other areas. In the first three and a half months of this year, there were 12 red tides in Hong Kong's territorial waters and, among them, five occurred in Tolo Harbour. The repeated occurrence of red tides in Tolo Harbour is a result of the discharge of pollutants from the Tai Po Industrial Estate, the sewage treatment works in Tai Po and Sha Tin and from Shuen Wan Landfill. The occurrence of red tides has caused heavy loss to of the owners of fish culture zones.

The fishing industry has a significant bearing on local economic activities and people's livelihood. Unfortunately, the development of the fishing industry, similar to that of agriculture and livestock industry, has been ignored by the Government for a long time. I really hope that the Government can change that attitude and adopt a pro-active approach to stimulate the development of the fishing

industry, so that the livelihood of the fishermen can be sustained. Moreover, I hope that the Administration can translate words into action by expeditiously adopting appropriate measures, for the sake of conservation, to protect marine ecology.

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

DR YEUNG SUM (in Cantonese): Thank you, Mr President. It seems that the airport, China White Dolphins and the livelihood of fishermen are not in any way related. However, the extensive construction projects and major infrastructural works accompanying the building of the new airport have affected many aspects of marine life as well as the livelihood of fishermen. This motion of Mr LEE Wing-tat today seeks to arouse more public concern about the development of the fishing industry and the compensation for fishermen.

On 7 May 1993, the Finance Committee approved an increase in the *ex gratia* payment for fishermen who are affected by reclamation or development projects. The Government was fully aware at the time that it would be very difficult for the affected fishermen to relocate their operation in other fishing grounds and that the chance for them to switch to other related types of work was becoming slim. Those fishermen who have wound up their operation will have to face long-lasting difficulties to sustain a living. Therefore, it is vitally important to grant them a sufficient *ex gratia* payment. It was also proposed in the paper that the payment would be in an amount equivalent to the net income of the owner/operator of the fishing vessel for five years. This standard is similar to the criteria based on which compensation for fishermen who have wound up their operation as a result of the forfeiture of their statutory fishing right is calculated. It shows that the Government has gradually come to realize that the *ex gratia* payment should not be taken solely as a compassionate kind of allowance. Instead, it is the obligation of the Government to compensate fishermen who are deprived of their means to earn a living.

It is a great pity that in practice the Government does not work in line with this spirit and, what is more, it has failed to make allowance for the limitations on fishermen.

It is an indisputable fact that the *ex gratia* payment is low. I would like to go on further to explain the unfairness of the situation with reference to the payment that fishermen in Ping Chau are given. First, we realize that fishermen do not fish in one fishing ground only. The \$9,000-plus that the fishermen received merely represented the income from fishing in one single fishing ground. Normally speaking, there are only about six fishing grounds where fishermen fish. If the fishermen spend two months on one fishing ground, they would have spent a total of 10 months in one fishing ground over a period of five years. If all that the fishermen can gain is only some \$9,000, it means that the monthly income of the fishermen is only some \$900, which is not enough to

cover even the operational cost of the fishing vessel. Therefore, the Administration has certainly underestimated the normal income of fishermen.

We know that appeals were made to the appeal board concerned by fishermen in Cheung Chau against the low *ex gratia* payment but most of the appeals were dismissed. The reason for dismissal was that the accounting vouchers issued by private seafood stalls that the fishermen submitted as proof of their catches were not verified and therefore could not be accepted. I think it is inappropriate that the appeal board refused to review the *ex gratia* payment on this account. As the fishermen have pointed out, they took great pains to collect those accounting vouchers in order to lodge the appeals, but their appeals were mercilessly dismissed. They feel aggrieved at this outcome.

In fact, the Government can produce a cogent result simply by checking the proofs that the fishermen submitted in support of their appeals against the findings of the survey on fish catches as conducted in 1990-91. However, the appeal board refused to do so on the pretext of technical constraints. Besides, while the Agriculture and Fisheries Department has claimed that the calculation of the *ex gratia* payment is largely based on the said survey, it has declined to make public the findings of that survey. This is precisely an instance of “black box operation”. Besides, strangely enough, members of the appeal board and those of an inter-departmental working group responsible for the calculation of the *ex gratia* payment come from the same Government departments. Under this arrangement, there will very likely be biased conclusions. It is also questionable as to whether these conclusions are fair and square.

At present, there are indeed many ambiguities and deficiencies in the procedure of the Administration with regard to *ex gratia* payment. Apart from not having clear data concerning fish catches, the Administration has not clearly defined the eligibility of fishermen for receiving *ex gratia* payment. Under such circumstances, it is possible that there might be people fishing in troubled waters and ripping off the compensation to which the genuinely eligible fishermen are entitled. The Administration must make improvements in this respect.

The Democratic Party would suggest that the Government restructure the Appeal Board. It should be made up of representatives of the Government, professionals and directly-elected Councillors with each of these three parties taking up one third of the membership. This will help to enhance the representativeness of the appeal board and the credibility of its rulings.

On the other hand, the area of fishing grounds which are affected by illegal mud-dumping activities is greater than that of the gazetted work area.

It is unfair if the Administration does not grant *ex gratia* payment to fishermen who fish at these fishing grounds. In reviewing the Government's policy in this regard, the Administration must provide for the inclusion of these fishing grounds into the scope of compensation.

I hope that the Administration will seriously address these problems and suggestions and award compensation with retrospective effect to fishermen as soon as possible subsequent to the policy review.

In fact, we can all see that the society has a need to develop Hong Kong and build a new airport. However, we should not subject some people, in particular, the fishermen, to considerable setbacks simply for the sake of these facilities.

Mr President, with these remarks, I support the motion of Mr LEE Wing-tat.

MR LAU WAH-SUM (in Cantonese): Mr President, although the primary production of Hong Kong, which includes fishery and agriculture, only comprises a small proportion of our gross domestic product, we cannot belittle its importance. The produce of these industries are our daily necessities. Fish is now regarded by the general public of Hong Kong as a healthy food. I believe the *per capita* consumption of fish in Hong Kong is second to no other country except Japan. However, only 60% - 70% of the fish we now consume comes from the catch of local fishermen; the rest is imported. If we allow our fishing industry to wither, we would have to import a large quantity of marine products. In that case, not only will our economy be affected, the livelihood of our fishermen will also suffer a heavy blow.

Members have spoken a lot on the difficulties faced by fishermen. I would only speak briefly on in-shore fishermen. In fact, over the last 10 years, industrial pollution, over-fishing and the unlawful use of fish bombs have threatened the livelihood of in-shore fishermen. Many of them have switched to other trades. In addition, works including those of their airport project have resulted in mud-dumping in the nursery grounds, almost wiping out the fish in in-shore areas. As far as fish farms are concerned, industrial pollution and the reduction in the area of breeding grounds have resulted in the gradual reduction of produce. As regards off-shore fishermen, over the last 10 years or so, the Agriculture and Fisheries Department has provided low interest loans to fishermen to promote the mechanization of the fishing fleet and now we have a large, mechanized fleet. While our fishing fleet has increased in size, our fishing grounds have reduced. Our fishermen go as far as Hainan Island in the south and North Korea in the north to fish. However, some have been imprisoned, fined or even killed as a result of trespassing into foreign fishing grounds by mistake. We therefore suggest that the Government should seriously improve on its policy in these two aspects.

As far as in-shore fishing is concerned, we should try our best to improve the environment of the seabeds of Hong Kong and speed up the designation of marine parks to preserve sites which are suitable for the growth of fish. Certainly, these areas are designed to improve the environment of our seabeds and not to allow fishermen to fish. Secondly, we have to explore the feasibility

of the deployment of artificial reef for the protection of the breeding and growth of fish. I believe it will be a feasible measure, but it will also cost a lot of money. Put it in another way, we shall create a new environment in the in-shore areas to allow new fish stock to grow. We have to conduct more studies on the cultivation of marine products to promote the continuous development of our fish farms and to improve cultivation techniques.

As regards off-shore fishing, there is little we can do because we seldom have contacts with our neighbouring countries. I hope the Government will discuss with the fishing bodies of our neighbouring countries the possibility of joint development of the resources in the high seas and the expansion of fishing grounds. I understand this will be a difficult task.

In addition, we hope that, given the geographical advantages of Hong Kong and its good transportation network, we can develop into a distributing centre of marine products in Southeast Asia so that all the marine projects from our neighbouring countries will land in Hong Kong for wholesaling, thus contributing to the development of our economy.

Finally, fish processing. In Japan, the fish processing industry has reached a high level of development. I hope the Government will commission studies on the promotion of the fish processing industry so that our resources can be more effectively utilized.

I so submit because I think the Government should commission studies with public money as far as possible. I understand that it is a very difficult problem but studies have to be conducted anyway because the problem concerns the livelihood of the people and the economy of Hong Kong.

These are my remarks.

MR TAM YIU-CHUNG (in Cantonese): Mr President, in regard to the Hong Kong waters being polluted by the large-scale infrastructural and reclamation projects, I believe that the Governor has had a very deep impression when he was met by protesting fishermen in the Victoria Harbour on his first day in Hong Kong to take up the governorship in 1992. After nearly three years, the problem was temporarily concluded when the Hong Kong Government completed the first round of compensating the fishermen operating in various zones of the Hong Kong waters. And later on, it will deal with the compensation to vessels capable of operating in the deep sea.

According to the policy of the Hong Kong Government, fishing vessels are mainly classified into two categories, one is shorter than 15 m and the other is larger than 15 m. Due to limited equipment and cruising range, those fishing vessels shorter than 15 m can only operate within Hong Kong waters. Hence, this category of fishing vessels are the hardest hit by pollution in Hong Kong waters and the level of compensation that they can get is correspondingly

higher. For those fishing vessels longer than 15 m, since they are capable of going farther away from Hong Kong like the South China Sea, they are less affected by pollution.

In the early '90s when some large-scale infrastructural projects were yet to start, the Agriculture and Fisheries Department already conducted some on-the-spot surveys on the value of marine catches of fishermen operating in various areas to build up a database, which, it was believed, would serve as the basis when compensation was considered later.

For the past three years, an inter-departmental working group of the Government has been registering the fishermen affected and awarding compensation to them. At the present moment, the fishing vessels under 15 m have largely been awarded compensation save a few which operate in the areas around Soko Islands to the south of Lantau and around Po Toi Islands to the south of Hong Kong Island. During that period of time, however, quite a number of fishermen disputed the amount of compensation awarded. This prompted the 42 fishermen organizations to form the Joint Meeting of Hong Kong Fishermen's Organizations in order to negotiate with the inter-departmental working group. They also organized several protests in the harbour.

Mr President, the discontented sentiments among the fishermen are entirely understandable. They are not against the Government having different rates of compensation for different fishing zones, nor against the compensation being based on the classification of fishing vessels, nor totally against the compensation being based on the information in the database. They are merely unable to understand the criteria used in the calculation of compensation by the government officials or to accept the differences among the various rates of compensation.

One example is the Chek Lap Kok and Tung Chung waters. They are the first areas affected by the airport project and the fishermen operating there are the first ones to receive compensation. Based on different types of fishing vessels, the amount of compensation ranged from \$9,000 to \$80,000. But in the Tuen Mun waters where the fishermen were recently awarded compensation, the amount ranged from \$40,000-odd to \$300,000-odd, nearly four times of that the fishermen in Tung Chung waters got. In respect of the impact of the project to the ecological environment, the impact on Tung Chung is no less than that on Tuen Mun. Besides, the two fishing zones are not very far away from each other. There is thus no reason for the amounts of compensation in the two areas to be so different. This will easily give the fishermen the false message that the later they agree to the compensation, the more they will get. And the various bases quoted by government officials earlier will become unconvincing.

Among the cases which my colleagues from the Democratic Alliance for the Betterment of Hong Kong and I assisted in handling, something unfair and unreasonable indeed arose. For example, the Marine Department does not have

any restriction on where the fishing vessels can go and yet, through the licensing system, it sets some restrictions on the zones where the vessel owners can operate. If the vessel owners break the rules, the amount of compensation will be reduced. Mr President, operating in the open sea, the fishermen have to chase after schools of fish and ply back and forth in the waters. After a certain period of time, it is natural that the fishermen will shift from one zone to another. If their amount of compensation is reduced simply because of this, it shows nothing but the failure to understand the fishermen's practice on the part of those high-ranking officials confined to their offices.

Indeed, most of the fishing vessels longer than 15 m operate in the South China Sea. However, certain number of twin-trawlers mainly operate in the waters to the east of Sai Kung. There are also some vessel owners who, taking into considering the age of the fishing vessels as well as the weather, only operate on the border of the Hong Kong territorial waters. And they are equally affected by and suffering losses from the polluted Hong Kong waters.

According to the Joint Meeting of Hong Kong Fishermen's Organizations, among the existing 3000-odd fishing vessels longer than 15 m, about 1700 vessels have already been registered by the inter-departmental working group. Although the Government has made no explicit pledge of compensation, I hope that the inter-departmental working group will continue to negotiate with the Joint Meeting of Hong Kong Fishermen's Organizations and will, learning from past experience and lessons, come up with a set of criteria for later compensation which is both acceptable and comprehensible by the fishermen so as to prevent recurrence of similar disputes in future.

With regard to the development of fishing industry in Hong Kong, since the coastal waters have already been inflicted with various degrees of pollution, I hope that the Administration will stop dumping waste materials and sand-dredging in Hong Kong waters with immediate effect so that the ecosystem in Hong Kong waters can recover gradually. In regard to deep sea fishing, I hope that the Administration will keep in touch with the authorities in Guangdong Province to ensure that fishermen will not be threatened by pirates within Hong Kong waters, and that once the fishermen are robbed, the police authorities on both sides of the border will co-ordinate with each other without delay and send marine police to protect the fishermen concerned. Besides, the marine police should also step up patrol along the border of the Hong Kong waters and prosecute fishermen using poison and explosives in fishing.

These are my remarks.

MR PETER WONG: Mr President, the development of Hong Kong's infrastructure and pollution produced as a result of 6 million people living in a confined space have depleted fish stocks for our in-shore fishermen. They themselves have not been blameless, for they have used dynamite and poison

which results in the decimation of life under water with no small fry to regenerate stocks.

But what has the Government, through the Agriculture and Fisheries Department (AFD), done to educate our fishermen? I sympathize with the fishermen that stocks in their traditional in-shore fisheries are badly depleted. Members know that I am a keen fisherman but I have already given up fishing in Hong Kong waters because there is very little left that I can see during my scuba dives.

It is incredible that our AFD does not have detailed baseline figures of our in-shore waters of marine life. The ex gratia payments are paid to our fisherman, recently for sand-dredging, and so on, and are not based on scientific evidence such as depletion in fish stocks, but based on fish landings which can be open to manipulation. It is only recently that the Environment and Conservation Fund has funded a comprehensive Hong Kong University study into our marine bio-diversity.

I am really disappointed that the AFD failed in their recent resource allocation exercise in the bid for \$108 million to help to replenish fish stocks in the Eco-Hab programme of artificial reefs. No wonder our fishermen think that this Government and indeed all land-based people are working against them and their livelihood.

Sir HAMISH, I appreciate that you are no longer responsible for the next Budget, but please pass on to your successor that it is about time that Hong Kong does something that it should have done a long time ago for our fishermen: restore the fisheries habitat so that they can make a decent living and all of Hong Kong can enjoy fresh and affordable sea food.

Mr President, I support the motion.

MR ANDREW WONG (in Cantonese): Mr President, I speak in support of the Honourable LEE Wing-tat's motion. Apart from that, I also have a few words to say about the wording of the motion.

First of all, it is a fact that, as stated in the first half of the motion, the implementation of the port and airport development works result in the deterioration of the marine ecological quality of Hong Kong waters, the marine catches of fishermen have been significantly reduced. The fishing vessels of Hong Kong, as a matter of fact, basically operate outside Hong Kong waters. Thus, though the marine catches may have decreased recently, the percentage reduction has been on the low side over the years. There is only increase and not decrease in marine catches. Even the quantity of recent marine catches has been reduced, the value of the catches has in fact increased. Almost 90% of the marine catches of the local fishing vessels is obtained outside Hong Kong waters, and 70% of the total is brought back to Hong Kong. The latter incidentally

supplies about 70% of the seafood consumed by Hong Kong people. Imports make up the remaining 30% of local consumption. Possibly because of the different tastes, fish have to be imported, while some of the Hong Kong marine catches are sold to other places, like certain areas in China. I therefore think that there is hardly any ground for the statement in the motion that the implementation of the port and airport development works result in the deterioration of the marine ecological quality of Hong Kong waters, the marine catches of fishermen have been significantly reduced, thus seriously affecting their livelihood. With the deterioration of the marine ecological quality of Hong Kong waters, about 10% of those fishermen engaged in in-shore fishing are badly affected. I agree that we should be fair to them and pay them the appropriate compensation. Actually, a more positive approach ought to be to encourage them to engage in off-shore fishing in the areas outside Hong Kong waters.

Here comes the second part of the motion, that is, formulating a policy on the fishing industry. I fully agree that a policy should be put in place to ensure that the fishermen can survive. As a matter of fact, they can survive and they are still surviving, but they may have to change jobs or the industry has to be transformed. There is also a possibility that the fishing industry can develop which, however, will depend on whether the Secretary for Economic Services has any new policy to put forward later on.

In regard to the calculation of compensation for the loss of marine catches, a lot of problems can be found in the calculation methods. One problem is that if the seabed is damaged beyond rehabilitation by mud-dredging, airport projects, port development works, resulting in the decrease of catches, how long will it take for the seabed to recover? Will it be one year, two years, three years, four years, five years or six years? Nobody knows. But the Government has categorically said that three years will be enough for the seabed to recover. And thus the amount of compensation to fishermen will be calculated on the basis of three years' catches. I am, however, convinced that even five years will not be enough for recovery. This calculation method is therefore problematic. That is in fact a very complicated problem. I hope that honourable Members can give it some hard thinking after understanding the complexity of the problem.

The Honourable LAU Wah-sum remarked earlier that the agricultural and fishing industries in Hong Kong accounted for a very small portion of the Gross Domestic Product (GDP), perhaps around 0.5%. Be that as it may, this, in fact, has a great bearing on people's livelihood. In the agricultural sector, in the past, about 20% of the pigs consumed by the Hong Kong people in a year were supplied locally. The percentage sank to 15% later on and to less than 10% at present maybe. This can be attributed to some of the Government's necessary policies. But whether the policies have been properly implemented or not is not something I am going to comment on here. Local vegetables may still account for about 40% of our annual consumption, and so may be the case of chickens. We can see that local supply is still very important. Although in terms of

quantity, it is relatively small, it is still sufficient to set a benchmark in the pricing so that we are not at the mercy of the importers. In regard to fishery, fresh fish may not necessarily be live seafood, while frozen seafood may also be included. About 70% of the fresh fish that we consume yearly are supplied locally. This does not mean that we cannot supply all the fresh fish we for need. We can supply as much as 90% or even 100%. It is only because of the different tastes of people here that we export part of the marine catches to other places. Fishery in Hong Kong, irrespective of its significance in the GDP, is therefore very important to our daily life indeed.

The fish that we consume all along are mainly brought back by the fishing vessels of Hong Kong. Under the circumstances, we have to understand the problem and figure out what policies can be put in place so as to render some fair and reasonable support to our fishing fleet when, in this economical environment, everyone thinks that the fishing industry is not important and has no significant place in our economy. I feel that our support to the fishermen is on the decrease. For instance, there have been a few research ships under the Fisheries Branch of the Agriculture and Fisheries Department (AFD). The first one was the "Cape of Saint Mary" and later, there was another one, the "Tai Shun". But they are no longer in existence now. There used to be a very large staff in the Fisheries Branch of the AFD, but now only about 100 members are left.

How much assistance are we offering to the fishermen and the fishing industry in Hong Kong, whether in the area of in-shore fishing, off-shore fishing or pisciculture? The assistance is in fact diminishing. Is that right or wrong? I am not arguing whether or not we have to give them assistance. But if this issue itself is highly important, we should really think whether we should totally neglect them or not. Have we provided fishing ports to our fishing fleet? What we have provided are merely typhoon shelters, polluted ones, it is said. In that case, I opine that we lack a long-term policy on the fishing industry. Although the Secretary for Economic Services already undertook to work out some policies on fishing industry and agricultural industry, the policy on agricultural industry alone when proposed was met by nothing but wide criticisms. The policy on fishing industry has yet to come. I hope that this policy can be worked out very soon and be submitted to the Advisory Committee For Agriculture and Fisheries for discussion. I hope that the Administration will also consult the Legislative Council and the public in respect of the policy, and to let us know how important it is.

I would like to point out that we consume approximately 21 tonnes of seafood, not necessarily live seafood, per year and this is a large quantity. Since we think that eating fish is so important, especially to our health, should we put more efforts in the policy on the fishing industry? Some Members earlier said that another year or so was needed to conduct studies before the issue of compensation could be dealt with. In my view, collecting information on the fishing industry is a compulsory task, because it will be difficult to ascertain the length of the recovery period without that kind of study. Another point that I

would like to raise, as has been mentioned by Mr LAU Wah-sum, is whether it is possible to grant loans to the fishermen to purchase steel-hulled fishing vessels for off-shore fishing purpose during the transformation period. In regard to open sea cage culture, since it may be difficult for Hong Kong to practise marine fish culture, will the Administration consider developing open sea cage culture? Finally, I would like to make a suggestion. Since everyone is aware of the importance of the fishing industry, should we establish a marine museum of fishing industry?

MR ALBERT CHAN (in Cantonese): Mr President, my four years as a Legislative Council Member is about to come to an end. If people ask me what problem I have most frequently dealt with during these four years, I would reply with no reservation that it is the problem of the fishermen. In the past four years, meeting with the fishermen and accompanying them to hold meetings with government departments to fight for reasonable compensation have become part of my everyday work. The people who are engaged in the fishing trade can be said to be contented to live at peace with their fellowmen. What they are striving for is only a good catch after working hard so that they can have enough to eat and enough to keep themselves warm. However, since the commencement of large-scale works of land reclamation, dredging and dumping, what they can catch now are silt, waste and disappointment. To the fishermen, their livelihood depends entirely on a sea which can unceasingly produce fish stocks. The land reclamation, dredging and dumping have deprived them of their support. In other words, the British Hong Kong Government has already sentenced the in-shore fishery of Hong Kong to death.

Actually, the present situation is the result of the conflicting functions and duties of the Economic Services Branch. The Economic Services Branch is responsible for the co-ordination of the port and airport developments but it is, at the same time, also the policy-making branch in respect of matters concerning the fishing industry. The development of the ports and airport has started off large-scale dredging, dumping and land reclamation works which severely damage the marine ecology and obviously go against the interests of the fishing industry in terms of survival and development. Without doubt, Hong Kong needs to develop the new airport and ports. But under such circumstance, the Economic Services Branch has the responsibility to try to expand and explore survival spaces for the fishing industry and ensure that the fishermen who suffer losses because of the works receive reasonable compensation and assistance. Unfortunately, over the past few years, the area of dumping sites in the sea has kept expanding which now covers over a thousand hectares and the water quality in the in-shore areas has also kept deteriorating. Not only are the fish stocks reduced immediately, the reproduction of fishes will also stop eventually.

As regards such situations, the Economic Services Branch and the Agriculture and Fisheries Department (AFD) hold the attitude of “watching the fire from the other side of the river”. It seems that they cannot care less if the fishing industry dies out. Our friends in the fishing industry feel that the AFD

not only has failed to provide them with any substantive assistance, it even often handle their problems in a bureaucratic manner. Under the disguise of science and professionalism, the AFD is indifferent to the situations reflected by the fishermen and evades facing the fact that theories are out of line with the reality. The AFD even gives us a feeling that it is fooling the fishermen. Even if it is not fooling them on purpose, it is still guilty of being slack or lax. Take this for an example, the AFD never believes in the data provided and arguments put forth by the mariculturists concerning the effect of silt on cultured fish's death. When incidents where large quantities of cultured fish die occur, the mariculturists immediately inform the AFD and request to have someone sent over to observe the situation and examine the water quality. Since the water quality is affected by factors like the frequency of the dredgers' activities and sea currents, the water quality can change from day to day or from hour to hour. Hence the situation must be investigated as soon as possible so that real situation can be grasped. However, usually the AFD would only send people over to investigate two or three days after fish deaths are reported. May I ask how real information and evidence can be found then? Consequently, the mariculturists are disappointed with the AFD but can do nothing about this situation.

Mr President, a number of my colleagues have already stated the many problems involving compensation. Recently, there have been three relatively extreme cases concerning fishermen in Ping Chau. Each of these three households only received \$400 as compensation for their losses over their catches for five years. Such compensation is even less than what people can beg for on the street. We do not understand how the government officials could believe \$400 to be reasonable compensation. We sympathize with the government officials that they have their hands tied under the present policy. However, the fishermen never cease to complain to government departments while the Government keeps dragging its feet over reviewing its policy. This shows that there is something wrong with their conscience.

Last Friday, when the Honourable LEE Wing-tat and I met with government officials, I repeatedly criticized the officials concerned for acting in such a cold-blooded manner at the meeting. I hope that when the Secretary for Economic Services responds to our questions in respect of the relevant policy here today, he will not give us such a feeling.

Mr President, the expenditure of government departments on their operation and management reached \$250 billion in the year 1994-95, out of which the consultancy fees spent on environmental impact assessments already ran to billions of dollars. But the total amount of the *ex-gratia* allowance handed out by the Government is only \$250 million, which is the estimated amount of money to be given to the fishermen for compensating their losses over five years. This completely fails to reflect the fishermen's real losses. Under the circumstance of "too little gruel for too many monks", the compensation received by some fishermen is so meagre that it is not even enough to allow the fishermen to survive "on saline drip".

The recent unemployment situation in Hong Kong has aroused much concern. We are very worried that the in-shore fishermen who are forced out of their trade will soon join the vast “army” of unemployed workers. Because the fishermen live on the sea most of the time, their style of living and their pace of work are different from those of other workers. Even if they are able to find work on land, it is not easy for them to adapt. Recently, two fishermen from Cheung Chau who went to work as construction workers accidentally inhaled methane gas in a manhole and their lives were in danger. This fully reflected the difficulties faced by the fishermen when they go for another trade.

Mr President, there are at present about 20 000 fishermen in Hong Kong and many of them are engaged in in-shore fishery. If the Government does not ensure the survival of the fishing industry and wilfully let the capital development works destroy the sea on which the fishermen’s livelihood depends, I am afraid that some of these 20 000 fishermen are going to lose their means of livelihood and the fishing industry will also disappear from the history of Hong Kong. Mr President, I earnestly request the Government to adjust the *ex-gratia* allowance and formulate a long-term fishery policy to ensure that the local fishing industry, in-shore fishery in particular, can continue to survive and develop.

With these remarks, I fully support Mr LEE Wing-tat’s motion.

SECRETARY FOR ECONOMIC SERVICES: Mr President, may I say from the outset that the Administration supports the motion. We do so because we have a policy on the fishing industry. We wish the industry to survive and develop. What we are faced with is an issue related to a portion of our fleet, a portion of our fleet which is facing temporary difficulties, and we do hope that by working together we would be able to find some ways to get them out of the current troubles.

Let me start off by responding on the policy for the development of the fishing industry. The industry makes an important contribution to Hong Kong’s economy. In 1994, our fishing fleet yielded an estimated 211 000 tonnes of fishery produce valued at over \$2 billion. Of this total, some 71% of the fresh marine products were landed in Hong Kong and consumed in Hong Kong. About 10% of the total catch is derived from within Hong Kong waters. The Administration’s policy towards the industry is to promote the development of the industry and the sustainable use of fishery resources, with a view to maintaining a steady supply of fresh fish for local consumers. This policy is implemented in a number of ways: we provide assistance of technical matters such as fishing vessel design; advice on location of fishery resources; loans and vocational training for fishermen to improve productivity; and wholesale markets run by the Fish Marketing Organization. We also participate in regional forums on management of fishery resources in the South China Sea and other nearby waters. These forms of support for the fishing industry will continue and they will be supplemented in future by fisheries conservation

initiatives that will contribute to the long-term sustainable development of the industry. I will say more about this later.

There can be no doubt that Hong Kong's port and airport development have had a major impact on the viability of Hong Kong's in-shore fishing industry. The Government fully recognizes this. We estimate that some 27 000 hectares of in-shore fishing ground or about 17% of the total area of Hong Kong waters are or will be affected by dredging, reclamation and mud-dumping works associated with the Airport Core Programme and other major development projects. As a result, the livelihood of some 1 500 owners or operators of small fishing vessels in in-shore waters are affected. Having said this, we must keep the extent of the problem in perspective. Some 90% of the Hong Kong fishing fleet's catch is captured outside Hong Kong waters and total fisheries production has remained steady at over 210 000 tonnes per annum, since the works began in earnest in 1991.

Does that mean we ignore the interests of in-shore fishermen or turn a blind eye to the problems they are facing? Definitely not. We have taken a number of measures. We have made an assessment of the size of the problem and of the extent of in-shore waters affected by development works. We have taken as a matter of policy to provide *ex gratia* assistance to all those who have been deriving some or all of their income from fishing in local waters. Recognizing the scale and nature of the disturbance to the livelihood of in-shore fishermen and the possible need for them to relocate their operations or move into other types of work, we proposed to the Finance Committee in 1993 a change in the basis for calculating *ex gratia* assistance from the notional value of one year's fish catch in the affected areas to that of three year's notional value. This was approved. At the same time, the Finance Committee also approved the broadening of the scope of compensation by accepting that *ex gratia* allowances should be paid also to owners of fishing vessels exceeding 15 metres in length.

Turning now to the data used in the survey which backed up the submission to the Finance Committee, I take note of what Members have said as regards the details. Personally, I see absolutely no reason why we cannot discuss, for example, if the Chairman of the Panel on Economic Services agrees, we can actually discuss the details of how that survey was carried out. What my colleagues were concerned about was the actual names and fishing vessel numbers. That is all. I see absolutely no reason why together we should not go back to the basis on which we prepared that first survey which produced the data for calculating the submission to the Finance Committee in 1993. Let us go through that. We have also in addition advised affected fishermen of opportunities available to them for retraining if they wish to pursue fishing in more distant waters or a livelihood outside the fishing industry. Such training can be arranged by the Agriculture and Fisheries Department and the Labour Department.

Mr President, we have taken these steps because we believe it is vitally important to continue to support and secure for the future the contribution of our in-shore fishing industry to the economy and for the supply of Hong Kong.

During the debate, I have listened to a number of concerns raised by Members about the effectiveness of these measures, and I would like to deal with a few points raised. First, some Members have suggested that disturbance to fishing operations from dredging and dumping grounds occurs beyond the boundary of the gazetted works area, and that the calculation of ex gratia allowances should take this into account. As Members are aware, environmental impact assessments are a standard requirement for major development projects. These take into account the need for mitigation of effects outside the project boundaries, and contractors must adhere to the stipulated requirements. To address Members' concerns, the Director of Agriculture and Fisheries will arrange for a more scientific study of the disturbance to fishing grounds adjacent to gazetted works areas.

A number of Members have said that the 1989 to 1991 Fishing Port Survey is no longer an appropriate basis for calculating the ex gratia allowances. Let me just talk a little bit about that survey. The survey of the fishing operations in local waters was a thorough one and it provided a benchmark against which to measure the impact on port and airport development works on in-shore fisheries.

The question before me is whether during that survey of asking individual vessel operators — and we asked some 3 000 fishing vessels — the data provided at that time for whatever reason was inaccurate or suppressed. Now, that survey was supposed to establish a pattern of operations and the value of fish catches in different areas. We used that data given to us by the fishermen to form a detailed database from which to assess claims.

As I have said, I now begin to ask the question as to whether in fact some of the data supplied at the time was, for whatever reason, either inaccurate or suppressed. While that survey was completed in 1991, the notional values of the three years' catch from the areas in question have been reflected in actual payments by updating them in line with current fish prices. In other words, actual payments are supposed to be kept up to date and they were not pegged, and they are not pegged to 1991 prices.

As to how much we have paid, Mr President, it is worth noting that some \$101 million have already been paid to affected fishermen since 1992, and we expected a further \$80 million will be paid in the current financial year. For the most part, payments in individual cases have ranged from \$6,000 to \$300,000 according to the claimant's dependence on the affected area for his fishing income, the type and length of his vessel and the total notional value of the fish catch in the area. Most claimants have been able to claim more than once as they depended upon more than one affected area. The average payment is in the order of about \$35,000 per claim.

Members have referred to the low payment of \$400. There are four such cases out of a total of 2 856 eligible claims. The claimants in question declared that they rarely fished in the affected areas. These isolated cases may have given Members the impression that payments are too small to be of any real value to the affected fishermen. However, our assessment is that, generally speaking, fishermen are satisfied with the payments made. Those who have complained are mainly owners of small fishing boats whose allowances have been at the lower end of the range. But this outcome simply reflects the claimant's declared financial dependence on the affected area. We cannot say that it is actually a fault of the survey, or the basis for calculating the allowance. As I said, my concern now is whether, in fact in some of these affected areas at the time, the wrong data was given.

An important follow-up is of course the claimants can, in fact, appeal to a board composed of members of government departments represented in the working group responsible for considering claims. Today, Members have criticized this appeal system as lacking in transparency and some have suggested that non-government members should be appointed to serve on the board. My colleague, the Secretary for Planning, Environment and Lands, is prepared to consider this suggestion favourably and I think this will help at least increase transparency if not also fairness and accuracy.

In short, Mr President, our policy for providing *ex gratia* assistance to fishermen affected by port and airport-related works has been implemented on at least as sound, as rational, as scientific and as fair a basis as we could have devised on the basis of the data given to us during 1989 to 1991.

Nevertheless, I agree with Members that it is now time to conduct a new survey of fishing operations to at least provide current data on the pattern of fishing operations and fish catches in Hong Kong waters. This new survey will produce, hopefully, more comprehensive data on fishing operations and an analysis of catches by locations, species, weight and value. And this will then enable the Director of Agriculture and Fisheries to review the basis for payment of *ex gratia* allowances and make recommendations for changes.

I have carefully considered whether any interim changes are possible. I have to say that my conclusion is that changes will not be possible before the data, at least from the fisheries operation survey, are available. We had a basis. It is now claimed to be incorrect, but until we have a new basis, it would be difficult to find what to base new payments on.

As regards those who are aggrieved at the outcome of the cases, I would advise that they make full use of the appeal channel, and as I have said earlier, this channel will now contain non-civil servants. They will get, I am sure, the fairest and most sympathetic hearing.

Some Members have asked when ex gratia allowances related to claims from owners of fishing vessels exceeding 15 metres will be paid. These will be paid in August, and a special claims assessment section has been set up in the Lands Department to expedite assessment and payment of the claims.

Mr President, I would finally like to turn to fishery conservation initiatives contributing to the longer-term sustainable development of the industry. The first of these initiatives would be the commissioning of a study on fishery resources, subject to approval of funds by the Finance Committee. The study will provide data for planning, conservation, development and sustainable use of these resources. Sites of special ecological importance to fisheries, particularly spawning and nursery grounds, will be identified for protection. Fishery resources in Hong Kong waters and the rate at which their use is sustainable will be quantified. Guidelines will be drawn up for minimizing the impact of development projects on these resources. This survey will be conducted in parallel with the survey I described earlier on the fishing operations in our waters. The Finance Committee will be invited next month to approve funding for this study and for the new survey as an integrated package.

Secondly, subject to enactment of the Marine Parks Bill, which is currently before this Council, we intend to designate two marine parks at Hoi Ha Wan and Yan Chau Tong, and a marine reserve at Cape d'Aguilar. These will provide safe havens for many forms of marine life and contribute to fishery conservation objectives.

Thirdly, again subject to availability of funds, we intend to deploy artificial reefs to promote the breeding of fish. Such structures have proved their worth elsewhere in the world. We intend to commence deployment in marine parks and extend this to other suitable sites when they become identified.

Finally, we believe that we have to work in the longer term with our neighbours in the South China Sea — with China, the Philippines, Vietnam and so on — to find ways of preserving the general environment in the waters around Hong Kong and maybe beyond whereby fish stock will be allowed to regenerate. Such measures are already being adopted in countries such as Canada and the United States where certain areas are specifically prohibited for the purpose of fishing for a period of time to allow new fish stock to grow. These efforts can only work with the help and assistance of neighbouring countries. We shall pursue them.

Mr President, with these remarks, the Administration supports the motion.

PRESIDENT: Mr LEE Wing-tat, you are now entitled to reply and you have two minutes 34 seconds out of your original 15 minutes.

MR LEE WING-TAT (in Cantonese): Mr President, there are several points I would like to make in my reply. First, I to thank the Administration for supporting the motion. Second, I am, however, extremely disappointed, because the Secretary for Economic Services clearly indicated that immediate changes in payments made to small fishing boats operating in-shore will not be possible before new data are available. Such data can only be obtained through a survey requiring funds that are subject to approval by the Finance Committee. As I said, it would take 15 months before this survey could be completed. This is unacceptable to the fishermen, as the results would only be available at the beginning of 1998.

The Secretary for Economic Services is beginning to question as to whether is fact some of the data supplied to the survey during the period 1989-91 was, for whatever reason, either inaccurate or suppressed. I am not saying that it must be the Agriculture and Fisheries Department who made mistakes. There might be certain factors that gave rise to errors in the survey. But if the Secretary thinks that the survey is erroneous, why did he have to wait so many years to point it out? I only want the Secretary to adopt an open attitude. If he feels that there is a chance that errors may appear in the survey, could he adopt interim measures to deal with the problems? Although the Agriculture and Fisheries Department has only limited manpower and resources, the Director should be able to come up with some interim measures to deal with matters on compensation for small-boat in-shore fishermen, who he thinks represent only a small proportion of the entire fishing industry. If he could do so, I am sure Members and fishermen groups would be willing to assist.

Another point is that I also agree issues about development of the fishing industry should be discussed in the relevant panels. Discussions on such issues have not taken place in the Legislative Council often enough, and Members now feel that these issues are becoming too important to be ignored.

Mr President, the last point I would like to make is about future compensation for fishermen and their appeals. I hope all officers responsible for such matters could adopt an open mind in their work. I myself have been taking part in related work for several years. I note that fishermen, because of their low literacy level and lack of education, can only spell out their own experience when they hold discussions with government officials. Unlike us, they cannot rise and give lengthy impromptu speeches on a variety of topics, analyze and give reasons. All they can do is tell people about their difficulties and what impact the airport development has on them, not necessarily systematically. I hope officers of the relevant department can be patient with them.

Thank you, Mr President.

Question on the motion put and agreed to.

ADJOURNMENT AND NEXT SITTING

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 31 May 1995.

Adjourned accordingly at seven minutes to Eleven o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with exception of the Official Languages (Amendment) Bill 1995, the Airport Authority Bill, the Tai Lam Tunnel and Yuen Long Approach Road Bill, Urban Redevelopment Policy and Development of Fishing Industry, 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 Financial Services to Mr Henry TANG's supplementary question to Question 3

I now attach herewith a table showing such figures received from the Financial Services Branch.

<i>Industry sector</i>	<i>Unemployment rate in the first quarter of 1995*</i>	<i>Total numbers unemployed in the first quarter of 1995+</i>	<i>Number of imported worker in Hong Kong under the General Labour Importation Scheme as at 31 March 1995</i>
Manufacturing	3.7	21 100	4 704
Construction	5.9	13 800	699
Wholesale, retail and import/export trades, restaurants and hotels	2.6	21 300	9 703
Transport, storage and communication	1.6	5 200	848
Financing and Insurance	0.9	1 400	649
Others	1.0	9 700	3 234
Total	----- 2.6 [2.8]	----- 72 500	----- 19 837

Notes: (*) Not seasonally adjusted. The corresponding seasonally adjusted unemployment rate covering the entire workforce is given in square brackets.

(+) Excluding first-time job seekers, amounting to 6 300.

