

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 19 March 1986****The Council met at half-past Two o'clock****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)  
SIR EDWARD YOUDE, G.C.M.G., M.B.E.

THE HONOURABLE THE CHIEF SECRETARY  
SIR DAVID AKERS-JONES, K.B.E., C.M.G., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY  
SIR JOHN HENRY BREMRIDGE, K.B.E., J.P.

THE HONOURABLE THE ATTORNEY GENERAL  
MR. MICHAEL DAVID THOMAS, C.M.G., Q.C.

THE HONOURABLE LYDIA DUNN, C.B.E., J.P.

THE HONOURABLE CHEN SHOU-LUM, C.B.E., J.P.

THE HONOURABLE PETER C. WONG, O.B.E., J.P.

THE HONOURABLE ERIC PETER HO, C.B.E., J.P.  
SECRETARY FOR TRADE AND INDUSTRY

DR. THE HONOURABLE HO KAM-FAI, O.B.E., J.P.

THE HONOURABLE ALLEN LEE PENG-FEI, O.B.E., J.P.

THE HONOURABLE HU FA-KUANG, O.B.E., J.P.

THE HONOURABLE WONG PO-YAN, O.B.E., J.P.

THE HONOURABLE DONALD LIAO POON-HUAI, C.B.E., J.P.  
SECRETARY FOR DISTRICT ADMINISTRATION

THE HONOURABLE CHAN KAM-CHUEN, O.B.E., J.P.

THE HONOURABLE JOHN JOSEPH SWAINE, O.B.E., Q.C., J.P.

THE HONOURABLE STEPHEN CHEONG KAM-CHUEN, O.B.E., J.P.

THE HONOURABLE CHEUNG YAN-LUNG, O.B.E., J.P.

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

THE HONOURABLE MARIA TAM WAI-CHU, O.B.E., J.P.

DR. THE HONOURABLE HENRIETTA IP MAN-HING, J.P.

THE HONOURABLE CHAN NAI-KEONG, C.B.E., J.P.  
SECRETARY FOR LANDS AND WORKS

THE HONOURABLE CHAN YHOW, J.P.

THE HONOURABLE MRS. RITA FAN HSU LAI-TAI, J.P.

THE HONOURABLE PETER POON WING-CHEUNG, M.B.E., J.P.

THE HONOURABLE YEUNG PO-KWAN, C.P.M., J.P.

THE HONOURABLE JAMES NEIL HENDERSON, O.B.E., J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE KIM CHAM YAU-SUM, J.P.

THE HONOURABLE JOHN WALTER CHAMBERS, J.P.  
SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE IAN FRANCIS CLUNY MACPHERSON, O.B.E.  
SECRETARY FOR TRANSPORT

THE HONOURABLE JACKIE CHAN CHAI-KEUNG

THE HONOURABLE CHENG HON-KWAN

THE HONOURABLE HILTON CHEONG-LEEN, C.B.E., J.P.

DR. THE HONOURABLE CHIU HIN-KWONG

THE HONOURABLE CHUNG PUI-LAM

THE HONOURABLE THOMAS CLYDESDALE

THE HONOURABLE HO SAI-CHU, M.B.E., J.P.

THE HONOURABLE HUI YIN-FAT

THE HONOURABLE RICHARD LAI SUNG-LUNG

DR. THE HONOURABLE CONRAD LAM KUI-SHING

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

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

THE HONOURABLE LEE YU-TAI

THE HONOURABLE DAVID LI KWOK-PO, J.P.

THE HONOURABLE LIU LIT-FOR, J.P.

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

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

THE HONOURABLE POON CHI-FAI

PROF. THE HONOURABLE POON CHUNG-KWONG

THE HONOURABLE HELMUT SOHMEN

THE HONOURABLE SZETO WAH

THE HONOURABLE TAI CHIN-WAH

THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING

THE HONOURABLE TAM YIU-CHUNG

DR. THE HONOURABLE DANIEL TSE CHI-WAI, O.B.E., J.P.

THE HONOURABLE PANG YUK-LING, I.S.O., J.P.

SECRETARY FOR HOUSING (*Acting*)

#### **ABSENT**

THE HONOURABLE MRS. PAULINE NG CHOW MAY-LIN, J.P.

THE HONOURABLE ANDREW WONG WANG-FAT

#### **IN ATTENDANCE**

THE CLERK TO THE LEGISLATIVE COUNCIL

MR. LAW KAM-SANG

**Papers**

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

<i>Subject</i>	<i>L.N. No.</i>
Subsidiary Legislation:	
Revised Edition of the Laws Ordinance 1965.	
Revised Edition of the Laws (Correction of Error) Order 1986.....	65
Companies Ordinance.	
Companies (Interest on Investments) Notice 1986.....	66
Stock Exchanges Unification (Amendment) Ordinance 1985.	
Stock Exchanges Unification (Amendment) Ordinance 1985 (Commencement) Notice 1986.....	67

**Oral answers to questions****Effect of MTR Island Line on patronage of other forms of public transport**

1. MR. LEE YU-TAI asked: *Since the opening of the MTR Island Line, to what extent have operators of other forms of public transport been affected in terms of passenger patronage, and will Government inform this Council how much weight it will attach to loss of revenue due to decrease of passenger patronage when applications for increases in fares by such operators are considered?*

SECRETARY FOR TRANSPORT: Sir, the opening of the MTR Island Line on 30 May last year resulted in a significant increase in MTR patronage, largely at the expense of franchised buses, ferries and minibuses. By December 1985, MTR passenger volume had increased by 26 per cent over pre-Island Line levels from 1.1 million to 1.4 million passengers per day. Bus and ferry patronage had consequentially decreased by 11 per cent and 5 per cent respectively. The operator hardest hit was the China Motor Bus Co, which has lost some 107 000 passengers per day or almost 11 per cent of its total daily patronage. This has been reflected in reductions in service levels on those routes which parallel the MTR Island Line.

Fares charged by public transport operators are set at a level which will generate sufficient income overall to cover operating costs and as far as possible a reasonable return on investment. Reductions in overall revenue as a result of patronage declines would be only one of the factors to be taken into account in determining appropriate fare levels. Factors other than patronage and revenue include capital expenditure, operating costs including wages, general inflation, exchange and interest rates and levels of service.

MR. LEE YU-TAI: *Would the Administration consider a suggestion that application for revision of bus fares be discussed at relevant district boards before a decision is taken?*

SECRETARY FOR TRANSPORT: Sir, it is the policy that bus or other transport fares be discussed in the Transport Advisory Committee which, of course, has on it representatives of district boards and the Urban Council and Members of this Council. It is felt that the Transport Advisory Committee is in a better position to take an overall view and advise on fare increases which, of course, would never cover one district at a time.

### **Social and multi-service centres for the elderly**

2. MR. HUI asked: *In view of the severe shortfalls of social centres and multi-service centres for the elderly, will the Government consider improving the existing levels of subventions in order to encourage voluntary agencies to develop more such centres?*

SECRETARY FOR HEALTH AND WELFARE: Sir, social centres and multi-service centres are set up to provide community support services for elderly residents. We are aware of the shortfall in the provision of these services and steps will continue to be taken to remedy it. The number of social centres has been increased from 45 to 100 during the past five years, and multi-service centres have increased from five to 10. Seven additional social centres and two multi-service centres are planned to be opened during the coming financial year.

Under the present subvention arrangements, agencies operating these centres are expected to make a percentage contribution towards running costs. There is no evidence that the present level of subvention has hindered the development and provision of these services. During the past two years, the Social Welfare Department has not received any appeal relating to financial difficulties from any of the 40 agencies which operate these centres, and all the projects being planned have already been taken up by interested welfare agencies. Given the need to make the best use of the resources available for welfare services as a whole, I see no case for changing the present subvention arrangements.

MR. HUI: *In view of the severe shortage of services for the elderly, I want to underline severe, the existing numbers as mentioned by the Secretary for Health and Welfare being 100 social centres and 10 multi-service centres, and the shortfall as against agreed provision being 72 and 11, that is, existing services can reach only about half of the agreed provision in this area of need, will the Government consider reviewing the subvention formula for this service if the acute shortfall situation continues?*

SECRETARY FOR HEALTH AND WELFARE: Sir, if it appears that the continuing shortfall is due to defects in the subvention system we will certainly consider this question.

MISS DUNN: *Sir, how many elderly people can be accommodated in the 100 centres and what does this number represent as a percentage of the total number of elderly people in Hong Kong?*

SECRETARY FOR HEALTH AND WELFARE: Sir, neither of these two kinds of centres are residential and therefore they do not have a capacity in the same sense that residential homes, care and attention homes and so on do have. The ratio provided for in the programme plan on services for the elderly indicates that there should be one social centre for every 30 000 of the general population and for multi-service centres, the general plan is to provide one centre for every quarter of a million of the general population.

MRS. TAM: *Sir, would the Secretary for Health and Welfare inform this Council what are the major reasons for the shortfall and will the Government consider reviewing the present ratio as just mentioned by the Secretary?*

SECRETARY FOR HEALTH AND WELFARE: The main reason for the shortfall is the time it takes to build and staff and bring into operation a very large number of the two types of centres, particularly the social centres for the elderly. I have missed Mrs. Tam's second question. Perhaps she could repeat it for me.

MRS. TAM: *I just want to ask whether the Government will consider reviewing the present ratio of one multi-service centre to around 250 000 population and one social centre to every 30 000 general population as mentioned just now by the Secretary?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I think it would be unwise to review these ratios until we come a good deal closer to implementing the present ratios.

### **Treatment of renal patients**

3. DR. LAM asked (in Cantonese): *Will the Government inform this Council:*

- (a) *what are the selection criteria used in deciding which renal patients in government hospitals are given renal dialysis;*
- (b) *the number of renal patients in government hospitals who could benefit from renal dialysis in the last three years, and the number actually given such treatment and the cost incurred by the Government; and*
- (c) *whether there are any plans to expand such service in view of the great demand for it?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I will deal with the three parts of Dr. LAM's question in turn:

- (a) Criteria to guide decisions on whether patients should be admitted to the renal dialysis programme in the public sector have been in use for some years but have recently been revised by the Central Renal Committee which was established in 1985 following advice by the Medical Development Advisory Committee, in order to co-ordinate the programme for renal failure treatment in the public sector.

To be admitted to the renal dialysis programme a patient should preferably be between the ages of 12 and 55 and should not be suffering from unrelated diseases with a poor prognosis or severe psychiatric illnesses. He should have good family support, be able to co-operate with renal care staff and have good motivation. The quality of the patient's life before the onset of end-stage renal failure should have been good and he should be sufficiently intelligent to be able to understand the nature of his illness and the instructions relating to his treatment. Priority is given to those patients who have unsuccessfully undergone a kidney transplant operation or who are no longer able to remain on continuous ambulatory peritoneal dialysis (CAPD).

The selection criteria have been devised to ensure that treatment is given to those who are most likely to benefit from a medical, social and economic point of view. The final decision, however, must rest with the attending doctor who should be in the best position to weigh up the various factors and to determine the most appropriate course of treatment for each patient.

- (b) It is estimated that about 180 to 200 new patients could have derived benefit from dialysis treatment in each of the past three years.

In 1983, 1984 and 1985, 254, 358 and 450 patients respectively were on dialysis treatment. During the same three-year period a total of 79 kidney transplants were performed in Hong Kong.

The cost of renal dialysis to the Government in the last three years was in the region of \$58 million.

- (c) There are at present 95 kidney machines in public hospitals and with the completion of various hospital and clinic projects over the next five years the number will be increased by 136 to 231 by 1991.

CAPD treatment is also currently provided in public hospitals but it remains a non-standard service at present and patients meet the cost of the consumable items used in their treatment but in 1986-87 it is intended to introduce a full government-operated CAPD scheme for 150 patients which is estimated to cost \$10 million. The scheme will be evaluated and if successful the advice of the Medical Development Advisory Committee will be sought on whether it should be extended.

DR. LAM (in Cantonese): *Sir, for those patients who have been refused renal dialysis, they are tantamount to being sentenced to death. Now, do these patients have any recourse to appeal because the doctor who makes the final decision is only human and may be subject to error?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the Central Renal Committee which I have mentioned does not in fact normally deal with individual cases but it is always possible for a patient who is rejected by his own doctor or is unsuccessful in obtaining a treatment to ask for a second opinion.

DR. IP: *How much does it cost a patient to maintain himself on renal dialysis per annum and how much does Government anticipate it would cost a patient in the year 1986-87 to maintain himself per annum on the CAPD scheme?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the renal dialysis costs \$7,700 per patient per month which I think is something like \$90,000 a year. CAPD costs \$5,500 per patient per month and CAPD patients are currently required to pay for their own dialysate fluids which cost about \$3,000 per month.

MR. PETER C. WONG: *Can the Secretary inform this Council during each of the last three years how many patients died during the course of treatment because of total kidney failure?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I do not have this figure but I will let Mr. WONG have it in writing. (Annex I)

DR. CHIU: *Sir, will the Secretary inform us how many patients were turned away by government hospitals because they fell beyond the criteria as set up by the Central Renal Unit in the last three years?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I have an estimate of the total number of patients who could benefit in the current year from dialysis treatment which is 570. In my original answer, I said that about 450 patients were on dialysis treatment so it appears that about a hundred such patients would not be successful in obtaining treatment.

DR. IP: *Sir, just to clarify the answer to my previous question. Is it fair to say that if a patient is on dialysis treatment he bears no cost to himself whereas if he is on the inferior treatment of the CAPD he has at the moment got to pay \$3,000 per month and in future, in 1986-87, when the full government-operated CAPD scheme were to be introduced it would still cost the patient about \$3,000 per month?*

SECRETARY FOR HEALTH AND WELFARE: The first assumption is correct but not the final one; when the government operated and financed scheme comes into effect, the 150 patients who will be on that scheme will not have to pay that amount of money.

MR. HUI: *Sir, since the Secretary for Health and Welfare said that because of the existing criteria for CAPD, there were about 100 patients turned away and they become very helpless, could the Government be a little bit more generous in catering for these 100 patients and save their lives?*

SECRETARY FOR HEALTH AND WELFARE: *Sir, it's certainly our aim that eventually we would be able to cater for all patients who can benefit from this type of treatment and it's certainly my intention and the Director of Medical and Health's to seek resources to enable this to be done as soon as possible.*

### **Driving disqualification under Road Traffic Ordinance**

4. MR. LAI asked: *Will Government inform this Council of the progress of its plans to remove the mandatory driving disqualification provision under section 41(2) of the Road Traffic Ordinance, and whether prosecutions under section 41(1) of the Ordinance, which lead to mandatory disqualification under section 41(2) upon conviction, are still being instituted or maintained?*

SECRETARY FOR TRANSPORT: *Sir, the proposal to remove the provision for mandatory disqualification from driving under section 41(2) of the Road Traffic Ordinance has received the support of the Transport Advisory Committee and I intend to submit the proposal with the necessary amending legislation to the Executive Council in April and then if approved, to introduce it to this Council.*

As to whether prosecutions under section 41(1) of the Road Traffic Ordinance are still being instituted or maintained, the position has not changed since I answered a question on this subject in this Council on 4 December 1985. In cases of exceeding the speed limit by more than 30 kph, it is normally police policy to prosecute under the Road Traffic Ordinance rather than by issuing a fixed penalty ticket.

MR. LAI: *Sir, will Government inform this Council whether a driver, having been disqualified to drive for one year due to speeding offences is required to take a retest after the disqualifying period and whether the complication previously cited in applying retrospective legislation has been fully assessed, and what forms do these complications take, and what are the measures being taken to overcome these complications to enable the implementation of retrospective legislation?*

SECRETARY FOR TRANSPORT: *Sir, I think retrospective legislation always requires rather careful consideration. The present Ordinance has of course been properly enacted by this Council and there is nothing illegal or improper in it being used in dealing with speeding offences. Nevertheless, I am aware that some members of UMELCO would wish retrospective legislation to be considered, and I have arranged a meeting with members of UMELCO who are interested and with the*

Attorney General's Chambers to look into this question. Hopefully, we can then look at all potential difficulties and I very much hope that such consideration would not delay the introduction of the legislation which has already been drafted.

MR. MARTIN LEE: *Sir, pending the imminent change of the law which will or may have retrospective effect on any disqualification order made under the existing law, what is the Administration's policy towards outstanding prosecutions in cases where the excess over the permitted speed limit is less than 30 kph?*

SECRETARY FOR TRANSPORT: Sir, as I indicated it has for some time been the policy of the Commissioner of Police to institute prosecutions under section 41 in respect of excessive speeding. There will always be some cases which will have to be dealt with under the Ordinance because they can't be dealt with under the fixed penalty provisions, e.g. holders of international licences who don't come within the system, which is why I use the word 'normally' in my reply just now. However, should there be cases where prosecutions have been instituted for speeding at less than 30 km above the limit which had been instituted more recently and had not been frozen, I think the best thing for me to do, Sir, is to undertake to look into those particular cases. (Annex II)

MR. LAI: *Sir, I think the Secretary for Transport has answered the second part of my question, but the first part of the question is: 'when a driver having been disqualified to drive for one year due to speeding offences, is he required to take a retest or not?' I would like him to answer if possible.*

SECRETARY FOR TRANSPORT: In the present legislation, this is required and I think this falls to the same question of retrospectivity. In our amending legislation, we propose to remove the provision for retesting following a disqualification.

### **Recruitment of environmental protection staff**

5. PROF. POON asked: *In view of the fact that of the 21 posts of Senior Environmental Protection Officer rank and above in the Environmental Protection Agency, 12 are occupied by expatriates and only three by locals with six vacancies, will Government inform this Council whether there are plans upon the creation of the Environmental Protection Department to fill these vacancies by recruiting locals trained by the tertiary institutions in Hong Kong in order to implement more vigorously the localisation policy as well as to make full use of locally-trained talents?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the Environmental Protection Department will be formally established on 1 April. In addition to posts which are already filled by officers in the existing Environmental Protection Agency,

some of the senior posts will be filled by the transfer of staff from the other departments which are involved in the rationalisation of the Government's organisation for pollution control, most of whom are likely to be local officers. In accordance with existing policy, the remaining vacancies in the senior ranks will be filled by the promotion on the basis of merit of suitable and qualified officers in the lower ranks, virtually all of whom are local officers. Direct appointment to these vacancies would be made only when no serving officers were suitable for promotion. Where it was necessary to resort to direct appointment by way of open recruitment, preference would be given to local candidates in accordance with Government's localisation policy, which provides that appointment of overseas candidates can only be considered when suitable and qualified local candidates are not available.

PROF. POON: *Sir, in the course of possible future expansion of the department with an expanded staff establishment or an internal reorganisation with the existing establishment, would the Government consider creating posts more at the junior level to recruit more local graduates with little working experience and at the same time, providing them with the opportunity of on-the-job training so as to produce more experienced local expertise in Hong Kong in the near future?*

SECRETARY FOR HEALTH AND WELFARE: Certainly, Sir, most officers in this area are recruited at the basic Environmental Protection Officer level and a quick look at the Civil Service list this morning reassures me that all the present officers in this grade are local officers with one exception and I am sure that future recruitment to meet the need of any expansion will also largely be through the appointment of local officers.

### **Written answer to question**

#### **Employment of consultants**

6. MR. POON CHI-FAI asked: *Will Government inform this Council:*

- (a) of the amount of fees paid to consultant firms commissioned by Government annually in the past five years; and*
- (b) how often recommendations or findings contained in reports prepared by consultant firms are found by Government to be impractical or infeasible?*

SECRETARY FOR LANDS AND WORKS: Sir, as regards the first part of the question, the fees paid annually to consultant firms commissioned by Government in the past five years add up approximately to:

\$330 million in 1981-82  
\$425 million in 1982-83  
\$330 million in 1983-84  
\$220 million in 1984-85  
\$190 million in 1985-86

The total sum for the five years is about \$1,495 million which includes \$1,408 million in respect of consultancies commissioned by the lands and works group of departments and the remainder by other government departments.

Taking it literally, the answer to the second part of the question is 'very rarely'. That is to say, consultants seldom make recommendations which are impractical or not feasible. Consultants are competent and expert personnel who are chosen after going through a careful selection procedure and are unlikely to propose impractical solutions. They are usually appointed under well defined terms of reference with a detailed brief to help them understand the background of the case they are employed to deal with. In addition, their work is reviewed by the Government at regular stages throughout the consultancy.

However, if the question is whether the Government always accepts the advice given by consultants, the answer is that the Government does not bind itself to accept the recommendations or findings of any consultant. The final decision must rest with the Government. There are occasions when the Government decides not to accept some or all of the recommendations put to it. The reasons are various and include situations such as the emergence of new factors after the completion of the consultant's report, unfavourable responses from the public during the consultation stage, or the level of costs cannot be accommodated within the resources available to Government through revenue.

### **Oral answers to questions**

#### **Assessment of non-Commonwealth degrees**

7. MR. LIU asked (in Cantonese): *Will Government inform this Council what standard is used to assess Commonwealth and non-Commonwealth degrees in the recruitment of civil servants?*

CHIEF SECRETARY: Sir, the main consideration in the recognition of overseas degrees for the purpose of Civil Service appointments is whether they are of comparable standard and standing to Hong Kong degrees. No distinction is made between Commonwealth and non-Commonwealth degrees.

A panel of advisers comprising representatives from the two local universities, the Examinations Authority, Education Department and Education and Manpower Branch has been set up to provide guidance on the detailed criteria to be used in assessing overseas qualifications and to consider appeals against decisions when necessary.

In addition, the advice from overseas professional associations and institutions, as well as established educational authorities, is also sought.

MR. LIU (in Cantonese): *Sir, at the moment, there are a number of universities in China and they also admit students from Hong Kong. Will you consider recognising their degrees?*

CHIEF SECRETARY: Sir, like other non-Hong Kong degrees. Chinese qualifications may be accepted for the purpose of appointment to the Civil Service if they are of comparable standard to the local qualifications.

DR. HO: *Sir, in the second paragraph of the answer, a panel of advisers is set up (i) to assess the standard of the overseas qualifications and (ii) to consider appeals of the aggrieved applicants. Is the Government satisfied with the operation of the said panel of advisers because they are performing two conflicting functions at the same time i.e. to make a decision and later on to judge the soundness of the decision they themselves made earlier?*

CHIEF SECRETARY: Yes, Sir.

DR. HO: *Would you please explain why then?*

CHIEF SECRETARY: I think that the composition of the panel and the independence of the academic members of it in reaching their assessments makes them sufficiently well-qualified also to judge on appeals against the standards which they are setting.

MR. CHAM: *Would the assessment be made on the basis of individual degrees i.e. we might recognise a BSc and not a BA from a certain university or is the assessment made on the basis of institutions, i.e. a university as an institution?*

CHIEF SECRETARY: It's made on a comparison of the degrees of one university with our own local degrees.

MR. LEE YU-TAI: *Sir, what is the Government's attitude towards qualifications which are awarded by local institutions of tertiary education other than the two universities, and how are these qualifications recognised for the purpose of appointment to the Civil Service?*

CHIEF SECRETARY: So the same considerations apply which I mentioned in the first paragraph of my reply. The main consideration in the recognition of degrees and overseas degrees for the purpose of Civil Service appointments is whether they are of comparable standard and standing to our Hong Kong degrees. So if the person concerned has a degree which is of comparable standard to our Hong Kong degrees, then he is capable of being considered for appointment to the Civil Service.

### **Taxi licences**

8. MR. CHEN asked: *In view of the recent issue of a total of 100 taxi licences to one company and the manager of that company, will the Government inform this Council:*

- (a) *whether there is an upper limit on the number of taxi licences which may be acquired by an individual or a company; and*
- (b) *if not, whether the Government consider it necessary to introduce measures to prevent profiteering by individuals or companies?*

SECRETARY FOR TRANSPORT: Sir, there is no upper limit on the number of taxi licences which may be acquired by an individual or a company. In 1964, when the tendering system was introduced, there was a policy to restrict the number of licences allocated to any single individual or company to 100 at a time, the idea being to prevent the development of a monopoly. However, this policy was abandoned in 1966 when it became clear that no single company or individual was in any way dominating or seek to dominate the trade. The position has apparently not changed as at present some 95 per cent of the whole taxi fleet is owned by individual owner/drivers, the remaining 5 per cent or 740 licences being distributed amongst 46 companies.

Taxi licences do change hands and speculation cannot be ruled out so long as there is a limit on the total number of taxis, but there is no evidence to suggest that this exists on a scale that would warrant interference with market forces or which would justify the extensive enforcement effort that would be required to back up an effective limitation on the numbers of licences allocated by tender.

MR. CHEN: *Sir, in the light of the statistics mentioned by the Secretary for Transport where the largest ownership is 740 licences owned by some 46 companies, would he therefore consider that the case in point where 100 licences having been acquired by a company and its manager shows a tendency of monopoly?*

SECRETARY FOR TRANSPORT: Sir, at the moment, the ownership of 100 licences would seem to be a very very small proportion of the total fleet which is 16 478 licences. I should, perhaps, say that the gentlemen who purchased these licences through tender may well catch a cold on this one; it doesn't follow he is going to make a lot of money out of them because the market forces do exert their own control here. So I don't think Mr. Chen's fears are justified.

MR. CHEN: *Sir, when the Secretary for Transport said that there is no evidence to suggest speculation, can he substantiate his statement by statistics, for example, of the 100 licences in question, how many have actually changed hands?*

SECRETARY FOR TRANSPORT: I didn't say there was no speculation. Sir. I said it couldn't be ruled out but I had no evidence of it being very widespread or prevalent. As far as I know the 100 licences issued to that particular individual have not at the moment changed hands and of course there is a six-month period during which the successful tenderer must license and have his vehicles inspected and on the road. So if he is going to sell the licences, he doesn't have too much time to do it; he has to move quite quickly.

MRS. CHOW: *Sir, is Government satisfied that the present policy of no restriction is adequate against profiteering by the middle-man and does the Government endorse such practices?*

SECRETARY FOR TRANSPORT: The answer to the first question, Sir, is 'yes' and therefore to the second one it isn't really applicable in my view.

MR. PETER C. WONG: *Sir, can the Secretary inform this Council whether his view is shared by the Transport Advisory Committee?*

SECRETARY FOR TRANSPORT: Sir, the Transport Advisory Committee does, of course, take a very close interest in all transport policy issues. In the 1983 review of the taxi trade, it covered this point and was endorsed by Transport Advisory Committee.

### **Cost of monitoring the operation of public utility companies**

9. MR. SOHMEN asked: *Could Government inform this Council of the total costs incurred in monitoring the existing schemes of control of the public utility companies subject to these schemes, in the years 1981-82 to 1985-86?*

FINANCIAL SECRETARY: Sir, the costs incurred by Government in monitoring public utility companies take the form of

- (a) staff costs, and
- (b) consultancy studies commissioned specifically for this purpose.

The Financial Monitoring Unit (FMU) of the Economic Services Branch has the responsibility of monitoring the financial affairs of public utility companies. Not all of these companies are subject to formal schemes of control but the degree of examination or analysis necessary, for example, to assess an application for a review of charges, is very much the same. The FMU is staffed by a number of professional accountants and other supporting staff. The total staff costs including on costs during the five-year period from 1981-82 to 1985-86 amount to no less than \$8.32 million.

In addition to the FMU, staff of the Economic Services Branch, the Transport Branch, the Post Office (for the telephone company), Electrical and Mechanical Services Department (for the electricity companies) and Transport Department (for the transport companies) are also responsible for monitoring the operations of these companies. However, it is not possible to identify the monitoring costs alone as these staff are also engaged in other activities.

Two consultancies were commissioned during the period in connection with the monitoring of the two power companies. Expenditure incurred by these two consultancies amounted to another \$6.29 million.

MR. SOHMEN: *Sir, in light of the not inconsiderable effort made and the amount of money spent in the monitoring process including the commissioning of outside consultants, could the Financial Secretary explain why there is still a widespread sentiment in the community that the supervision of these companies by Government is not tight enough, as again reflected in the question, for example, of Mr. TAM following mine?*

FINANCIAL SECRETARY: *Sir, far be it for me to guess why the public view thinks this way. I hope they will change their minds when they hear my answer to the next question.*

MR. ALLEN LEE: *As a serious student of schemes of control, I would like to ask the following question: Would the Government make a statement as to whether the Financial Monitoring Unit is adequately staffed both in manpower and expertise to perform an effective monitoring function of public utilities companies under these schemes of control?*

FINANCIAL SECRETARY: *Yes, Sir, and I am sure if they were not, the Executive Council would have very strong views.*

### **Monitoring of operation of bus and electricity companies**

10. MR. TAM asked (in Cantonese): *The monitoring of public utilities has always been a matter of public concern. In the next reviews of the schemes of control for the two bus companies and the two electricity companies, would the Government inform this Council:*

- (a) whether consideration will be given to altering the calculation of permitted returns by using a range of percentages instead of a fixed rate, and whether the criterion of using 'average net fixed assets' as the basic factor in calculating permitted return could be changed, e.g. by stipulating that permitted returns should not exceed a certain percentage of the 'average net fixed assets' and should not be lower than a certain percentage of the shareholders' fund;*
- (b) whether consideration will be given to fixing a reasonable ratio between the shareholders' fund and external borrowing in the capital structure;*
- (c) what will be done to reinforce the monitoring of the operation and management of public utilities;*
- (d) whether a special committee will be set up to allow members of the public to take part in the review and modification of the schemes of control for public utilities; and*
- (e) whether a monitoring body with public representation will be set up to monitor the public utilities?*

FINANCIAL SECRETARY: Sir, the schemes of control were published in October 1982. Those for the China Light and Power Group expire on 30 September 1993. For Hong Kong Electric Co. Ltd. on 31 December 1993. For Kowloon Motor Bus Co. Ltd. now on 31 August 1995 being tied to their franchise. For China Motor Bus Co. Ltd. presently on 31 August 1987.

The next review of the schemes of control of the two bus companies will take place in about two years' time and there is provision for a review of the schemes of control for the two electricity companies in 1988. But in the latter case the existing schemes do not expire until 1993, and changes will not arise unless there is mutual agreement between the Government and the companies concerned.

- (a) The basis of calculating permitted return and the percentage of such return were negotiated with the companies when the schemes of control were agreed. All alternatives will be considered when the Governor in Council next reviews the schemes of control. At present the schemes seem well designed.
- (b) In examining the financial forecasts of the companies and in particular the financing plans submitted by the electricity companies in accordance with the schemes of control the ratio between shareholders' funds and external borrowings is one of the many components which is examined.
- (c) In its approach to the monitoring of public utilities the Government continues to believe that the Administration's involvement in the day-to-day operations and management of the companies should be kept to a minimum. It is the job of management to manage. There is more Government involvement in the bus companies than in the electricity companies. Steps are continually taken to enhance and strengthen the monitoring role of the Government when necessary. For example, in accordance with the recommendations made by the consultants Ernst and Whinney we are reviewing the monitoring arrangements in respect of the electricity companies. I am sure that hon. Members are well aware of the active involvement of the Transport Department in the activities of the transport companies.
- (d) & (e) With regard to Mr. TAM's last two points, the Government believes that the present formal arrangements whereby the Executive Council act on behalf of the public in monitoring the public utilities are adequate and appropriate. The Transport Advisory Committee is also heavily involved in transport matters. However, the Government is acutely conscious that Members of this Council have shown, on behalf of the public, an increasing desire to be more closely associated with this monitoring process. It was in this spirit, therefore, that UMELCO, as I understand, established the panels on public utilities and transport. I note that in recent months these panels have been particularly active and I have no doubt that this reflects growing public interest in the public utilities.

The Government is intent on securing sound performance by those utilities which have a quasi-monopoly position and which are therefore not open to the full winds of competition. In return for franchises their profits are subject to limitation. It is easy to criticise, but we have cheap and efficient bus companies. Our electricity on a non-subsidised basis is the cheapest in Asia. Despite inflation prices have been unchanged for four years. This means a decrease in real terms of about 30 per cent. I would ask Members to focus on this and the massive investment that has made it possible. I am sure also that Members will bear in mind in their public comments how imperative it is to encourage industrial investment—particularly from overseas sources. No scheme of control will serve the public interest that does not encourage the necessary continued heavy capital investment. Profits are thus essential. They may look large to the inexperienced eye because in many cases they reflect a reasonable return on the vast investments made by the shareholders.

Forward projections of profit are always made available in confidence. They must remain confidential because share prices are obviously sensitive.

Sir, if there are any supplementaries I suggest that I might respond on points of principle and on the electricity companies. My colleague, the Secretary for Transport, can do so more knowledgeably on the bus companies.

MR. TAM (in Cantonese): *I would like to thank the Financial Secretary for his elaborate explanation. From his answer, however, I feel that the Government is very satisfied with the present situation, but there are many people who have said that there are plenty of loopholes in the schemes of control. So, does it mean that there is something wrong with the public relations of the public utilities companies or does it mean to say that the Government has not taken note of the views of the general public?*

FINANCIAL SECRETARY: The Government always takes account of the views of the public which Members of this Council no doubt reflect. As far as the operation of the present schemes of control is concerned, the Government is satisfied that they are satisfactory. We believe that this arrangement best safeguards the interests of both the investors and the consumers, i.e. the consumers get an adequate and reliable service at a reasonable price while the investors get a fair return on their investments. Otherwise they would not put up more capital.

MISS TAM: *Sir, the Financial Secretary spoke of strengthening the Government's monitoring rule of the electricity companies. Can I ask other than engaging a consultant to review the monitoring arrangement in respect of those two companies, has Government taken action either itself or by engaging a consultant to examine the aspect of the economic operation of the two power companies such as the possibility of further inter-connection of their power supplies?*

FINANCIAL SECRETARY: This whole question of inter-connection is of great importance to Hong Kong and I think I share entirely what Miss Tam infers. In March 1982, Burns and Roe were engaged to study and assess a number of technical aspects of the most recently approved financing plans of the two power companies. On completion of this assignment, they were retained to look into other areas such as the compatibility of the transmission system of the power companies, the appropriateness of their generation expansion plans and the possibility of maximising further into connection facility. Some of these assignments are still in progress.

MR. ALLEN LEE: *According to the Financial Secretary's previous answer, in general the Government is satisfied with the services provided by public utilities companies. In that case, in the following reviews of the schemes of control, will the Government assure this Council that the investments of public utilities companies would provide satisfactory services to the general public and not to jeopardise the services provided to the public by simply squeezing permitted return?*

FINANCIAL SECRETARY: I am sure that is an area which the Executive Council will wish to be engaged in—in say 1992.

MR. CHEONG: *Sir, I would like a clarification. Come 1988 there is a review and if there is no agreement on the terms of the review, there would be schemes of control expiring in 1993. If there is no agreement being reached in 1993, what would the situation be as far as Government is concerned?*

FINANCIAL SECRETARY: Well, Mr. CHEONG knows the proverb: 'you can take a horse to water but you can't make him drink'. I think it is very very important that the public should be aware that it is essential to persuade investors to continue investing in the public utilities and they won't do so unless their profits are reasonable.

MR. TAM (in Cantonese): *Outside the Legislative Council, the Government has installed 300 odd consultative boards and committees. Why then is there an absence of a public utilities committee so that the public utilities committee can absorb the relevant scholars and experts in it?*

FINANCIAL SECRETARY: Sir, the Government and I think you, Sir, personally are, of course, advised by the Governor in Council. The Governor in Council, I am sure, listens to the views of the Legislative Council. But I've explained I thought clearly why confidential information cannot be made available to the public because it is share-price sensitive and is incidentally banned by the Securities Ordinance.

**Written answers to questions****Effect of anti-smoking campaign**

11. MR. LEE YU-TAI asked: *Since the introduction of the anti-smoking campaign, has Government monitored the effect on the smoking behaviour of the Hong Kong population and their consumption of tobacco?*

SECRETARY FOR HEALTH AND WELFARE: Since 1982, when the Smoking (Public Health) Ordinance was enacted, the Government has pursued a more vigorous anti-smoking publicity strategy and has also through the general household surveys monitored trends in cigarette smoking. The findings of these surveys indicate that between the first quarter of 1982 and March 1983 there was a fall of 11 per cent in the number of smokers and that a further fall of 5 per cent took place between March 1983 and July 1984. Another survey on smoking patterns will be conducted later this year.

The Government also monitors tobacco smoking trends by reference to the annual statistics on the quantity of imported tobacco products on which duty is paid. These statistics show that there has been a significant fall in the import of such tobacco products since 1982.

It is difficult to quantify the effect anti-smoking publicity has had on smoking habits in the last three years, not least because during this period the tax on tobacco products has been substantially increased. However, opinion polls indicate that between 1981 and 1983 the community became more aware of the harmful effects of smoking. This lends weight to the view that the Government's anti-smoking measures have been successful.

**Non-attendance at school by children aged 12 to 14**

12. MRS. FAN asked: *Will the Government inform this Council, following the implementation of the nine-year free and compulsory education policy:*

- (i) *how many children between 12 and 14 years of age were not at school during the school years of 1983-1985;*
- (ii) *why did they stop schooling;*
- (iii) *how is Government going to tackle this problem; and*
- (iv) *is the Government satisfied with the present situation?*

SECRETARY FOR EDUCATION AND MANPOWER: To take the various parts of this question in order:

(i) The number of reported cases of non-attendance at school by children in this age group is as follows:

<i>1983-84</i>	<i>1984-85</i>	<i>9/1985-1/1986</i>
3 165	3 485	1 780

It should be noted that the figure relate to the number of incidents of non-attendance rather than the number of children involved, so that a degree of double-counting is possible. As the figures are based upon returns made by individual schools, they may also contain some margin of error.

Reported cases can be classified into three groups: (a) those requiring no further action because the children involved have emigrated or were subsequently admitted to other schools; (b) those who returned to school after advice and assistance was provided by student guidance officers and (c) those who might be classified as dropouts.

The figure for those various categories are as follows:

	1983-84	1984-85	9/1985-1/1986
Total	3 165	3 485	1 780
(a)	1 452	1 568	n.a.
(b)	1 408	1 704	n.a.
(c)	305	213	n.a.

While it is not yet possible to provide an accurate breakdown of the current year's figure, it will be seen that those dropping out of the compulsory education system are a relatively small element in the total, accounting for some 7 to 8 per cent of cases over the past two academic years.

- (ii) The main reasons for children's ceasing to attend are;
- (a) temporary interruption due to such causes as moving home or changing school;
  - (b) emigration;
  - (c) special problems relating to fishermen's children and children living in remote areas;
  - (d) unco-operative parents;
  - (e) lack of motivation.

In the case of children dropping out of school, the last-mentioned is thought to be the most significant factor.

(iii) The problem of the child who drops out of the educational system is being tackled in three ways: identification, treatment and prevention.

*Identification.* School are required to report all new pupils admitted and all pupils who cease to attend without reasonable excuse for more than 14 days. Computer matching reveals the number and identity of pupils not attending and these cases are investigated by student guidance officers.

*Treatment.* Guidance officers contact the families of these pupils to ascertain the reason for non-attendance and to explain their legal responsibility. Cases arising from family or financial problems are referred to the Social Welfare Department, while cases which result from learning difficulty are referred to the Special Education Section of the Education Department for remedial

assistance. Where non-attendance is the result of parental hostility or indifference, verbal or written warnings may be required and—if necessary—an attendance order will be served. On average, one or two such orders are served each year. In general, however, parents cooperate fully with the department and in such cases guidance and counselling efforts continue until the child either subsequently resumes attendance or reaches school-leaving age.

*Prevention.* Continuing efforts are being made to ensure that learning is an interesting and rewarding experience. These include:

- (a) provision of a broader and more relevant curriculum with inclusion of more technical and vocational subjects;
- (b) improvement of teaching methods;
- (c) provision of better audio-visual aids and better educational television programme;
- (d) strengthening of remedial teaching, guidance and counselling, and extracurricular activities through the provision of additional teachers;
- (e) enhancement of the professional and resource support for teachers through training courses and teaching and teachers' centres.

(iv) The law requires all children in this age group to attend school and every effort is made to ensure compliance. To this end, the overall situation is closely monitored by the Education Department. As a means of improving identification, a more comprehensive, computerised pupil record system is being considered, while the Student Guidance Section is being strengthened to further improve and speed the handling of non-attendance cases. In addition, while the normal process of curriculum review and reform will continue, the possibilities are being explored of developing a special and more practically-oriented curriculum for children with insufficient motivation to benefit from the more standard school curriculum.

### **Life expectancy in Hong Kong**

13. MR. CHEONG-LEEN asked: *Recent statistics released by the United Nations World Health Organisation show that Hong Kong people nowadays enjoy the highest average life expectancy in the world, with 75.1 years for man and 81.4 years for women. Will the Government inform this Council whether it has examined what factors are responsible for Hong Kong's pre-eminence in this respect?*

SECRETARY FOR HEALTH AND WELFARE: The latest government statistics show that the average life expectancy in Hong Kong is 73.2 years for man and 79 years for women. Although these figures are high compared with many countries, they are not quite the highest in the world.

There are a number of factors which contribute to our high average life expectancy. The community is provided with a comprehensive range of medical and health services which are made available at nominal cost to the large section of the public which relies on subsidised medical attention. In particular, the extensive package of preventive care services provided through such channels as clinics, the port health service and the school medical service have ensured that public health has been maintained at a high level.

Increased prosperity in recent years leading to an improvement in the socioeconomic condition of our community has also contributed to the high average life expectancy in Hong Kong.

### **Retention of desalting plant**

14. DR. CHIU asked: *I understand that \$1.75 billion will be spent over the 12-year period up to 1995 to bring in water from China. Will the Government inform this Council whether it is still necessary to keep the desalting plant which has incurred a maintenance cost of \$4.3 million per annum in the last few years?*

SECRETARY FOR LANDS AND WORKS: The desalting plant is at present preserved in a mothballed state and can be reactivated in the event of a severe drought. For the immediate future, it is still considered necessary to retain the desalting plant as a standby reserve because the transfer systems on both sides of the border are still under construction and there are technical limitations in obtaining any extra supplies in excess of the agreed quantities should the need arise.

However, works on the Chinese side are well advanced and when these are completed and reception and delivery facilities in Hong Kong are sufficient, there will be spare capacity to draw water in excess of the agreed annual incremental quantities should circumstances require. Towards the end of this year it is intended to examine the question of retention of the desalter in relation to the facility to obtain emergency supplies from China.

### **Government business**

#### **First Reading of Bills**

#### **BANKING BILL 1986**

#### **MAN MO TEMPLE (AMENDMENT) BILL 1986**

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

## Second Reading of Bills

### BANKING BILL 1986

THE FINANCIAL SECRETARY moved the Second Reading of: 'A Bill to regulate banking business and the business of taking deposits and to make provision for the supervision of authorised institutions so as to provide a measure of protection to depositors and to promote the general stability and effective working of the banking system, and to provide for matters incidental thereto or connected therewith'.

He said: Sir, I move that the Banking Bill 1986 be read the Second time.

As I said in my Budget speech last month, this significant new Bill is the product of extensive consultation. There has been unanimous agreement by all concerned on the policies to be adopted. The Bill now provides a unified approach to the supervision of banks and deposit-taking companies, referred to as '*authorised institutions*'. It carries over from present legislation provisions to *regulate banking business* and the business of taking deposits. The aims of the Bill are to provide a measure of protection to depositors and to promote the general stability and effective working of the banking system. When enacted, it will replace the existing Banking Ordinance and Deposit-taking Companies Ordinance. Few things are more important to Hong Kong than sound banking—the backbone to our economy.

It is a long Bill. A number of proposals in it represent new departures in prudential supervision in Hong Kong. But many of its provisions are the same as those in the two existing Ordinances. There is a convenient comparative table at the back of the Bill showing whence each of the 153 clauses and the five schedules comes. There is also the useful explanatory memorandum giving a fairly detailed description of the various parts and clauses of the Bill. I shall not repeat them here. Instead I shall restrict myself to explaining the main *new* proposals in the Bill. They relate to *six* areas: the Commissioner of Banking's role; audit; ownership and management; restriction on loans; capital to risk assets ratio; and liquidity ratio.

First the commissioner's role is to promote the general stability and effective working of the banking system. He is responsible, among other duties, for ensuring that authorised institutions are operated in a responsible, honest and business-like manner. He is also to promote and encourage proper standards of conduct and sound business practice among these institutions.

It is necessary to spell out in the Bill these functions of the commissioner in order to make it clear that his role is greater than merely one of checking that the institutions comply with the various technical requirements. This reflects a different and up-to-date emphasis in the approach to prudential supervision— one that is more flexible and relies more on the commissioner's discretion and qualitative judgment than previously.

Some facile public comments on the Bill since it was gazetted have focused on the commissioner's powers. I should point out that the existing legislation already gives very wide powers of discretion to the commissioner. It could not be otherwise if he is to carry out effectively his supervisory duties. These powers are in line with, indeed are modest compared with, those which apply in other major banking centres.

Safeguards against abuses in the commissioner's exercise of his discretion are provided throughout the Bill—by way of appeals to the Financial Secretary or to the Governor in Council. It is also proposed that the commissioner should provide an annual report to the Governor in Council. The Governor in Council may, and I hope will, publish the report, in part or in whole. The commissioner would, where appropriate, include in his report general guidelines on how his discretion has been or would be exercised in specific areas. Before submitting the report to the Governor in Council, he would seek advice from the responsible, experienced and representative Banking Advisory Committee and the Deposit-taking Companies Advisory Committee, which will continue to be the advisory bodies under the Bill. They advise, of course, only on general principles. Issues relating specifically to individual authorised institutions quite properly do not fall within their remit. If, as has recently been suggested, they were to do so, serious conflicts of interest would arise when members were made privy to highly confidential information relating to their competitors. It must also be recalled that major policies originate from the Governor in Council. They are not made by advisory committees, who make recommendations only.

The second area relates to audit. We have consulted closely with the Society of Accountants. They have been very helpful. There is a common appreciation of the respective roles of the auditor and supervisor, and how these separate roles come together to enable problems to be detected before it is too late. To this end, the Bill provides for any of the three parties—management, commissioner, auditor—to call a tripartite meeting to discuss matters relating to the institution, and for the meeting to be held notwithstanding non-attendance by any one of three parties.

To deal with weaknesses in audit, the commissioner may in future refer to the Disciplinary Committee of the Society of Accountants any cases of negligence or serious misconduct by the auditor. He cannot do so at present because the strict secrecy provisions in the two existing Ordinances bar him from passing the necessary information to the disciplinary committee.

The Bill extends to deposit-taking companies the audit requirements presently applicable only to banks. In particular, the commissioner will have the power to appoint a second auditor for deposit-taking companies.

The third area relates to control on ownership and management. Experience has shown that, for effective supervision of institutions, the supervisory authority must be able to ensure competence and integrity at the controlling level of ownership and management. The existing Ordinances are deficient in

this respect. To remedy this deficiency and to accord with the common practice elsewhere two proposals are made. They apply only to institutions incorporated in Hong Kong: that is to say, 35 of the 150 banks, and the great majority— 301—of the deposit-taking companies.

First, after the commencement of the Bill, any person who, individually or in concert with others, acquires shares which bring his holding to 10 per cent or more of the voting shares of the institution, would need the commissioner's approval before he is able to exercise his voting rights in those acquired shares. As a sanction to support this requirement, all resolutions of the institution made in reliance upon the unapproved voting shares which could not otherwise have been made will be void, but the right of third parties dealing with the institution in good faith will be protected.

Second, after commencement, all appointments to director and company secretary posts of a local institution will be subject to the commissioner's prior approval. Of course there is provision for appeal. The commissioner's control also extends to the 'controller'—defined as one who controls more than 50 per cent of the voting shares of that institution or of its holding company, or one in accordance with whose instructions the directors of an institution or of its holding company are accustomed to act. Any controller, whether he becomes so before or after commencement of the Bill, will have to seek the commissioner's approval before *continuing* to give directions or instructions to the institution.

The fourth area relates to lending by authorised institutions, which is already subject to restrictions under the present Ordinances. The Bill broadens the scope of the restrictions, principally to tackle those cases where exposures to a number of different legal persons all depend on the creditworthiness of a single party. Exploitation of this loophole in the present restrictions has been at the root of many of the problems of institutions which have recently experienced difficulties.

The Bill provides that the commissioner may issue directions to authorised institutions not to engage in specified business practices which, in his opinion, may cause the soundness of the financial position of an authorised institution to be dependent upon the soundness of the financial position of a single party. The commissioner will have power to require the institutions to supply him with information to ascertain whether his directions have been complied with.

As an example to what is envisaged, the commissioner may issue directions on lending to nominee companies. Pursuant to such directions, if a bank has extended loans to a nominee company, the commissioner may require the bank to identify to him (confidentially, of course) the beneficial owner of that company, to determine whether the bank is over-exposed to that owner's creditworthiness. If the bank fails to satisfy the commissioner, he may require full provisions against those loans.

The Bill also requires that an institution shall not, except with the commissioner's approval, give credit against the security of the shares of its related companies—that is, any subsidiary of that institution, the holding company of that institution, or any subsidiary of such holding company.

There is a further proposal to tighten lending. The definition of 'company' in the two existing Ordinances covers only those incorporated in Hong Kong or doing business in Hong Kong. As a result, exposures to companies outside this definition are not regulated at all. It is now proposed to extend the definition to include other foreign companies. This change should help, in particular, in monitoring lending to overseas companies related to directors and major shareholders.

The fifth area deals with capital adequacy. One obvious common feature of the banks that have had to be taken over by Government was insolvency. In other words, their capital and reserves were grossly inadequate to meet the losses arising from bad debts. The Bill introduces a new ratio, the capital to risk assets ratio, to apply to all banks and deposit-taking companies incorporated in Hong Kong.

A deposit-taking institution's capital is there to provide a cushion against losses so that they do not fall to be borne by depositors. Although the present two Ordinances prescribe minimum capital requirements for banks and deposit-taking companies, these take no account of either the amount or riskiness of the assets which need to be supported by the capital. The new ratio is designed to remedy that deficiency. The detailed definitions of capital and risk assets, and the manner in which the ratio is calculated, are contained in the third schedule of the Bill.

The concept of a capital to risk assets ratio is widely accepted internationally, but there is no uniform standard. The Bill sets a minimum ratio of 5 per cent, but the commissioner has the power to increase the ratio for particular institutions to not more than 8 per cent in the case of banks, and 10 per cent in the case of deposit-taking companies—this discretionary requirement is to provide flexibility due to such differences as the quality and nature of individual institution's asset portfolios. A higher upper limit of 10 per cent for deposit-taking companies is considered prudent: there is a wider range of quality of the companies in this sector.

Breach of the ratio will not of itself be an offence. But failure to report the breach or to take remedial action required by the commissioner will be an offence.

This new requirement on capital adequacy will not apply to Hong Kong branches of foreign institutions. In accordance with accepted international practice, supervision of a deposit-taking institution's capital adequacy is the responsibility of the authorities in the place where the institution is incorporated. Branches of foreign institutions are licensed in Hong Kong only if they

are incorporated in countries the monetary authorities of which exercise effective supervision. There is, therefore, no need for the capital adequacy provision in the legislation here to cover them.

Since this capital to risk assets ratio is new, and will place substantial requirement on some of the institutions concerned, I envisage that a reasonably long period, say, two years, will be allowed before bringing it into effect.

The sixth area relates to liquidity. The Bill introduces new liquidity requirements to replace the present ones. These will put authorised institutions in a better position to meet liabilities such as customers and interbank deposits as they fall due.

There is a whole range of approaches to defining the liquidity ratio. What is proposed is an improvement and at the same time a simplification. In effect, it requires authorised institutions to maintain 'liquefiable assets' for all 'qualifying liabilities', that is, liabilities maturing or callable within one month, at a ratio of not less than 25 per cent. The definitions relating to 'liquefiable assets', a term which takes into account cash inflows expected to arise from the maturing of non-liquid assets, and to 'qualifying liabilities', are contained in the fourth schedule. The sanctions in support of this requirement parallel those in the case of the capital to risk assets ratio.

Let me emphasise that liquidity is not something that can be regulated entirely through a technical ratio. The Bill supplements the liquidity ratio by requiring institutions to seek the commissioner's approval before giving charges over more than 5 per cent of its local assets. They are also required to report to the commissioner any civil proceedings against them that could adversely affect their financial position. In addition, in examining an institution's position, the commissioner would be concerned not only with its compliance with the ratio as defined, but also with its overall liquidity profile. He may impose additional liquidity requirements on any institution as necessary.

Sir, I have described in some detail the main proposals in the Bill. They form a comprehensive package of what the Administration regards as essential to improve prudential supervision. It is fair to say that the policies involved have the general support of the industry. But it is a long Bill; parts of it quite technical. During the considerable consultations that took place, almost all bodies consulted emphasised the importance of allowing time for careful scrutiny of the drafting of the Bill when published. The Administration fully accepts this view. I propose, therefore, to allow two months for detailed examination and representation by interested bodies, before resumption of the debate in this Council. Amendments are likely to be required during the Committee stage, and I welcome all responsible advice. The Bill is of major importance for Hong Kong. It is essential to get it right.

I should add a note on the related subject of deposit insurance. I said in my Budget speech that whilst protection of depositors was important, practical

difficulties make deposit insurance a non-starter in Hong Kong. The major banking groups would have to bear an unfair share of the burden. Furthermore, deposit insurance could not prevent the problems of one bank spreading across the banking system as a whole as a result of inter-bank relationships. The promotion of sound business practice through improved prudential supervision is the only practical answer here. This is the unanimous view of the Banking and Deposit-taking Companies Advisory Committees.

I believe that this Bill will go a long way—and if I may say, Sir, an overdue way—to strengthen our financial sector. But as I said in my Budget speech, there is no foolproof system. We must depend on honest practices. The commissioner and his staff can guarantee their best endeavours, but they cannot offer guarantees against losses. Our bankers bear the trust of the community. They have the essential role to play. In this, I am encouraged by the responsible and constructive attitude of the banking industry in the discussions leading to these proposals. I know I can continue to rely on it.

Sir, I am sure this Council would expect me to pay tribute to the work that the Secretary for Monetary Affairs, the Commissioner of Banking and the staff have done in this year. They have been very ably assisted by the advisory committees and also spent a great deal of time. This Bill represents the outcome of two years' work.

Sir, I move that the debate on this motion be adjourned.

*Motion made. That the debate on the Second Reading of the Bill be adjourned.*

*Question put and agreed to.*

### **MAN MO TEMPLE (AMENDMENT) BILL 1986**

THE SECRETARY FOR DISTRICT ADMINISTRATION moved the Second Reading of: 'A Bill to amend the Man Mo Temple Ordinance'.

He said: Sir, I move that the Man Mo Temple (Amendment) Bill 1986 be read the Second time.

The Man Mo Temple Ordinance provides for the administration and discipline of the Man Mo Temple, in Hollywood Road, Hong Kong, and the Man Mo Temple Fund by the Tung Wah Group of Hospitals. The objects of the fund, as spelt out by the Ordinance, include the development of any property belonging to the fund and the use of the fund for educational, medical and charitable purposes.

Under the Tung Wah Group of Hospitals Ordinance, the group is empowered to manage the fund in accordance with the provisions of the Man Mo Temple Ordinance. This in effect turns the group into a trustee of the fund.

The Bill now before Members introduces the necessary amendments to enable the group to redevelop and mortgage any property belonging to the fund.

Some of the existing properties of the fund are in disrepair and are extremely under-utilised. To improve the environment of the areas where the properties are situated and to maximise their development potential, the group proposes to redevelop certain properties in Sheung Wan.

The fund is, however, insufficient to cover the cost of the proposed redevelopment scheme. In the circumstances, the group proposes to raise the necessary funds by commercial borrowing with the creation of mortgages as security. On repayment of the loan required for the redevelopment scheme, it is expected that the fund would be boosted by an additional net income of about \$7 million per annum. This will enable the group to improve the range of charitable services financed by the fund.

The Bill seeks to empower the group to redevelop temple properties. It proposes to add a new section to the principal Ordinance to permit the group, subject to the approval of the Governor, to acquire, dispose of and mortgage any property belonging to the fund. Incidental powers such as the engagement of professional or expert persons are included. It also makes consequential amendments to the Tung Wah Group of Hospitals Ordinance.

The Tung Wah Group of Hospitals has been consulted and has endorsed the proposals in the Bill.

Sir, I move that the debate be adjourned.

*Motion made. That the debate on the Second Reading of the Bill be adjourned.*

*Question put and agreed to.*

### **Unofficial Member's Motion**

#### **Statement by Senior Unofficial Member**

MISS DUNN moved the following motion: That Standing Order 20(1) be suspended to enable the Senior Unofficial Member to make a statement and to enable the Chief Secretary to reply.

*Question put and agreed to.*

### **Draft Hong Kong (British Nationality) Order 1986**

MISS DUNN: Sir, I am grateful to this Council for waiving Standing Orders to allow me the opportunity once more to refer to the matter of British nationality.

It is now 10 weeks since this Council united behind a motion drawing the attention of the British Government to the deep concern we expressed about the erosion of the rights of Hong Kong British dependent territories citizens. On that occasion, I placed on record the three requests—'modest requests' I called them—which my unofficial colleagues had formulated to reflect the wishes of the people of Hong Kong. The letter which I sent on 3 January 1986 to all Members of the House of Commons and the House of Lords was tabled in this Council.

My colleagues and I have been gratified by the extent of the support we have since received from the friends of Hong Kong in Westminster, including those who spoke in the parliamentary debates on our behalf. We are encouraged by the evidence of their continuing goodwill. Only last week I received a message from the Archbishop of Canterbury assuring me of his support. He has asked the Bishop of Birmingham to write to the Home Secretary to express 'his concern about this serious matter' and he himself will be in touch with all those who will be raising it in the House of Lords.

And we are grateful to you, Sir, for what you have done to convey the strength of our feelings to the British Government and for sending officials of the Hong Kong Government to London last month to provide the facts and the figures needed by those who advise the British Government.

But where do we stand today?

On 15 January the Chief Secretary promised to inform this Council as soon as the British Government's response is received. But nothing more has been said in this Council. The Minister of State, Mr. Timothy Renton, assured us that, providing a satisfactory formula can be found, HMG will agree to the position being made clear in the passports. But we are still waiting for the British Government to let us know what the terms of that endorsement will be. In the meantime, the non-ethnic minorities and the ex-servicemen wait to see if their requests have fallen on deaf ears.

The draft Hong Kong (British Nationality) Order was debated in both Houses of Parliament in January. Lord Glenarthur told the Lords that the British Government would consider whether any of its provisions would need amendment as a result of the views of this Council and then—I quote his words—'we shall then formally lay a draft nationality Order before Easter'.

I hope, therefore, that you, Sir, will convey to the British Government our increasing apprehension about the passage of time. No one should think that the strength of Hong Kong's feelings on this matter is any less today than it was 10 weeks ago. We expect to have a response *before* the Order is laid before Parliament. We expect to have the opportunity to consider that response and comment upon it *before* Parliament is invited to assent to the Order. The concerns of the people of Hong Kong must not be ignored. The wishes of this Council must be addressed.

CHIEF SECRETARY: Sir, I will certainly convey the views of the Legislative Council to Her Majesty's Government.

I am sure that Her Majesty's Government recognise the strength of feeling on this issue in Hong Kong, and I can assure you that Her Majesty's Government are giving the matter priority. These questions are however complex, and it is right that they should receive full and careful consideration. I know that the Government hope to reach decisions shortly, but I cannot say at this stage whether this will be before Easter.

Her Majesty's Government policy has been to give a full opportunity for Hong Kong people to express their views. Once laid, the Order will have to be debated by both Houses of Parliament and there will be an opportunity for those concerned to express their views on the matter.

### **Adjournment**

*Motion made. That this Council do now adjourn.*

3.50 pm

HIS EXCELLENCY THE PRESIDENT: Twenty-eight Members have given notice of their intention to speak. Although I am sure they will be concise, I do not think we can finish in a half-hour. So I propose to exercise my discretion under Standing Orders 9(7) and 9(8) to allow Members such time as is necessary to complete their speeches, and such time as is then necessary for the Official Member to reply to those speeches, before putting the question on the adjournment.

### **THE REPORT OF THE BROADCASTING REVIEW BOARD**

DR. HO: Sir, following the publication of the report of the Broadcasting Review Board in September 1985, Unofficial Legislative Council Members set up an ad hoc group on 1 November 1985 to study the report. The group has held six in-house meetings and 11 meetings with 10 interested parties, including two meetings with former BRB members, as well as meetings with the Secretary for Administrative Services and Information, the Director of Broadcasting, the two television licensees, Cable & Wireless (HK) Ltd., RTHK Programme Staff Union, Hong Kong Policy Viewers, International Union Against Cancer and Tobacco Institute of Hong Kong Ltd. In addition, the group has received 50 submissions from various sectors of the community including journalists, social workers, educationalists, medical personnel, the Hong Kong Dental Association, religious bodies, tobacco and advertising organisations, and interested groups and individuals. The Secretary for Administrative Services and Information and the Secretary for District Administration also supply the group with a summary of public opinion and records of district board discussions on

the report respectively. The group has taken all these views and submissions into consideration in its deliberations and would like to register its appreciation and thanks to all those concerned. On behalf of my colleagues I would also like to thank the BRB for its efforts in producing such a voluminous report.

Sir, I am glad to say that the group has reached unanimous consensus on a number of principles which have been endorsed by all Unofficial Members. I have the honour to present them on their behalf later on. As regards the ways and means of implementing these principles, there are different views which Members speaking after me will elaborate individually.

First, it is the unanimous view of the Unofficials that as radio and television are powerful media which pervade into the homes of every stratum of society and their impact and influence are readily felt, Government has a duty, in the public interest to prescribe broad guidelines on the standards and types of programmes appropriate for the broadcasting industry and that the industry should be subject to some form of regulation and monitoring in the interest of the community. Second, the airwaves are the limited property of the community, and therefore, not only must the right to broadcast be in the best interest of the community, payment should be made to the Government for the use of the airwaves. Third, in this fast developing world of telecommunications and high technology, Government should be constantly aware of changing trends. Although the BRB report and this debate is concerned with broadcasting by airwaves, there are already developments such as cable television, and direct satellite transmissions which will undoubtedly gain popularity. We ask the Government to watch these developments especially as they apply to Hong Kong, in the public interest.

Fourth, it is only if there is competition in the broadcasting industry, that consumers are assured of choice. So, whatever measures are adopted by the Government, they must enhance, not reduce, competition within the broadcasting industry. We consider that fair and healthy competition will enhance the quality of television and radio programmes and would benefit both the public and the industry.

We also agree fifthly, that the right to broadcast should be limited, for the purposes of this review, to commercial licensees and a public broadcaster. As regards the commercial licensees, it should operate within the spirit of section 10 of the Television Ordinance which states, inter alia, that 'the only business carried on by the company shall be (i) to establish and operate a television broadcasting service (ii) to establish and operate...associated telecommunication services..., and (iii) to carry on such forms of business as may be directly connected or associated with the foregoing,' and as regards a public broadcaster, which I will elaborate later on, its operations will be governed by appropriate rules once its form and method of finance are decided.

Sixth, in view of the impact and influence of the broadcasting industry which I referred to earlier on, it is the duty of the Government to regulate and monitor its performance. It is our view that the regulation and monitoring of the broadcasting industry should be entrusted to a broadcasting authority and that the authority should, having regard to the prevailing standard of public decency, ensure that an adequate, comprehensive and balanced service which is responsive to the diverse needs and aspirations of the community, is provided. Public hearings should be held before permission is given to broadcast at which the performance of existing licensees, the public broadcaster, and potential applicants is examined. The onus to establish that they can fulfil the necessary requirements should be placed upon those seeking permission to broadcast.

Seventh, the broadcasting industry should ensure that its programming is balanced in content, and should be entertaining, informative and educational. It should also conform to all technical requirements for the production and transmission of programmes.

Eighth, there should be a public broadcaster which should report to a board of governors appointed by the Governor with carefully selected members. It should have editorial autonomy. Government should support the public broadcaster with public funds.

Finally, before I conclude this part of my speech outlining the unanimous views of Unofficial Members, my colleagues would like me to register their support for the upholding of Government's anti-smoking policy. We do, however, have different views on how and at what pace this policy should be implemented. My colleagues will elaborate their individual views later.

Sir, I now turn to my personal views on two topics within the four-minute time allowance.

By their very nature, commercial television operators are more inclined to broadcast programmes which appeal to the general viewers' preference for relaxation and enjoyment. Therefore, a significant role of the future RTHK is to ensure a balanced television programming of entertainment, information and education. To this end, I propose that RTHK should produce more public affairs, educational and enrichment programmes and secure an extended access to the air-time of the commercial television licensees for their screening through provisions in the future Broadcasting Ordinance, specifications in the new licensing conditions and mutual consultations. A more flexible use of air-time on weekdays and weekends in preference to the service sharing option and weekend option permits the screening of a greater variety of RTHK programmes. I believe that these arrangements would be acceptable to the commercial television licensees, as evidenced by the fact that RTHK already has 14 hours per week on the four channels with about a quarter within prime time on weekdays and weekends.

I am satisfied that RTHK does enjoy editorial independence. My observation is supported by the findings of the Television and Entertainment Licensing Authority audience survey which revealed that RTHK programmes 'are not seen to be a vehicle for dishing out Government propaganda; rather they are a realistic reflection of many of the situations and social problems that face Hong Kong.' Reliance, however, on advertising revenue will inevitably subject editorial independence to commercial considerations.

To ensure that RTHK will remain an autonomous organisation, insulated against external pressures and restraints, I agree that a board of governors be set up, composed of a wide cross-section of community leaders in diversified fields, media experts and a couple of Legislative Councillors, and chaired by an unofficial member. In addition, RTHK should be financed by public funds through legislative procedures, and by a combination of incomes, such as charges from the commercial television licensees for release of its productions and commercial sponsorship and advertising.

I wish to sound a note of warning against the argument for RTHK to be disestablished from the Government machinery as the most desirable means of acquiring independence. Hiving-off is likely to be perceived by the public as a deliberate Government move to relinquish more and more of its responsibilities and obligations in the sensitive transition period, thus causing unnecessary erosion of confidence in the Government. The terms of employment of the staff in RTHK are rather complex; disestablishment, if not handled judiciously, will create dissatisfaction among some segments of the staff, and hence will adversely affect their morale and loyalty. Hiving-off is also a very costly, tedious exercise.

The licence period should be for 15 years, rather than eight years as proposed by the BRB. The arguments for a longer period are evident. The television industry requires heavy capital investment in facilities, technological installations, human resources and programme development. A long lead time is often needed for forward planning to acquire top-rated programme rights. A long-term licence induces the licensees to make long-term plans to train producers, artists and scriptwriters who are instrumental in producing quality programmes. Business confidence in the territory will also be boosted. A mere eight-year licence may deter a licensee from injecting substantial investments to improve the television station's capability, thus perpetuating the current state of lopsided dominance prevailing in the industry. This will work against the ideal of fair competition which the BRB report would like to realise. The public hearings at regular intervals, reinforced by the power to impose new licensing conditions, are effective safeguards against abuse of a long licence period. There are already other examples of Government granting licences to operators of some important projects beyond 1997.

MR. S. L. CHEN: Sir, I am in full agreement with the fundamental principles stated by my friend Dr. Ho. In line with your request to be concise, I shall confine my observations on two points.

First, I do not agree with the recommendation that tobacco and cigarette advertising in the electronic media should be totally banned as recommended by the Broadcasting Review Board. Whilst appreciating that tobacco and cigarettes are harmful to health, I believe other non-health related factors should be considered carefully before reaching a final conclusion. On the other hand, if health hazard is the sole reason for banning tobacco advertising in the electronic media, I would have thought that banning should be total, in other words, electronic media should not be singled out for this purpose, other forms of media must be considered at the same time.

In support of Government's anti-smoking policy, I venture to propose a middle course solution to the problem that all tobacco and cigarettes advertising should be banned by fiscal measures instead of forced prohibition. By fiscal measures I mean a tax to be imposed on tobacco and cigarettes advertising. It should be progressively increased from year to year, such that the cost of advertising will eventually become so prohibitive as to discourage advertising altogether. In this way, the ultimate objective of banning tobacco and cigarette advertising could be achieved, albeit gradual but in the meantime the public purse would have some benefit.

Whilst on the subject of advertising in the electronic media, I believe there is a need to review the existing control and monitoring functions. I understand under the present regulation only a certain portion of the broadcasting time is permitted to be used for advertising purpose. As a result, broadcaster may lengthen the broadcasting time quite unnecessarily simply as a means to gain the maximum permissible advertising time. But worst of all is that most of the advertising time would be cramped into the so called prime time such that advertisements occupied a very large proportion of the prime programme time. I therefore support the proposal of the Broadcasting Review Board to amend the existing regulations to stipulate clearly the permissible advertising time in any one hour broadcasting time and broadcasters must be required to observe this specific requirement.

Secondly, on the question of an independent public broadcaster, I do not believe that a totally independent organisation would be a financially viable proposition in the present circumstances. Government should therefore continue to give financial support to RTHK but appropriate steps must be taken to improve its editorial independence. However, some argue that in order to ensure maximum editorial independence the present RTHK should be disestablished. I am afraid that I for one cannot share this wisdom. If one really believes in this argument one could further argue that complete editorial independence can never be achieved without being financially independent. So, arguments like this could go on and on but one must face with the reality that

an independent public broadcaster is not and will not be financially viable as I said earlier. Moreover, to disestablish RTHK would be a very costly exercise as my friend Dr. Ho has suggested and unless one is absolutely sure of his benefit merely to disestablish for the sake of disestablishing would not for all practical purposes achieve the objective of complete editorial independence.

MR. CHAN KAM-CHUEN: Sir, I rise to support, in principle, the recommendations in the report of the Broadcasting Review Board. But I shall refrain from commenting on cable television, as I have to declare my interest as a director of the Hong Kong Telephone Co. Ltd. and as a special adviser of the Cable & Wireless PLC. With your permission, Sir, I shall proceed to comment on some general points.

Basically, broadcasting is a systematic diffusion of mainly entertainment, information, educational features, through radio or television programmes. With the introduction of colour television, many people changed their pattern of living and spent more time at home. If there are too many trash programmes and students are too obsessed with them, their parents should find that they may have difficulty in communicating with their children and may also find that the standards of their children's homework deteriorate. It is therefore important that better quality programmes are broadcasted. It is not only the responsibility of the competent government authority to monitor the operations of the licensees, but a broadcaster also has a moral as well as legal responsibility to serve the public interest. As broadcasting exists in a quasi-public domain, programme makers have great power in influencing the political and social thinking of a mass audience, especially in shaping the views of our younger generation.

Commercially, colour television is a very effective means for promoting the sale of goods or services. In the advertising field, there is a distinction between selective advertising and primary advertising. For example, when a cigarette manufacturer tries to build up demand for his own brand, that is selective advertising. But when he attempts to convince people as a whole to smoke, then it is primary advertising. The projection of a heroic or successful image in cigarette advertisement is primarily for our younger generation. Without new addicts the tobacco industry will die a natural death. As I have already made two speeches in this Council before, one on health hazards (and I shall look forward to my colleagues in the medical profession to make it more 'scientific') and the other on the economic aspects, i.e. the '\$4.75 million' smoker, I support the total banning of cigarette advertisements. If this cannot be done in one step, then we should only permit these television advertisements after children's bedtime.

Politically, broadcasting is a very powerful tool. We have learned from newscasts from other countries that the formula for toppling a government is often to magnify the imperfections of the government to sow the seeds of

dissatisfaction and unrest, followed by demonstrations of workers and students, control of the armed forces and the broadcasting stations. I hasten to add that Hong Kong will not be in such a situation. But one only has to cast one's mind back not too long ago on a school incident in which public opinion could be influenced by television. Recently, we have seen commercial advertisement turned into propaganda, i.e. the dissemination of one-sided statements on a public issue. Hence, it is important to have an independent public broadcaster so that the public is not given half-truths at critical times.

Television, like other telecommunication business, is a separate category from other general commercial activities. When such licences expire the Government may alter the existing conditions for public interest.

Generally, it is international practice to impose some control, license or charge royalty, for the usage of the rare commodity—frequency or airwave, and allocation has to be made to avoid interference. There are not only local laws but also international agreements governing the usage of satellites, submarine cables and so on which require huge international investments and free usage of which is illegal.

In conclusion, I wish to express my appreciation of the tremendous efforts made by the board members and those of the Legislative Council ad hoc group and their supporting staff in attending numerous interviews, meetings, information gatherings and compiling the report. The weight of relevant papers in my possession is some 11.5 kilograms and this is only the tip of an iceberg when compared to the papers of the board's and ad hoc group's on this controversial subject.

MR. CHEONG: Sir, members of the Broadcasting Review Board, I am sure, worked very conscientiously in their deliberation and we must be grateful to them for providing us with so much food for thought. As a complete layman to the broadcasting industry, I do not possess the necessary expertise to comment authoritatively on the various aspects of the report and its recommendations. Furthermore, given the constraint of time, it would not be possible to offer extensive comments however amateurishly they may seem to be. Therefore, I would like to speak briefly on three areas, namely, the need for a continued viable television industry in Hong Kong; the need for a public broadcasting service in Hong Kong and the question of whether or not tobacco advertising ought to be banned completely from television. First, on the need for a continued viable television industry in Hong Kong, it is my observation that this is the one area which the report of the board does not seem to have addressed in sufficient detail. May be this is due to a possible constraint imposed upon by a different interpretation of its terms of reference. The report does not include examination of the degree of contribution, or otherwise, the current television industry may have on our society. Basic questions such as is the current television industry contributing positively to the stability and progressive development of our society? Does Hong Kong need a continued viable

television industry? If not, what should be the shape and form of the future television industry in Hong Kong? The answers to these basic questions are fundamental and crucial to our formulation of future policies. The board seems to have taken for granted that there will in future be a viable television industry and therefore does not seem to have examined in sufficient depth the adverse impacts, or otherwise, their various recommendations might have on the continued economic viability of the television industry.

Sir, the growth of our prosperity in the past 20 years has transformed for the better not only our living standards but also our life styles. Nowadays, watching television has become part and parcel of our daily life routine. Interesting television programmes accepted by the public generally have offered to our citizens a much needed balance to their daily pressures of life. This in turn contributes towards general stability of our society. I shudder to imagine how Hong Kong would react and what adverse effect it might have on the stability of our society if our citizens were deprived of this important part of their life style. Hence, any policies, the implementation of which would have the effect of damaging the viability of the future television industry must be approached with extreme caution. I plead therefore that the Administration and the Executive Council should seriously take this aspect into consideration in their future deliberations.

Secondly, on the question of the need for a public broadcasting service, it is quite clear from reading through the report of the board that there have been concerns about the quality and quantity of television programmes screened by the two commercial television stations. Given the high calibre and intelligence of the board members, it certainly is not surprising to observe that the quality and the educational value of these programmes leave much to be desired. Given also the perceived powerful influence television may have on the attitudes of our general populace, it is therefore quite proper for the members to recommend that there is a need to ensure a proper balance of programmes on our television screens. I agree in principle with such recommendations as long as we do not carry too far with our own observation as to neglect the real interest of our populace.

A great number of my colleagues favour RTHK being spurn off as a non-government department whilst receiving Government subventions for its future survival. Though I support in principle that the public broadcaster be given autonomous editorial control, yet I am of the opinion that the problems and the details of how the public broadcasting service would be managed, controlled and financed should be addressed by professionals in the trade rather than imposed upon by non practitioners and I might add, Sir, I support Dr. Ho, and S. L. CHEN'S notes of caution on total disestablishment of the RTHK. The Broadcasting Review Board did recommend that the public broadcaster should be given a monopoly of television air-time of the commercial television stations at specified times during the week, and should be allowed to finance itself through advertising revenue during those periods. Having sought advice from

some professionals involved in this industry, my initial conclusion is that this particular arrangement may not be practical to all the parties concerned, including the public broadcaster itself.

It is my view that the arrangement as recommended may have theoretical merits yet falls short of tests to practical consideration. Given that there is no doubt on the need of a well developed public broadcasting service, there is therefore a need for the Administration to work out other formulae to achieve this objective. And in working out possible alternative formulae, it is my earnest hope that the Administration would approach the problems principally from a pragmatic angle taking into full consideration all the operational difficulties as well as the question of continued viability of the future television industry.

Finally, on the banning of tobacco advertisements on our television screens, it is my considered view that such a step is far too drastic and the justifications for this drastic step have not been clearly established. Would the ban really reduce the rate of growth of our smoking population? Would the ban be so effective as to dissuade people from taking up the habit? Surveys taken in Western countries have indicated clearly that banning of tobacco advertising on television has not really achieved the very result that one hopes it would be able to achieve.

Sir, I am not denying the fact that smoking may be harmful to health. Yet, if our crusaders are so concerned about how our own lives should be run, why go only part of the way? Why not propose a policy of total ban on smoking and make it a criminal offence on whoever that smokes? In my view, we should not take any action for emotional reasons knowing full well that the proposals, even if implemented, would not conclusively and decisively achieve the declared objective.

MR. CHEUNG (in Cantonese): Sir, since the publication of the report of the Broadcasting Review Board, various opinions have been expressed by individuals as well as public bodies through various channels. The broadcasting stations and the tobacco trade have expressed very strong reaction particularly on the recommendations to establish Radio Television Hong Kong as an independent public broadcaster to which the broadcasting time from 7.00 pm to 8.00 pm on the commercial television channels should be allocated, and to completely ban tobacco advertisements on radio and television as from December 1988.

In support of the recommendation to ban tobacco advertisements, the Broadcasting Review Board has quoted many views and statistics. As expected, the recommendation has aroused mixed opinion. Some question the reason to allow cigarettes to be sold if smoking is hazardous to health. If the sale of cigarettes is allowed, why ban its advertisement? Others doubt whether advertisements lead to smoking by our youths. Many also opine that banning cigarette advertisement is incongruous with the Government's prevailing nonintervention policy.

After taking the views together, it would appear that there is as yet no conclusive evidence that smoking would lead to lung cancer. Neither is there concrete evidence to prove that tobacco advertisements are conducive to smoking among our youths. On the other hand, banning of tobacco advertisements should not be considered in the context of free economy. Indeed our basic policy is non-intervention, but in many situations, it has proved that reasonable control is necessary. The Government has exercised control over the profits of the power companies, regulates the operation and safety standards of the bus companies. These are measures necessary to protect public interest and safety. I think it is indisputable that tobacco advertisements should be banned providing that they are proved to relate to smoking.

The question is therefore whether it is fair to ban tobacco advertisements in the absence of conclusive evidence that they lead to increased smoking, a proposal which is harmful to the economy of television stations and advertising agents. On this point, I support the view that tobacco advertisement should be prohibited in phases, from the present ban between 4.30 pm to 6.30 pm extended to 8.30 pm and then to 11.30 pm, as a means to reduce the time during which youths could be exposed to tobacco advertisements. At the same time, the content of the advertisements should be controlled in order to avoid the inplanting of any sensuous or illusionary images on smoking. I believe that this method would reduce the possible effects of advertisements and at the same time, it would allow breathing space for television stations and advertising agents to financially adjust before tobacco advertisements are completely banned. Concurrently the Government should further strengthen publicity on the harmful effects of smoking as a means to implement the anti-smoking policy.

The more controversial recommendation is whether the 7.00 pm to 8.00 pm time slot of the commercial television stations should be allocated to the public broadcaster. On this point, I am aware that the Broadcasting Review Board considered that a weekend option was also acceptable. 7.00 pm to 8.00 pm is the prime time of the commercial stations. From what has been expressed to us, the re-allocation of this time slot does not guarantee a self-sufficient public broadcaster, yet it has tremendous financial effects on the commercial stations. Implementation of this proposal may result in lowering of programme standards of the commercial stations because of reduction in income. On the fact that RTHK is already occupying a sizeable portion of the weekend air-time, the weekend option should be a reasonable solution which will accommodate the desire to have a better programme choice without affecting the commercial stations too seriously.

4.30 pm

HIS EXCELLENCY THE PRESIDENT: At this point, Council might like a short break.

4.50 pm

HIS EXCELLENCY THE PRESIDENT: Council resumes.

MRS. CHOW: Sir, first let me declare interest as programme consultant to the Hong Kong Telephone Co. which is submitting to Government an application for a licence to operate a cable television service in Hong Kong.

Having had substantial ties with the broadcasting industry for the better part of my professional life, I am acutely conscious of my duty to contribute to this debate. My following comments will refer to television only rather than broadcasting as a whole.

We must remember that here we are dealing with the future. We are considering the award of new licences. Government must use this opportunity wisely and bravely to right old wrongs, to create the climate and opportunity for fair competition, to introduce changes to meet the needs of a changing society, to provide the environment for further achievements, and to pave the way for new modes of broadcasting made possible by advanced technological developments.

One of the glaring historical wrongs is Government's failure to regulate for transmission of equal quality and coverage by both licensees. I fully support Broadcasting Review Board's recommendation that the new television licences should make provisions for the sharing of a common antenna on a single tower by all television companies. This, as I understand, is the practice adopted by the IBA and the BBC in the United Kingdom. However, this alone is not sufficient to attain the objective of ensuring reception of equal quality and coverage, unless it is accompanied by reallocation of frequency. Government must seek to solve the problems that affect transmission so as to stimulate and facilitate fair competition, from which both the public and the industry can only benefit.

Another old wrong is the present practice of prebroadcast censorship. I am not in any way proposing a relaxation of present standards. I am however advocating the substitution of prebroadcast censorship by the Administration or the future regulating authority with self discipline within the industry. The industry, needless to say, must take it onto itself to abide by standards laid down in the Broadcasting Ordinance, which will be safeguarded and enforced by the regulating authority.

I suspect the recommendation for the retention of two English channels was arrived at without taking into consideration the advent of cable service and the popular use of satellite transmission. These two significant developments will increase manifold the availability of English programming to a relatively limited audience (estimated to be between 5 to 15 per cent of the population, subject to programme). It is regrettable that the Broadcasting Review Board has not recommended a more economical and effective use of available channels by restructuring existing English channels. The bold move of the reduction of one

English channel can mean considerable savings in the procurement of imported programmes as well as the elimination of wastage which results from often identical programme schedules of the two competing channels. Meanwhile that channel vacated can be used for minority programming in Chinese.

While recognising the achievement and community acceptance of the present commercial services, the Broadcasting Review Board very sensibly endorses the valuable role RTHK plays as a public broadcaster. I entirely agree with its recommendation that RTHK should become an autonomous organisation with its own board of governors and staff, separate from and independent of Government and the Civil Service. Where I beg to differ is the way RTHK is to be funded, and the role it should play thereafter. It should be subvented by Government with the same rules for sponsorship that presently applies i.e. there should be no sale of commercial spots, but only institutional sponsorship. To expect it to live on advertising revenue without compromising its creative or editorial objectives shows an unrealistic idealism long abandoned by the industry. I support neither the seven-to-eight-week day strip nor the weekend option. The former audience mix places limitation on the programme type of public service production, while the latter requires RTHK to establish itself as a weekend station, which is not a role it has hitherto assumed. Is there a need or a call for a public service station at all? In my view public service programmes inspired and initiated by factors other than commercial profits serve a much more valuable purpose as an integral part of the programming schedules of existing commercial service, provided they are given the professional respect they deserve and the time slots they belong in these schedules. This would mean of course that the authority which is lumbered with the task of enforcing the new licensing conditions, must be given the powers, by legislation, and must have the gumption to use those powers, even if it means standing up to persuasive lobbying or fierce opposition by the commercial companies, when it is satisfied that public interest is being served.

The Broadcasting Review Board proposal to establish a broadcasting authority is a definite improvement on present arrangements, but its success relies largely on its membership and the powers that it is given. It is absolutely essential that professionals are included in the authority so that the industry will not be regulated entirely by people who can only assess points put forward by the industry as outsiders and on a theoretical level, with neither the insight nor the practical understanding so very necessary as the basis of judgement.

I am not persuaded that there is a need for a complaints tribunal. While accepting that there may be a need for community input in the assessment of whether standards have been breached by the industry, this can easily be ensured by the appointment of assessors to assist judges when broadcasters are taken to court, without the setting up of yet another machinery outside the existing judicial system.

MR. CHAN YHOW (in Cantonese): Sir, as much as I like the media to give consistently neutral and accurate reporting, I recognise and respect above all the freedom of speech and freedom of enterprise which make Hong Kong so successful. The two commercial television licensees, like any other media in Hong Kong, thrive on these freedoms.

I accept that the programming of commercial stations is by necessity dictated by marketing considerations and is therefore entertainment biased. Their news programme has to present highlights rather than the full story of events. On their public affairs programmes, they are entitled to make their own points of view. For example, they have every right not to speak against their own interest in their programmes on the Broadcasting Review Board report if they want to.

These are the limitations of television stations or for that matter any media run on a commercial basis.

Television in Hong Kong is by far the most effective media and most people know about news or public affairs from watching television. Whereas the two commercial licensees have splendid performances so far and their limitations as commercial stations have so far not been detrimental to the public interest, the public do not have a third choice. At present, RTHK is playing a useful complementary role. Nonetheless, I am sure Hong Kong people could be better served by having an independent public broadcaster replacing RTHK.

The independent public broadcaster as proposed by the Broadcasting Review Board is the answer to a consistently neutral, accurate medium. Not only that, it makes up for the limitation of commercial stations as the most convenient and effective medium. Why am I so sure? Because the public broadcaster has the sole objective of serving the public interest and nothing else. Why am I so excited about it? Because the public broadcaster belongs to the community; everyone, including you and I collectively, owns it.

I have great confidence that the public broadcaster will deliver the goods. It will, under the board of governors consisting of Hong Kong citizens, produce programmes that present to viewers all facts and arguments without fear or favour, particularly on public issues when the public need the full facts before they can arrive at their own informed conclusions. Not only that, by its own performance it will stimulate the commercial licensees to achieve even higher standards of excellence.

In order to enable the public broadcaster to fulfil its role, it must have access to a wide and substantial audience. If the public broadcaster's programmes were not screened during the off-work leisure hours of most people, then the whole purpose of having a public broadcaster would be defeated.

Finally, I would like to endorse the Broadcasting Review Board's recommendations concerning the corporate structure of the commercial licensees. It is important that those owning and controlling the licences should be independent without having to report to say, a parent company. The identity of those

controlling the licences should be made public so that the public is better able to monitor their performance.

DR. IP: Sir, I would like to cover only that aspect of the report which affects the health of our community. It is universally known that smoking can cause lung cancer. In a medical world, there is not a seed of doubt about this fact. On public health grounds, it is Government's obligation to actively deter people from smoking. Government has heeded and responsively organised the anti-smoking campaign, which is comprehensive and of an appropriate scale. However, it is an onerous task to compete with the effective and entertaining tobacco advertising which is being conducted on an enormous scale. It is frustrating that the deterrent messages are unduly undermined by the luring effect of such advertising. In fact, it is an outright waste of public money to tax profits arising from tobacco advertising and to spend it on the anti-smoking campaign and the heavily subvented cancer hospitals and wards subsequently. To foster the effectiveness of the anti-smoking campaign, a total ban on tobacco advertising is therefore warranted.

I think it is not fair to say that a total ban on tobacco advertising is in conflict with the principles of free enterprise and freedom of choice. In fact, the objective of the proposal is to allow the public to be free from luring and to be able to choose between good health and cigarettes consciously yet freely. There has not been any suggestion of prohibition on selling and importing of tobacco; its enterprising is still free. In view of the infiltration of advertising, the ban ought to be total. Hence, in addition to the total ban on tobacco advertising on television and radio as recommended by the Broadcasting Review Board, the ban should be applied equally to all media of advertising (and not broadcasting alone). In this respect, I support Mr. S. L. CHEN'S second proposal, I quote him: 'if banning tobacco advertising is for the reason of health, and it is, it should be banned in total and not just only for the electronic media'. This ban should be introduced in a gradual and co-ordinated fashion. Having said this, I am not suggesting that the total ban should take immediate effect when the new licences commence in 1989. We cannot ignore the fact that many of the advertising affiliated organisations would be affected by such interdiction. To allow these organisations to adjust to a different mode of business, the ban should be phased out with a view to achieving a total ban in, say, six years' time, as this period should be adequate to canvass new business.

My suggestion to allow for a period of adjustment, Sir, is based on the view, as Mr. S. L. CHEN has said also and presumably, that it is wrong to think that advertising is the sole cause of smoking, a more important cause is a psychosocial one. It is therefore more positive and sensible to find ways to make living in Hong Kong less stressful. Too radical and abrupt changes in our ways of life is in itself a stress.

To conclude, Sir, I believe in a slower but more certain way of reaching the goal of total ban on all forms of tobacco advertising.

MRS. FAN (in Cantonese): Sir, it can be said that the development of the broadcasting industry in Hong Kong affects every one of us. Hence, it deserves our special attention and in-depth study. Apart from supporting the important principles raised by Dr. hon. Ho Kam-fai, I would also like to put forward the following views;

- (1) Hong Kong needs an independent public broadcaster to provide informative and educational type of programmes with an unbiased attitude and to further public knowledge of community affairs in an entertaining manner. It should maintain a neutral and objective approach in production. Thus on one hand, it should not be looked upon as a subsidiary organisation of the Government; and on the other hand, it should not be unduly influenced by advertising clients. Having regard to these factors, the financial resources of this public broadcaster should come mainly from taxpayers and perhaps partly from sponsors. I propose that the Government should consider the method of financing higher education as a reference and sub-sidise the public broadcaster via an organisation similar to the University and Polytechnic Grants Committee. It is foreseeable that the total amount of appropriation will, in the near future, exceed the current expenditure of RTHK. But the Government should explore means to boost public revenue, e.g. by levying a reasonable amount of royalty, so as to cope with the increase in expenditure.
- (2) The re-organisation of RTHK into the above-mentioned public broadcaster has already received majority support from public opinion. But how to increase the television air-time of the public broadcaster has aroused much dispute. In principle, I think the air-time of the Chinese channels over the weekend could be allocated to the public broadcaster. But commercial licensees could negotiate with the public broadcaster for an exchange of air-time. Such an arrangement offers a fairly high degree of flexibility and if suitably applied, will be beneficial to both sides.
- (3) I firmly believe that fair and healthy competition will be of benefit to the development of the broadcasting industry. The existing licence period is 15 years. The report recommends that the new licence period should be shortened to eight years. The shorter the licence period, the greater is the advantage to organisations/licences which are already in operation and are well-established. Since a tremendous amount of investment is required for the broadcasting industry and it takes a fairly long period of time before a certain station could establish itself among the audience, I propose that the Government should consider extending the validity of the licence period to 12 years so as to attract tenderers of good quality. Some people might have doubts on the feasibility of extending the licence period beyond 1997 and its effects on the future SAR Government. But I think that by doing so, the public would gain greater confidence in the smooth transition of government in 1997, because this is a good example of maintaining the 'status quo'.

- (4) with regard to the proposal to ban the broadcasting of tobacco advertisements, experts have established that smoking is harmful to one's health. The question is whether smoking is harmful to such an extent that it has to be banned. This issue has been a controversial subject between the medical profession and tobacconists all over the world; and Hong Kong is no exception. From the angle of freedom of choice, since smoking has not been banned by the Hong Kong Government, it means that smoking is not against the law. Mature adults have the right to smoke and tobacconists should also be given the opportunity to introduce their products to smokers and to promote their products. From the angle of protecting young people, we should not allow exaggerated and highly far fetched advertisements to mislead them. This point has actually given rise to the proposal to ban all tobacco advertising on television and radio. However, the crux of the problem lies in the public's attitude towards smoking. I feel that although most people think that smoking should not be encouraged, it has neither reached the stage that it should be banned. From the commercial point of view, once commercial radio and television stations are deprived of their revenue from tobacco advertising, their productions will inevitably be affected. Summing up the above points, I propose that the Government should consider the following three measures:
- (1) Tobacco advertisements should not be broadcast on television between 4.30 pm and 11.00 pm.
  - (2) Levy heavier taxes on tobacco products and use the revenue to publicise the harmfulness of smoking among youths.
  - (3) Tobacco advertisements should be subject to censorship. Those which are over-exaggerating and far fetched should be banned.

Sir, with those remarks, I present my views for reference.

MR. CHAM (in Cantonese): Sir, few could deny that wireless television broadcasts have made an important impact on every household in Hong Kong. In the next decade, a similar impact may be made by satellite television broadcasts across a transnational or perhaps global spectrum. Such an achievement, in the first instance, will serve to bring Hong Kong into closer stride with the rapid pace of world development in information technology and vindicate its image as an open, modern and affluent leading urban centre in the Asian Pacific Region. As a result, it will enable our citizens to broaden their contacts with the rest of the world, in gaining access to first-hand and updated information about fashions, consumer tastes as well as political, economic, financial and other news on current affairs, not to mention the broadened choice of entertainment programmes from the variety of television stations brought about by the internationalisation of such broadcast reception.

With the installation of an appropriate dish aerial and its connection to the receiving television set by way of a suitable adaptor, Hong Kong residents can

now receive television broadcasts from the United States, Australia, China, Indonesia and relays of Philippino, and Malaysian broadcasts. Technically, the private reception of transnational television programmes, made possible by a growing worldwide constellation of communication satellites, will become decreasingly cumbersome as the technology for satellite receiving equipment advances at remarkable speed, and, with growing popularity of these aerials, mass production will render such dish aerials increasingly less costly.

In response to this development, the United States Government, through the Federal Communication Commission, has scrapped the licence for TVRO (Television Receive Only) earth stations, making it perfectly legal to receive satellite signals via these aerials. In France and Germany no permission are required. Hence, reception is liberalised while the protection of property rights is left to the programmers who are free to scramble their signals.

Thus, the options available under the present technological conditions are therefore inviting Hong Kong to follow suit. In order to clear the air and facilitate preparation in the private sector for this line of new activity in the telecommunication and telecasting fields, it is therefore important for Government to keep under review any restrictions which may limit the application of this technology for the reception of all in Hong Kong.

Indeed, at present, the domestic reception of these broadcast signals by individual households is not illegal. However, the relaying distributing of these programmes via communal antennae which are common to most recipient households located in apartment blocks in Hong Kong may encounter legalistic obstacles of franchised telecommunications. As over 95 per cent of the Hong Kong population lives in multi-storey buildings, it is unrealistic to permit individual households to receive satellite television broadcasts while depriving them of the use of communal antennae. Setting aside legalistic arguments, we must make clear our commitment to the principle of maintaining Hong Kong as an open-information city, with our citizens free to receive satellite telecasts just like short-wave radio broadcasts.

Sir, in the interest of our future generation, I suggest that Government should remove the relevant restrictions to permit this future form of television broadcasting, lest we shall soon be outpaced by the rapid stride of technological progress in the wonderland of satellite telecommunication.

MR. JACKIE CHAN (in Cantonese): Sir, I consider that it is with the best motive that the Broadcasting Review Board made the recommendation for the existing RTHK to be disestablished from Government and become a public broadcaster to present a new image and meet the public on air in a new appearance as well as to freely and openly provide a balanced variety of information, educational and entertainment programmes. The above recommendation is generally accepted by the public. As a matter of fact, this recommendation falls completely in line with the actual needs of our society at present. We all know that Hong Kong is

undergoing a stage of rapid development in its social and political structure. Hence, it is necessary for a public broadcaster with free editorial independence to be set up to serve the interest of the public without commercial considerations and Government intervention.

Sir, whereas I support the aim and spirit of the Broadcasting Review Board report, I disagree with its recommendation for the public broadcaster to use the prime time of commercial broadcasters. I also disagree with the board in its recommendation for the public broadcaster to be financed by the sharing of advertising revenue. This is totally unfair and is somewhat barbarian. Besides, it will seriously jeopardise the interest of the commercial broadcasters. With a drastic reduction in revenue, commercial broadcasters will be forced to lower their production quality or even wind up their business. Eventually, members of the public will suffer a loss and improvements on the quality of the broadcasting industry will be left in the air. It is also undesirable for the public broadcaster to rely on advertising revenue as its programme production may be subject to business considerations and it will be unable to appear in an independent capacity, which is contrary to the aim of setting up the public broadcaster and the spirit of the report.

In fact, the above recommendation by the board has been a subject of reproach during the whole consultative process. Therefore, I would like to urge Government to give careful consideration when making decision so that its policies will not leave a bad impression in the public mind.

The general public welcome the setting up of the public broadcaster. We should now make all proper arrangements as appropriate for the setting up of the public broadcaster as soon as possible. Since the public broadcaster is supported by the general public, it should be financed by Government. Public funds should be used to wholly support the station which belongs to the people of Hong Kong. This is in line with the concept of 'spending what has been taken from the people'. In fact, Government is fully capable of bearing this financial responsibility which only represents a very small percentage of Government's annual Budget estimates.

As regards the air-time of the public broadcaster, initially the public broadcaster has to ask the commercial stations to broadcast its programmes on its behalf. I am confident that, on the basis of not sharing the income of the commercial stations and through consultative procedures before the signing of a new contract, the other commercial stations will undoubtedly co-operate with the public broadcaster under a friendly atmosphere when it is required to allocate specific air-time to the public broadcaster or to flexibly increase or improve the air-time of the public broadcaster.

On a long-term basis, the public broadcaster should have its own frequencies for the broadcasting of its programmes. In view of the time constraint, it is not possible for the new frequencies to be established in 1988. We need longer time to discuss with neighbouring countries to solve this problem. Nevertheless, we

should not give up the intention of establishing the new frequencies. What we should do now is to make positive plans for their establishment and due preparations for the long-term development of the public broadcaster. I hope that within the five years after 1988, the public broadcaster will be able to serve all people in Hong Kong on its own frequencies.

MR. CHENG: Sir, so much has been said by my hon. colleagues about setting up of a broadcasting authority, independence of Radio Television Hong Kong, total ban on tobacco advertising on both television and radio, and royalty payments based on gross receipts which I totally agree.

I should now take this opportunity to refer, for a change, to some of the technical aspects which have not attracted sufficient attention from the public.

Hong Kong has been and will continue to be maintained as an international city playing an important role in finance, trade and technological development. It is therefore essential to be in close contact with the progress of the rest of the world. In this context, I would welcome any form of new electronic media including the cable, microwave as well as direct satellite broadcasting which would provide even more choices of informative and entertaining programmes.

It is encouraging to note that tender will be invited for cable television 18 months prior to the expiry of the television licences on 1 December 1988. Not only that cable television is anticipated to convey a number of television programmes with better technical quality, the potential of its systems may also bring about future technological development into a wide range of non-programming interactive services. At this stage, I shall be satisfied that if a cable licence is offered there should not be any requirement that the operator must carry such interactive services.

Nevertheless, the programming, I agree, should be of high quality and subject to the same censor control as the off-air broadcasting. I endorse that no advertising should be allowed but have my reservation on the recommendation that a cable television operator should not be required to pay a royalty.

As high technology develops further, it will almost be certain that Hong Kong as an internationally renowned city of free enterprise will see the feasibility of continuing technological applications in broadcasting including reception of direct satellite transmissions and microwave television broadcasting. It is therefore important for Government to give careful consideration to its future policies with regard to their services and control.

The existing VHF/FM transmissions are not satisfactory as far as the territory as a whole is concerned. I should therefore endorse the Postmaster General's proposal of extending the services as well as coverage which should be implemented without delay. It is vital for the public and the commercial stations to be given equitable treatment in transmission.

Similarly, I support the views that the television broadcasters should use a common building, a common power supply and a common antenna tower at each of the prime hill-top so that the coverage can be satisfactorily achieved and virtually identical. This provision will undoubtedly serve the purpose of eradicating the existing unfair situation which works against the interests of some broadcaster and the general public.

MR. CHEONG-LEEN: Sir, in supporting the general principles concerning the Broadcasting Review Board report which have been stated by Dr. HO Kam-fai on behalf of the Legislative Council ad hoc group. I wish to make a few additional comments.

I strongly support the setting up of a public broadcaster by way of an independent corporation with an independent board appointed by the Governor.

The public broadcaster should absorb Radio Television Hong Kong. I am in favour of eventual disestablishment of the latter, but only after careful consideration has been given as to whether it should be done in one stage or in two stages, the second stage pertaining to the actual disestablishment procedure taking place three years after the setting up of the public broadcaster.

I am not at all convinced that the public broadcaster could be commercially viable. I therefore prefer the public broadcaster to be supported by public funds by way of an annual grant provided for through legislation; the public broadcaster should also be allowed to seek advertising revenue as well as corporate or other types of sponsorship. Furthermore, there should be a more substantial presence in television time by the public broadcaster by extending the existing arrangements by several more hours per week on all the existing channels, with a reasonable and specified percentage of prime time.

Bearing in mind our own local conditions, the public broadcaster, within its proposed independent role, should still continue to play a positive and constructive role as a two-way connection between the Government and the people. The programmes should be a good mixture of entertaining, enlightening, educational, culture and civic oriented programmes.

The establishment of a children's television foundation, as proposed in the Broadcasting Review Board report, similar to the Australian model, is very desirable in order to promote a wider variety of children's television programmes of better quality.

I support the Broadcasting Review Board's recommendation to set up a broadcasting authority to administer, among other things, television and radio broadcasting with all members of the authority being appointed by the Governor.

While in principle I accept the recommendation for the establishment of a radio television complaints tribunal to be composed of six members, including

the chairman, who should be a Judge of the Supreme Court, I think it is important that the procedures of such a tribunal should be carefully worked out to avoid hearings in public becoming destructive or unproductive.

I do not accept the board's recommendation that there should be a total ban on all forms of tobacco advertising on television and radio when the new licences take effect in 1989. Government's policy on discouraging the public from smoking cigarettes should proceed on a broad front, covering all aspects of the media. For example, should there be a total premature ban on television advertising of cigarettes, we would find ourselves suffering even more from the visual pollution of huge cigarette advertisements by way of neon signs and wall advertisements. Government should continue to allow cigarette television advertising on the condition that television time on Government's warning on smoking should be in the ratio of 1:2, that is, one second of warning for each two seconds of advertising, and the total cost of such advertising time should be paid for by the advertiser. Furthermore, hours during which cigarette advertisements should be advertised could be reviewed and tightened.

The Government should work out a phased ban with a view to eventually abolishing cigarette advertising in all parts of the media and this should include staged increases in the level of duty. For this purpose, I would urge the Government to set up an inter-department working party.

As regards alcohol advertising, there is a need to extend the partial ban on alcohol advertising, say, from 4 pm to 9 pm, for the protection of children and young people.

In the meantime, the present policy of both Government and the Urban Council on the sponsorship of cultural and sports activities is considered to be fairly pragmatic, but could be reviewed at periodic intervals.

DR. CHIU: Sir, as the representative of the medical functional constituency, I speak for a number of medical bodies and individuals, including the Hong Kong Medical Association, the Hong Kong Anti-cancer Society, the Hong Kong Cardiological Society, the Practising Pharmacists Association of Hong Kong, the World Health Organisation, the International Union Against Cancer, the International Organisation of Consumer Unions as well as many colleagues in the medical and para-medical professions who are in support of the recommendation of a total ban on tobacco advertising in the electronic media. They are, if I may say so, in a unique position to recognise the harmful effects of tobacco and they find it necessary to introduce a total ban on the advertising of all tobacco products, not only in electronic media, but in all media, for the health of Hong Kong people.

Standing here this afternoon, I think of the men and women lying and suffering in hospitals and the 3 000 Hong Kong citizens who die annually from lung cancer, chronic bronchitis, emphysema, heart disease and illnesses closely related to smoking. I am also concerned about our young people who, in their

tender and youthful years, while admiring the strong, handsome and tough cowboys and pretty girls on television screen, may be lured to indulge in smoking which will soon rob them of their health. I see them diseased and their youthful lives deteriorated. Why in this age when human value has been fully recognised, tobacco advertising and opportunities for raising revenue are still so much more important than the flesh and blood of men?

It is most unfortunate that the ban on tobacco advertising has been linked up with freedom and human rights. In fact, the ban should not be regarded as an infringement on liberty but as a trade restriction on a dangerous and addictive consumer product. The ban is just another measure to complement Government's anti-smoking policy. It has nothing to do whatsoever with interference of liberty. The countries with the greatest freedom to express one's opinions, e.g. the United Kingdom, the United States, Canada and West Germany, have banned tobacco advertising on television for some 20 years.

Some people argue that tobacco is a legal product, and any action to eliminate its advertisements is not recommendable. As a matter of fact, certain legal products or services e.g. some pharmaceutical preparations, matchmaker agencies, fortune-tellers, undertakers and even doctors, are not allowed to advertise on television.

Spokesmen of the tobacco industry claim that the total ban on tobacco advertising on television may result in a great loss of revenue to television stations. Experience from more than 60 countries which have imposed restrictions on tobacco advertising shows that the broadcasters quickly recoup their revenue after a ban on tobacco advertising is being imposed. How many of you, my hon. colleagues, have ever heard of the collapse of any television station subsequent to such a ban?

The tobacco industry claims that the ban is ineffective in smoking control but its vehement reactions against the ban speak otherwise.

At present, total ban on tobacco advertising has already become a universal trend. Statistics from all over the world have shown that tighter restrictions on tobacco advertising do contribute to a decrease in cigarette consumption, especially among young people.

A responsible Government should not run away from the duty to safeguard the health of its people. The decision of a total ban on tobacco advertising is a sign that the Government is heading in the right direction in fulfilling its responsibilities.

Sir, time does not permit me to go into other areas of the Broadcasting Review Board report. I like to conclude my speech with my full support to the agreed principle stated by my hon. colleague Dr. HO Kam-fai.

MR. CHUNG (in Cantonese): Sir, the report of the Broadcasting Review Board has made a number of recommendations, and I would like to express my views as regards three of them:

*(a) The future of Radio Television Hong Kong*

I share the board's view that the existing provision of two Chinese and two English television services, if complemented by a public broadcaster, will be capable of providing a sufficient amount of off-air television to meet the long term needs of the population. As Radio Television Hong Kong (RTHK) at present operates as a public broadcaster, there should be no doubt that it will continue to exist. The question is whether RTHK should remain a government department or should be turned into an independent broadcaster. As freedom of the press has all along been highly valued in Hong Kong, it is essential that any reports on news and public affairs by the mass media must be objective. If RTHK remains a government department, it will be very difficult to convince the public that it is not an instrument of Government propaganda, that the credibility and independence of its information are beyond any doubt and that there is no Government intervention into its affairs. If it becomes independent and is disestablished from Government, RTHK can, apart from giving the public a more independent image, become more flexible in the deployment of its manpower and financial resources and less stringent in the aspects of policy making and personnel matter, thus lowering the cost of its programme production and relieving itself from the mental pressure of being accountable to the Government for its production plan. Not only should RTHK be independent, but it should be seen by the public that RTHK can really keep the initiative in its own hand. Upon its independence, the highest authority for decision making in RTHK should rest with a statutory corporation. The board of governors should be appointed by the Government, with the great majority of its members being unofficials. The board should also be empowered to work out the pay and conditions of service of its staff who will then no longer be civil servants.

*(b) Television air-time for public broadcaster*

Of the nine options listed in the report concerning the future of RTHK as a public broadcaster, I think the weekend option is the most desirable one. Although the public broadcaster will be the sole operator of the two Chinese services of the commercial licensees at weekends, the commercial licensees will still be able to carry on with their programmes in their English services. With the rising educational standard of the population, there will be more audiences who will turn on to the English services; the development of the multiplex system will also offer the viewers more choices. Furthermore, in comparison with the option of sharing the present services with the licensees at the prime time periods of 7 to 8 pm throughout the week (service sharing option), the weekend option will be able to provide the public broadcaster with a more separate entity of its own. People can then easily identify those programmes which are produced by the public broadcaster, thus avoiding the present situation where

some RTHK programmes are confused with programmes produced by the commercial licensees. A relatively longer period of non-stop broadcasting at weekends will also be able to provide the programmes with some continuity, thus achieving the purpose of providing the audiences with a balanced output of programmes—entertainment as well as information and education. I further hope that the public broadcaster will be able to contribute in the field of open education or, more specifically, in the provision of open education courses. As regards the financial sources of the public broadcaster, I cannot agree to the proposal that all its funds should be derived from advertising revenue alone because too much weight may thus be given to commercial considerations and this may eventually have an adverse effect on the quality and variety of the programmes when efforts are made solely to cater for the taste of public entertainment and meet the request of advertisers. I therefore opine that the financial sources of the public broadcaster should be borne by the Government but sponsoring of programmes by advertisers can be allowed so as to offset some of the expenses.

*(c) Tobacco advertising*

There is statistical evidence to establish that smoking is causally linked to lung cancer and trachea diseases, and that is why the Government has been promoting an anti-smoking campaign. That those advertisements which promote the smoking of tobacco products should continue to be aired on radio and television is, indeed, a contradiction to the spirit of the anti-smoking campaign. Moreover, the existing tobacco advertisements are of such a high technical standard and considerable visual appeal that they do much more than merely influencing brand preference. At present, there is a partial ban on tobacco advertising on television from 4.30 to 6.30 pm. However, due to the over-crowded living condition in Hong Kong, many young people still watch television at night after those hours, and it thus serves no useful purpose just to extend the hours of partial ban a little longer. Also, the issue on prohibition of tobacco advertising cannot be linked up with the policy of free enterprise or laissez-faire. As smoking is hazardous to one's health, the Government should be responsible for taking reasonable and appropriate measures to forestall the promotion of tobacco products and curb the tendency of the public to smoke so as to protect people's health. I therefore give my support to a total ban of tobacco advertisements on radio and television.

With these remarks, I support the motion, Sir.

MR. CLYDESDALE: Sir, I declare an interest in that, I am a partner of a certified public accounting firm which acts as independent auditors of and receive fees from the two existing commercial television licensees. In commenting on four of the recommendations in the Broadcasting Review Board report, I have been guided by the belief that, in Hong Kong as in most other countries, broadcasting should be a fair and highly competitive business with success going to the competitors which best provide the programmes the public wish to

hear and see and with advertising revenue reacting accordingly. I fully accept that the Government has an obligation to ensure that the public is protected against commercial exploitation and anti-social programmes. Thus, while market forces will largely determine programme mix, the Government must ensure that the overall broadcasting system provides a balance which, although market oriented, contain adequate educational and public service material. What is adequate must be decided by consensus methods within a consultative system in which the public interest is fully represented. We must also try not to penalise success or to encourage failure by placing unnecessary obstacles in the path of business initiative and investment.

With this background, I am bound to oppose the recommendation that broadcast licensees should be confined as to corporate structure and that they must operate solely as broadcasters and not within a business spectrum which permits diverse commercial activities associated with broadcasting.

With respect to the board and to any of my colleagues on this Council who may disagree with me, I believe that the existing Television Ordinance clearly permits, and surely intends, a licensee to carry on such forms of business as may be directly connected or associated with the establishment and the operation of a television broadcasting service. There are many associated activities which can add to the commercial and competitive strength of any licensee, for example, distribution of successful films and videos, production and distribution of a programme magazine, technical services of use to the station and to others, and so on. In short, the same commercial reasons that apply to the logical development of a basic source of business should be allowed to apply to broadcasting licensees.

To make a more general comment, I really cannot see much sense in prohibiting licensees from operating within a much broader range of business activities some of which might not be connected with broadcasting. This is most certainly the position in the United Kingdom, the United States, Australia and Japan. It would also appear to be the situation which has previously been accepted in Hong Kong—as a simple reading of an existing licensee's 1984 public prospectus will reveal. Confining licensees unduly could adversely affect the economics of their business thus reducing competitive capability and scope for new investment and technological upgrading. The main criterion must surely be that the licensee at all times maintains the standard of service which his licence requires.

I believe that royalty payments should be assessed primarily on a licensee's ability to pay—that is to say on the net profits arising from the operation of the broadcasting service and directly connected or associated businesses. It should not be difficult to produce accurate accounts reflecting the profits thus derived. Corporate structure is not relevant to this situation as it is not beyond the competence of accountants to produce the necessary accounts be they in respect of a sole corporate entity or a consolidated group of companies.

I therefore do not support the proposal that licensees should pay royalties on gross receipts rather than profit. That would surely act as a disincentive to a weak competitor and reduce its chance of competing. The present principle of assessing royalties should continue with more control over the determination of profits arising from the operation of the licence. The fee should perhaps be divided into two parts; firstly a flat fee for the use of the airwaves which belong to the public, and secondly, royalties on profits.

I agree with the proposal for a public broadcaster but I am very much opposed to the recommendations as to how this body should be financed. To interfere with the normal commercial operation of the two existing television stations in order to obtain prime time advertising revenue which has been built up by their efforts over a number of years seems to me to fly in the face of all commercial logic. Such a system would certainly greatly discourage licensees and severely reduce the potential for future substantial and necessary investment in the development of television services.

I believe that RTHK should become the legally established public broadcaster as proposed by the BRB and be given the degree of independence suggested. Its funding should come from the Government and this should be sufficient to allow it to expand both the quantity and quality of its productions. Access to broadcasting time for the public broadcaster should be secured through licence conditions and the board of governors should be required to justify expenditure and the continuance of public funding through regular reviews of performance. Such reviews should be carried out periodically by the broadcasting authority.

Finally, I am opposed to the proposed total ban on tobacco advertising.

While I agree that mounting concern over the dangers of smoking is both real and serious, I cannot accept the proposal that advertising on tobacco products should be banned from radio and television. My objection is based on a simple but fundamental principle. While the Government continues to derive substantial revenue from the import and manufacture of tobacco and tobacco products, I cannot in all conscience agree to remove the right of the industry to promote the sale of its products. Government warnings on the health risk are shown in such advertisements and those opposed to smoking are free to take up broadcasting time to get their message across. If it is willing to accept the banning proposal, the Government should also be willing to accept that the very serious health risk that this action would imply, requires the banning of smoking altogether. It seems illogical to permit a product to be sold openly and freely and at the same time prevent normal promotion of its sales. I do not smoke personally and in fact detest the habit. My objection to this proposal is based on commonsense and principle.

I agree wholeheartedly with the recommendation that there should be cable television and the sooner the better. This should not permit advertising, should

be funded by subscription but might include time for RTHK public service programmes, if that is technically feasible.

In closing I would like to commend the members of the BRB for the time and effort involved in the production of their report.

MR. HO (in Cantonese): I would like to say at the outset of this short speech that from personal experience as a frequent participant in Radio Television Hong Kong's public affairs programmes, I have not been aware of nor have I ever encountered any pressure from the Government as to these programmes' contents or in the manner of their presentation. It would be fair to say that such programmes frequently demonstrate the independence of the station and the vital part it plays in reflecting the aspirations generally of the community. Moreover, the station appears to have a high degree of editorial autonomy.

Although I have said this, I consider it unfortunate that the community, rightly or wrongly, considers that RTHK's present status as a government department renders it vulnerable to Government pressure. Many feel that it is not completely independent in the day-to-day operation of its services. I must say that I do not subscribe to this view.

I have given this matter some thought and in order to avoid any suspicion that it must toe the Government line and that it is a propaganda tool of the Administration, I am in favour of the Broadcasting Review Board's recommendation to develop RTHK into an independent public broadcaster, so that it may be seen to be free from general governmental control in order to ensure maximum neutrality and objectivity in its reporting.

In regard to the financial arrangements to ensure RTHK's viability as a public broadcaster, I am not in favour of it being allowed to sell advertising during any of the periods which may be allocated to it and the proceeds thereof being used to finance its operations.

To allow commercial advertising may ultimately restrict the variety of the programmes RTHK offers, with the possibility that these may be influenced by prevailing demands in the advertising market. Such an arrangement would render RTHK subject to commercial instead of Government pressures and leave the public with little to choose between the programming of the public broadcaster and that of the commercial stations. To do so would, in my view, inhibit the public broadcaster from its responsibilities to provide a balance of programmes which would entertain, inform and educate. It seems to me that there is no alternative, as far as financing is concerned, but to continue with direct and substantial Government subvention of the public broadcaster and I urge Government to give this aspect its fullest consideration.

As to the recommendation of the board that a monopoly of television air-time at specified time during the week be given to the public broadcaster. I am in favour of reserving certain time slots on a daily basis to the public broadcaster

but do not favour the use of a single, but specified 'prime time' slot for this purpose. My suggestion, if adopted, would provide the public broadcaster with greater flexibility and would not impose an artificial restriction on the range of programmes to be broadcasted by the public broadcaster. Furthermore, the *sole* use of the present prime time, namely, between 7 pm to 8 pm, may in the future be subject to changes in the viewing habits of the audience.

In conclusion, I would like to say a few words about the recommendation of the Broadcasting Review Board to ban advertising of tobacco products on television.

I have no wish to go into the pros and cons of this matters as we are all very familiar with the arguments put forward by the various interested parties and the effect which such a ban may have on depriving consumers of product information on a legally traded commodity.

Although a non-smoker, I am, however, personally against a total ban on tobacco advertising and would like to suggest instead, that we should strengthen our ability to control the contents of such advertising and the times when such advertising may be shown on television.

MR. HUI: Sir, the Broadcasting Review Board's report triggered off public discussions on a significant and controversial subject, which were followed by a rhetorical confrontation between concerned sectors of the community. Here, I would like to present the social work professionals' views on the subject, with special regard to two aspects — television programming and monitoring, and the financing of an independent public broadcaster.

#### *Television Programming and Monitoring*

The quality of local television programmes, featuring mass entertainment in the name of realism has long been a subject of public criticism. We, social workers, particularly object to the negative influence penetrating through the small screen into thousands of families in Hong Kong, promoting such misleading concepts as materialism, promiscuity, cohabitation and divorce. Admittedly, local television programmes require more than just fine tuning—Hong Kong viewers need a balanced mix of cultural, artistic and public information programmes including analytical news reporting, events of local interest and educational television. From the social work point of view, television programmes should provide civic education for youth, promote proper family relationships, enhance family ties, and avoid over-dramatisation of real life situations. They should also cater for the health, leisure, social and education needs of the elderly, creating a healthy social environment for our senior citizens. Television programmes should also guide the public towards positive acceptance of the disabled; and in this respect, we reiterate the use of captions for educational and special announcement programmes and the inclusion of disabled people in programme productions. We further advocate the extension of family viewing time to 9.30 pm and the production of more local children's

programme which are innovative, educational and conducive to the healthy social and psychological growth of the younger generation. I believe that broadcasting stations, be they public or private, are entrusted with the responsibility to inform and to educate and not just to entertain; and that programmes geared to the changing needs of society, and arousing public interest in various fields are still sadly lacking in Hong Kong. As a whole, the board has taken the lead in alerting us to the long-term needs of the local population for high quality television and radio programmes, and its programming recommendations ought to be adopted by Administration as a priority irrespective of financial commitment.

The social work profession also supports the board's recommendation concerning the setting up of a broadcasting authority and a tribunal for policy formulation and monitoring purposes. Not only are we in favour of heavier penalties for breaches of regulations, we also go one step further to propose a demerit system that would lead to the suspension of operation. Furthermore, we suggest that strict standards be enforced, including the censorship of programme content that discriminates against the disabled; that people from all walks of life be represented on advisory groups for television programming; and that opinion surveys and data analyses by experts be conducted regularly for control purpose.

#### *Independent Broadcaster and Financing*

It is unfortunate that claiming fixed air-time from commercial stations has become the red herring that has produced so much public misgivings on the board's well-intentioned recommendations. We, social workers, go for the recommendation that RTHK should be turned into an independent public broadcaster to be financed by Government and corporate sponsorships, in order to maintain editorial independence, in the same way that other public bodies acquire administrative independence. The public broadcaster, on the other hand, competes with commercial licensees for audience by offering quality programmes of public interest, providing viewers with new, intelligent programme choice. In assessing the financial and manpower resources available to local broadcasting industry, it is believed that a partially Government financed public broadcaster can bring about impetus for freedom, competition and progress in the broadcasting industry.

In assessing changes required in advertising control, social workers agree that television advertisements of tobacco and alcoholic products tend to engineer a pernicious social attitude in pursuit of 'desirable, exciting, and glamorous' experiences. We see no reason why cigarette smoking, already proven to be the cause of fatal diseases, should be given access to publicity on the all-powerful electronic media, if only for the sake of protecting the young minds that cannot yet make the right choice.

In going over the scenario of the controversial Broadcasting Review Board's report, on which so much time, effort and money have been spent, I personally see a ray of hope for reform and progress in the broadcasting field that is long overdue. Let us hope that when cudgels are buried, actions will be taken on the more constructive comments and proposals. That, at the end of the day, Government comes up with compromises which more or less maintain the status quo for cost considerations would be the last thing we want to see.

6.00 pm

CHIEF SECRETARY: Sir, in accordance with Standing Order 68, I move the suspension of Standing Order 8(2), so that today's business may be concluded.

*Question put and agreed to.*

MR. LAI (in Cantonese): I should like to speak on the recommendations in the Broadcasting Review Board's report concerning the independence of RTHK. I am in favour of it. I believe it has three advantages:

- (1) independence in administration could help to improve efficiency;
- (2) it would better guarantee RTHK's journalistic freedom and independence; and
- (3) after having been separated from the Government, RTHK's status would be neutral both in its image and in real terms.

The prerequisite for independence, however, is independent financial resources. The board's report recommends the taking up of the prime time period from 7.00 to 8.00 pm from the private broadcasters for the showing of commercials to offset its expenditure. This I consider not practicable.

In the first place, to rely completely on advertising for raising revenue would make it difficult for RTHK to prevent its policy from being influenced by the advertisers and to avoid becoming commercialised. Secondly, in order to attract more viewers and more income from advertising, the programmes themselves would tend to become commercialised: this would contradict the principle stated in the board's report that there should be more programmes of a less commercial nature. Thirdly, since income from advertising cannot be controlled, it would lead to an unstable income and would in turn affect the stability of RTHK's policy and the quality of its programmes. Fourthly, according to the information of many professionals, income from commercials during the prime time period between 7.00 and 8.00 pm would not be enough to offset RTHK's expenditure and subvention from the Government would still be needed: this would conflict with the aim of independence in administration.

I therefore support a proposal by which the Government would consider funding the recurrent expenses of RTHK directly from the royalty payments of radio and television broadcasters as a means of avoiding the shortcomings I

have described. Viewed from another angle, the social evil of 'programme commercialisation' produced by commercial television broadcaster could well be rectified by their provision of some non-commercial programmes. It is therefore fair and reasonable for them to fund from their royalty payments the production of non-commercial programmes by RTHK.

In addition, the Government should consider setting up an independent funding authority to subsidise RTHK annually according to its needs. Should its income from advertising and grants from royalty payments be insufficient to defray RTHK's expenses, the funding authority could supply the difference and ensure stable and sufficient income.

The Broadcasting Review Board report's proposals regarding the levying of royalties have my support. The basing of royalties on turnover would on the one hand increase efficiency and reduce the opportunities for cutting down profits in order to avoid tax with the help of accounting methods by the licensees, and would on the other hand avoid the situation where a badly operated or unprofitable licensee could be exempted from royalty payments. Nevertheless, I suggest royalties should be paid according to a sliding scale, which would be fairer.

I have already stated that the use of the prime time period between 7.00 and 8.00 pm as source of financing is not practical. It would deprive viewers of their choice of programmes, and would contradict the Broadcasting Review Board's proposal that more choice should be provided. I believe that the Government should consider the following two methods:

- (1) RTHK should make use of, or make more use of, in a more flexible manner, the broadcasting time of the other two broadcasters; and
- (2) it should be made a condition of the renewal of licences that more air-time should be designated or a specific period of air-time should be set aside for educational or information programmes.

I have reservations about the banning of tobacco commercials. It is the Government's consistent policy to remind people that smoking can give rise to health problems, and to provide them with information so that they can make their own choice. The board's recommendation of a total prohibition on tobacco advertisement seems to be too strict. Nor is it fair to the affected companies. The Government cannot on the one hand allow tobacco to be sold in the shops and on the other hand deprive the distributors of the right of promotion. Though various medical researches have shown that smoking is hazardous to health, unless the Government chooses to legislate to ban the sale of tobacco, such a lopsided approach will come to nothing.

The Government is of course obliged to bring to the people the message 'Smoking is hazardous to health'. But, no matter what approach one takes, one should not go against the spirit of laissez-faire, which Hong Kong has all along relied upon. I believe that the campaign against smoking should continue, but

should be taken step by step, and should never be implemented with undue haste. High-handed measures may not be acceptable. The Government should attempt to restrict further the hours of relaying tobacco commercials so that they are not broadcast during children's programmes or during prime time. Banning is only a temporary solution. As to radical measures, we have to start off with health education and reinforce the measure that medical evidence proves that smoking is hazardous to health so that the intention of banning tobacco commercials is thoroughly fulfilled.

Sir, with these remarks, I support the motion.

DR. LAM (in Cantonese): Sir, I support a total ban on all tobacco advertising on radio and television. Anyone who has thoroughly understood the harmful effect of tobacco smoking to our health or seen hospital patients suffering from the various types of diseases associated with smoking, will certainly agree with me in supporting a ban on tobacco advertising on radio and television altogether. Advertisements which glorify the joy of smoking will only instil misconceived and distorted messages about tobacco smoking to the audience, especially the younger generation. Such advertisements also give rise to an impression that smoking has been accepted by the society. This therefore runs counter to the Government's effort in promoting the anti-smoking campaign. On the other hand, if the Government does not impose restrictions on tobacco advertising, it will make the public question the sincerity of the Government in promoting the anti-smoking campaign.

It is against the interest of the public if there exists in the television industry a monopoly situation. I support the recommendation to disestablish RTHK from the Government and to give it adequate funding so that it can provide more balanced programmes for the public. I also support the recommendation to set up a broadcasting authority and a radio and television complaints tribunal in order to provide a proper complaint channel for those whose television interviews have been misquoted or erroneously interpreted out of context by the television stations.

MR. MARTIN LEE: Sir, owing to time constraint, may I summarise my views on the following:

- (1) On the independence of RTHK, I support the weekend option and the disestablishment of its staff.
- (2) On the corporate structure of the commercial licensees, I agree with the Broadcasting Review Board's interpretation of and proposals on section 10 of the Television Ordinance and will not repeat them. But I do see a difficulty here. I understand that before HK-TVB Limited went public, the Government had been consulted beforehand and had given its implicit approval to the proposed corporate structure which was in fact adopted. It does seem to me rather harsh now to require this licensee to undergo a metamorphosis before being eligible to apply for a new licence.

Sir, the proposed ban on tobacco advertising on television was but a side issue raised in the Broadcasting Review Board's report, but it has now become one of the most controversial issues.

The late Yul Brynner was interviewed shortly before his death and this was later reproduced as an anti-smoking television advertisement. He said: 'Now that I'm gone, I tell you: Don't smoke, whatever you do, just don't smoke ... If I can take back that smoking we wouldn't be talking about any cancer. I'm convinced of that.'

Sir, in January 1986, the World Health Organisation categorically stated: 'The direct causal link between tobacco and a range of fatal and disabling diseases has been scientifically proven'.

Sir, there can be no doubt whatsoever that smoking is hazardous to health. Indeed, this is what the Hong Kong Government firmly believes in, and this policy statement has the unanimous support of all the Unofficial Members of this Council.

Sir, we have received very detailed and well presented arguments from those who support and those who oppose the proposed ban. And I have no hesitation in accepting the submissions of the medical profession, and rejecting those of the tobacco industry. It is fundamental to the case of the tobacco industry that it does not intend by advertisements to persuade a non-smoker to smoke, but only to persuade a smoker to adhere or switch over to a particular brand. During our meeting with them, I asked two questions. The first was: 'If, inspite of your avowed objective, some young people are attracted by your advertisements and take up smoking, would you feel very sad about it?' The answer was in the negative. But surely, the burden is on the tobacco industry to prove that their advertisements do not actually result in getting more people to take up the harmful habit of smoking. The second question was whether they would use this advertisement: 'Smoking is hazardous to your health. This applies to all brands of cigarettes including ours. If you are not a smoker, then please don't start smoking. If you are already a smoker and cannot get rid of the habit, then please smoke our brand.' Needless to say, this did not elicit an enthusiastic response. Some recent advertisements of certain brands are clearly directed at our women or young persons, very few of whom smoke, and are thus the obvious targets of the tobacco industry.

Sir, none of the arguments raised by the tobacco industry is new, although many in Hong Kong have heard them for the first time. They have been practised on over 60 Governments in countries all over the world. With the exception of one provincial government in Canada, every Government which had studied this particular issue decided to ban tobacco advertising on television, and none of these Governments has ever reversed its decision. And the quality of their television programmes has not suffered either. As to freedom, the people of USA, France, Australia, United Kingdom and the other countries all believe in freedom as much as we do; and the ban on tobacco

advertising does not worry them. Why should the Hong Kong Government, which has a very good reputation in protecting our young people in health and other matters, go against this world trend?

Sir, let us not fear that any commercial television station will be closed down because of such a ban; for we know of no such precedent in the world.

Sir, I urge the Government to produce an overall anti-smoking policy as soon as possible, including raising tax on tobacco, prohibition of sale of cigarettes to persons under 18, and the total ban of any form of tobacco advertising. But in the mean time, it is necessary to let the public perceive that our Government is serious about its anti-smoking policy even now, by banning tobacco advertising on television.

Sir, let me end by quoting the concluding paragraph of the editorial of *The Times* on 28 November 1985:

'In the face of the overwhelming medical evidence on the danger of smoking, it is no longer enough just to say that smoking is declining and can be left to die out at its own rate. It is the industry that should be dying more quickly, not its customers.'

MR. LEE YU-TAI (in Cantonese): Sir, the value of Hong Kong depends very much on the development of its economy which is sustained by public confidence—the key to the whole question. The Broadcasting Review Board now recommends that after the expiry of the current television licences, the period of the new licences should last for eight instead of 15 years, i.e. from 1988 to the end of 1996. Such reduction of the licence period might deter new companies from bidding for the licence, leaving only the existing two television stations to submit tenders. As the report recommends that a public hearing be held every four years, we should not need to worry that a longer licence period would necessarily allow the television stations to go on in the same sloppy rut without making efforts for improvement. Moreover, a recent survey indicates that public confidence on the future has been on the downturn. That the new licence period does not extend beyond 1997 will no doubt become a cause of suspicion to the public. After all, as the contract of the second cross harbour tunnel, the renewed franchise of the Peak Tram Co. and the operation contract of Cable & Wireless all go beyond 1997 and the time limit for the sale of government land has been set up to 2047, it is desirable that the new television licence periods should continue to cover a 15-year period to last beyond 1997 upon renewal so that public confidence on the freedom of speech could be fostered.

The report also recommends the setting up of a radio and television complaints tribunal. This should on no consideration be implemented. The future of Hong Kong has its foundation on a sound and comprehensive judicial system and the establishment of an additional tribunal might, I am afraid, weaken the independent status of the Judiciary, waste financial and

manpower resources and even do harm to public confidence. It is essential to have more objective programming and balanced newscasts; contradictory viewpoints must be broadcast at the same time. However, the establishment of a complaints tribunal might give rise to frequent disputes and complaints, the requirement of advanced censorship or compulsory disclosure of news sources. This loss of independence and freedom of the press and speech will shake the very foundation of stability and prosperity.

Some people has alleged that the local entertainment industry is being monopolised by a certain television company which has been exceptionally successful. The report contains some recommendations which are directed against this state of affairs, and some of its arguments are slightly subjective and sometimes arbitrary. In paragraph 65 of 'A Summary of the Report', for instance, it says that 'it is possible for a licensee to use legitimate accounting methods to minimise the amount of its net profit'. A member of the Wan Chai District Board regards this as an ill-intentioned criticism against the accounting profession.

As the Broadcasting Review Board opines that the programmes currently provided by the two commercial television stations are far from comprehensive, the Administration should require them to broadcast a certain number of informative, current affair, educational or cultural programmes in specified hours. As regards the setting up of a public broadcaster, this is a proposal welcomed by most people but diverse views have also been expressed on the recommendation of allocation to it the hour from 7 pm to 8 pm on each of the two Chinese channels. The Eastern District Board, for instance, is in favour of the recommendation whereas the Wan Chai District Board is against it. Those who are in favour of the recommendation believe that such allocation of the prime time period will eventually do away with accustomed viewing habits of the public while ensuring that the programmes of the public broadcaster will reach substantial audiences. Those who oppose the recommendation are afraid that the weaker television station, being deprived of its prime air-time, will find more difficulty in putting itself into a fair competition with the other television station which will be placed in an even more advantageous position. Still others think that in the long run, we should not rule out the possibility of setting up a fifth television broadcasting channel. Additional broadcasting services will help much in the promotion of mass media education and open education should the Administration decide to go ahead along these lines.

Upon its conversion into an independent public broadcaster, RTHK will be able to acquire a higher degree of editorial independence. However, it will find some difficulty in supporting itself with advertising revenues alone and its decisions might tend to be influenced by commercial considerations. RTHK should, therefore, be restructured as a non-profit-making body and consideration must be given to subsidising part of its recurrent cost with public fund. Also, after its disestablishment from the Government, RTHK should retain the service of its expatriate staff with appropriate terms of service so as to maintain

the quality of English language programmes. With the settlement of the issue of Hong Kong's future, we must see that the localisation policy is not overdone and that the suitable and competent expatriates would be retained so as to preserve the unique feature of Hong Kong as an international city and the confidence of its people.

The report recommends that there should be a total ban on tobacco advertising from the electronic media; public reactions towards this recommendation vary. There is an enhanced knowledge among the public that cigarette smoking creates nuisances to other people and causes detriment to health and the environment. There is also a growing awareness of civic-mindedness and an increasing tendency towards mass discipline. The demand for a total ban on tobacco advertising seems to be irresistible. I hope consideration would be given to taking a gradual approach towards the ban on tobacco advertising so that the commercial television licensees would have sufficient time to look for other sources of advertising revenues to offset such losses.

In passing, I would like to refer to those words which are required to appear on every tobacco advertisement, namely, 'Hong Kong Government health warning: cigarette smoking is hazardous to your health'. Young people now-adays have 'anti-establishment' mentality and they would deliberately choose to smoke merely for the sake of resisting the Government warning. I think a 'Medical Society health warning' would be more effective in this case as it should be more appropriate for a medical society to give such advice, bearing in mind that it is the doctor who takes care of one's health. In tobacco advertisements of the United States, it is also the medical society that gives health advice.

MR. LIU (in Cantonese): I am of the opinion that the broadcasting industry has an important bearing on both society and the economy. A Broadcasting Review Board (BRB) was set up by the Government to conduct a review as well as to gather views and information. After the publication of the BRB report, the public was consulted and the consultation period was extended. From these, one can see that the Government pays serious attention to the matter, that it is open-minded and takes an enlightened stand in public policy matters. I greatly appreciate this.

The BRB has conducted a fairly comprehensive review of the broadcasting industry and given appropriate views on many important issues such as the setting up of a broadcasting authority, the emphasis on the quality of programmes, the establishment of a cable television service and the training of personnel and so on. In my opinion, the BRB has a keen insight and it is obvious that its various recommendations are well-intentioned. But on certain issues, I think that it remains to be discussed as to whether the Government should accept the BRB's recommendations.

One of the board's terms of reference is: 'consideration of the changes required in the conditions of advertising control with a view to the possibility of

banning certain types of advertisements.' In this respect, the board proposed a ban on cigarette advertisements and an extension of the time limit during which alcohol advertisements are banned. It seems to me that the board has not extensively discussed the criteria of the ban on advertisements. For example, whilst those which go against prevailing moral concepts or mislead the audience should be banned, only cigarette advertisement was highlighted for a total ban. In handling this matter, the board seems to have failed in fully considering the various aspects of social conditions.

Everyone knows that the overwhelming success which Hong Kong has achieved in its economic and social developments during the past decades is mainly a result of the implementation of the free trade policy and the respect given to individual enterprising spirit and the freedom of enterprise. Yet the BRB's recommendations for the commercial broadcasting stations to allocate its prime time and revenue to the public broadcaster, to be forbidden diversification and for the Government to ban totally tobacco advertisements are bound to intervene with the operation of enterprises and hinder the natural development of the economy.

Hong Kong's future hinges on the continuation of a free economy which allows business competition. However, we should pursue fair competition but not equitable competition. The effort made by an enterprise in the past should be valued, so should its gains and contribution. Otherwise the success of an enterprise as well as personal savings can all be regarded as inequitable elements. In addition, I think it is most important that the broadcasting industry should be able to transmit information freely and protect the free choice of the viewers/listeners and consumers. It is only natural that advertising on unlawful products and services should not be broadcasted. But those which are lawful should be given the chance to do so. The recent trend is that even advertising on professional services is allowed. Therefore, the broadcasting of cigarette advertisements should also be allowed on a limited basis. Nonetheless, apart from strengthening the warning that smoking is hazardous to health, the broadcasting time of cigarette advertisements should be so restricted that it will not fall in the period during which most youngsters are viewing/listening to the programmes. Currently Hong Kong is an important international information centre. To maintain free transmission of information is highly beneficial to the commercial and industrial sectors in Hong Kong as well as to the development of various aspects of international relationship. I do not wish to see the BRB's recommendations affect the information and advertising freedom in Hong Kong.

To sum up, it is my view that the broadcasting of cigarette advertisements is directly and indirectly related to a number of industries, involves lawful business competition and affects the spirit and significance of free economy. I therefore do not agree on a total ban on cigarette advertising, but accept that its broadcasting time should be restricted.

MR. SOHMEN: Sir, if the Broadcasting Review Board report had intended to create the maximum amount of controversy, it could not have done better. As an effort to create policy guidelines for Government to adopt on the expiry of the current commercial television and radio licences in 1988 and 1989 respectively, it has been a failure, despite the hard work put into it. Controversy signifies that there is strong interest, and a polarity of views tends to bring issues into sharper focus and will ultimately work towards better solutions. I hope this will be the case here although the divergence of ideas on the various BRB proposals and the emotions they have engendered has made it rather difficult to keep the discussions concentrated on essentials. The ad hoc group to study the report deserves praise for achieving a high degree of consensus at least on the principles underlying radio and television broadcasting in Hong Kong; Dr. Ho has already summarised these in his speech.

The BRB report suffers from trying to achieve too many and often contradictory objectives. It wishes to see higher standards being set and maintained, but is unhappy with the commercial success of at least one licensee—a success which ultimately will help to ensure better quality. It recommends a change in the basis of royalty payments in order to improve Government revenue from a limited resource, but at the same time argues that the licensees should only be engaged in the business of broadcasting and that their access to a fairly important source of advertising income should be blocked. The board takes issue with the dominant position of one of the commercial television licensees on the one hand but recommends a monopoly within certain time frames for a public broadcaster on the other hand. The report regrets the relative ineffectiveness of the Commissioner for Television and Entertainment Licensing in enforcing licence conditions, and generally favours a more rigid approach to the structure and behaviour of licensees, and to programming and advertising policies in general; but on the other hand seems quite relaxed about programme standards for future cable or microwave transmissions on the strength of the argument that they would be difficult to police.

The recommendations of the report on corporate structure seem to be influenced too much by the relative market shares of the two television licensees; yet it disregards the real commercial and managerial reasons for this state of affairs. The report proposes solutions which would mean restraints on legitimate corporate activities which have up to now been accepted, if not encouraged, and which are not uncommon in other countries. Under the pretext of a need to safeguard competition in a publicly-sensitive industry, the board's proposals — by forcing disinvestment and prohibiting diversification — would prevent licensees from strengthening their financial viability. The possibility of some control over the commercial activities of the licensees, along the lines of the schemes of control which exist for some of the public utility companies, has not apparently been considered at all and a sledgehammer approach is being advocated instead. Other franchised enterprises in Hong Kong subject to Government control or supervision are generally permitted to engage in other corporate activities.

I believe a good case can be made to impose a fixed annual royalty payment payable on every licence anniversary date by the commercial licensees for their use of the airwaves irrespective of their financial results. This should be supplemented by an additional levy on profits from broadcasting activities proper, based on audited accounts to be submitted to the licensing authority. It should take the form of a percentage figure applied on a decreasing scale on net profits above a certain minimum return on shareholders' funds (say 8 per cent), so as to encourage the licensees to produce profits without penalising them for commercial success. It certainly does not reflect good business sense for the board to recommend royalty payments based on turnover (i.e. annual gross receipts) of both the television and radio licensees since turnover is never a satisfactory measure of the actual performance of an enterprise, and would also tend to inhibit licensees from making the new investments which may be necessary or desirable to improve their programming and technical standards.

Because of its significant social impact, television broadcasting does require special controls, but these controls should be designed primarily to ensure programming quality which can consistently satisfy the varied needs of a multinational and multilingual community, but should fall short of intervention in legitimate commercial and corporate arrangements made by the broadcasters. The licensing process is itself a control mechanism, and a reduction in the licence periods from 15 to, say, 10 years, coupled with mid-term reviews, would provide relatively frequent review opportunities of their overall position and behaviour. I am not convinced that public hearings either at the mid-term or at the licence expiry dates will be particularly useful, as too large a number of essentially subjective views can cloud issues and make decisions more difficult. If a philosophy was accepted that licences would generally be renewed on expiry unless licensees had consistently or fundamentally violated the licence conditions, or a number of applicants were vying for a limited number of licences, only then should public hearings be held to decide on licence revocation or the award of licences to newcomers.

I am in favour of the board's recommendations to enact a new and comprehensive broadcasting ordinance and to establish a broadcasting authority, but am hesitant to endorse the establishment of a complaints tribunal with judicial functions; these should better be left to the courts. I would strongly argue that licence conditions should be tightly drafted and robustly enforced, and penalties for violations be increased as recommended by the board. This would hopefully eliminate the need in future to resort to arguments that the spirit of the Ordinance had been violated. Clarity should also be sought with regard to provisions relating to the corporate structure of the licensees (on which I would advocate a liberal rather than an interventionist approach) and as regards the formulation of programme standards.

Sir, there is considerable and justifiable support for the creation of a public broadcaster out of RTHK by the setting up of an independent statutory corporation. A public broadcaster could indeed help to improve what is called

'television literacy' and better assist in civic education, and would introduce an additional competitive element. Given its rather more circumscribed scope for programming, the public broadcaster would clearly need special financial treatment. This should consist of an exemption from any royalty payments, the liberty—as endorsed by the Broadcasting Review Board—to raise income from advertising, as well as the provision of Government guarantees to finance any shortfalls of revenue over expenditure. Allocation to the public broadcaster of regular prime viewing time to guarantee it better audiences and advertising success would however interfere with the overall intent to create more programme variety, and cast immediate doubt on the ability of the public broadcaster must of course have access to air-time but this should be spread evenly during broadcasting hours to provide a real choice to the viewing public and fair treatment to all licensees. The public broadcaster should in all regulatory matters be treated in the same manner as the other licensees. I am convinced that editorial independence from Government influence can be safeguarded by appropriate organisational arrangements.

The question of barring tobacco advertising is a difficult one as long as tobacco products are legally sold and permitted to be advertised in other media and in other forms. One cannot make a very convincing case that tobacco advertising should be banned from television and radio, however much one is convinced of or wishes to support Government's valid policy to discourage smoking on health grounds. Government and the anti-smoking lobby can and should get its views across by using the broadcasting industry as an advertising medium for their own message to the public on a commercial basis. Another solution is perhaps to statutorily require a larger screen area—say 40 per cent—to be blocked off in each commercial for the health warning. In the latter case tobacco advertisers would be forced to pay partially for the anti-smoking effort without being completely denied access to the market and without depriving licensees of substantial revenue.

MR. SZETO (in Cantonese): Sir, this report is full of deep concern for the future of Hong Kong, a strong sense of social consciousness and undaunted courage. It is perhaps because of this that the report has been rather unfairly treated before and after its publication. Therefore, I should like to make use of the opportunity here to give, in particular, my regards, thanks and respect to members of the board.

Airwaves are limited public resources which must be well utilised to serve the community in its best interests. The electronic media constitutes a most powerful means of publicity and education and must therefore undertake the responsibility to promote social progress. The vitality of our society lies in free competition, which must be safeguarded. At present, monopolisation already appears in the field of the electronic media and this is in the process of being extended to other areas by means of its powerful influence. This situation must be changed in order to safeguard free competition, to allow the continual

growth of vitality in society, and to improve the quality of the entire electronic media so as to enable it to better discharge the responsibility to promote social progress and serve the community in its best interests. These are the fundamental principles of the entire report as I understand it. I am in support of all the recommendations in the report which are based on these fundamental principles.

In order that the baby confronting the giant could stand firm and eventually become a counteracting and balancing force, an independent public broadcaster has to be established to provide part of the prime time for this broadcaster so as to ensure that it has a firm financial base. Only with such a counter-balancing force could the situation of monopolisation be changed and free competition restored. Section 10(a) of the Television Ordinance (Cap. 52) must be strictly enforced and special attention must be paid to the recent judgement made by the Supreme Court. Only then could the undesirable expansion of monopolisation be restrained.

Critics say that this is sheer competition between the Government and the people; it is a seizure; this would be penalising success and is against the modus operandi of a capitalist economy.

These are all specious arguments. Airwaves and prime time periods are all public resources. Taking back part of these at the end of the licence period and giving them to an independent public broadcaster which is more representative of the best community interests is simply returning public resources to the people. It will help to promote free competition and enable the mass media to provide better service to the public. This is not penalising success but a means to achieve further success through free competition; not just business success, but equal success in serving the community. What contravenes the modus operandi of a capitalist economy is monopolisation. Anti-trust laws have long existed in well-developed capitalist societies to restrict monopolisation and to safeguard free competition. Recently, the unbalanced reports by the electronic media on the report have created worries that such monopolisation is already threatening news freedom.

In the story of 'One Thousand and One Nights', the fisherman picked up a flask from the sea. By opening the flask, he released a giant who wanted to kill him in return. So he tricked the giant to get back into the flask and made the giant swear to serve him before releasing the giant again. Our present situation is similar to that of the fisherman. But there is no need to use tricks. By enforcing the law, this powerful force of public resources will automatically get back into the flask by 1988. It has to provide a better service in the best interests of the community under the new licence conditions before it will be released again. This is an opportunity which will easily vanish. Those who adhere to the best interests of the community must be on the alert.

MRS. TAM (in Cantonese): Sir, the Broadcasting Review Board report under debate in this Council today is the culmination of one and a half years' work involving more than 100 meetings and many studies of the practice in other countries. In preparing this report, the board also held public hearings lasting several months, conducted territory-wide opinion polls and received over 200 written representations. The report has not only reflected the painstaking effort and determination of the committee, but also demonstrated that each and every recommendation was made after careful deliberation. I wish to record my positive and high commendation to the spirit and contents of the entire report.

The report categorically pointed out from the start that airwaves are a natural but limited asset of the community and Government must ensure that they are properly used in the best interest of the whole community. At a time when television licences are due to expire, we should, in the light of the present development of the broadcasting industry and future needs of the community, conduct a review to decide on the proper allocation of the use of airwaves. In respect of the development of the broadcasting industry, I am of the view that Government should take steps to maintain the independence of the television medium and ensure that they are competing on equal footing. As regards the future needs of the community, I support the recommendation contained in the report, *inter alia*, that RTHK be disestablished from Government and reconstituted as an independent public broadcasting corporation responsible for the provision of high quality informative programmes.

Ninety-five percent of families in Hong Kong own television sets. This makes television broadcasting a highly pervasive and influential instrument of public opinion. It follows therefore that independence of television broadcasters is very important. Section 10 of the current Television Ordinance stipulates that television licensees shall be permitted only to provide broadcasting services and other businesses that are connected or associated with it. The spirit behind this legislation is to ensure the independence of the television broadcasting industry, so that they would not be subjected to political influence or the manipulation of financial conglomerates, and at the same time allowing all licensees to compete on equal footing. Unfortunately for various reasons, there is today in the industry a violation of the spirit of section 10. The emergence of associated and interlocking conglomerates not only does injustice to other television licensees, but also brings about unfair competition to other companies in the related business. For the sake of the future development of the television industry and the interest of the community as a whole, I urge the Government to reaffirm the spirit of section 10 of the Television Ordinance, to tighten up the loopholes by appropriate amendments and to vigorously enforce it so that when new licences are issued, no pretentious or fictitious associated and interlocking companies or other forms of business unconnected with broadcasting would be allowed to build up their own kingdom and to monopolise the industry.

Secondly, in anticipation of future broadcasting needs, I agree entirely that there will be an unprecedented demand for informative programmes. During

this transition period of rapid political changes, Hong Kong undoubtedly needs more in-depth public affairs programmes as well as informative programmes of educational value in order that the general public could keep pace with the pulse of the community, and be better informed of the various problems connected with the history, culture, geography, and political economy of China. Statistics from a recent survey on the needs of television programmes revealed that about one third of the adolescents interviewed spend three hours or more on television viewing every day. Also, that there is a great demand from them for public affair and youth programmes. About 40 per cent of those interviewed expressed that there are inadequate youth programmes on television and hoped that such programmes could be increased.

It becomes apparent that what the television broadcasting industry should do during the transition period towards 1997 is to change the present situation which emphasises on entertainment programmes to one with a balanced mix of recreational, informative and educational programmes. To produce high quality public information programmes, one cannot rely on commercial television broadcasters, who are answerable only to the board of directors and shareholders, who set their target in making the highest profit, and who produce only to attract the advertisers. The formation of a public broadcasting station to take up the role of producing public information programmes has my full support. I also support to disestablish RTHK, which has ample experience in making public information programmes, from the Government to become this independent public broadcaster. At the same time, I look forward to seeing the Government seriously considering allocating weekends to the public broadcaster. This will not only ensure that it will have an ideal and suitable time to put its programmes on the air, but will also help to establish in the minds of the public a sharp and distinct image. Last but not the least, Government should make effective financial arrangements to ensure that the public broadcasting station can survive and thrive.

With the above remarks, I present my views.

MR. TAM (in Cantonese): I support the basic principles of the report of the Broadcasting Review Board as just outlined by Dr. the hon. Ho Kam-fai. I think the report has a guiding and constructive function to the local broadcasting industry. As regards the contents of the report, I agree with the following observations and proposals:

- (1) the airwaves are the property of the community; their users have the responsibility to provide entertainment, information and educational programmes. When Government renews the licences, it should have the power and responsibility to reallocate the use of airwaves in the interests and needs of the community;
- (2) the broadcasting industry is a franchised business, and commercial television and radio stations have penetrating effects on the population. They play a very important role in the transmission of ideology and the

socialisation of the young people. hence, the Government must regulate and monitor the use of airwaves;

- (3) in order to balance the entertainment-oriented production of commercial broadcasting licensees and to provide the audience with more choices, it is essential to set up a public broadcaster mainly oriented towards educational and information type of programmes. The report's recommendation to reorganise the existing RTHK into an independent public broadcaster having a better, more stable and longer air-time is in line with the needs and aspirations of the public;
- (4) the establishment of a broadcasting authority and a radio and television complaints tribunal to undertake two often conflicting tasks of administration and judicial functions will facilitate more effective monitoring of the development of the present broadcasting industry; and
- (5) by strengthening the supervisory power of the existing Television Advisory Board and conducting public hearings before the granting or mid-term review of licences, public participation in monitoring the broadcasting industry could be better ensured. In order to enable the public to fully utilise their monitoring power, the Government must step up publicity on the current and future monitoring system and educate the citizens to understand their right to monitor.

I consider the above five points in the report worthy of support. However, I do not agree that the proposed public broadcaster should be self-financed on advertising revenue and sponsorships. Such an arrangement will affect the financial stability and the broadcasting independence of the future public broadcaster. In my opinion, public broadcasting is a kind of community service. The Government should shoulder part of or even the entire financial responsibility. The possibility of financing the public broadcaster by appropriations from the royalty obtained from commercial broadcasting licensees is worth considering.

Sir, as the 'survival problem' of RTHK after being turned into a public broadcaster has aroused much public concern and the career prospects of RTHK staff will also be directly affected by the reorganisation proposal, I have therefore consulted RTHK's Programme Staff Union on the above issues. I believe that in handling the reorganisation of RTHK, the Government should pay attention to the following points:

- (1) to ensure that RTHK can 'survive' financially after its independence;
- (2) the existing level of pay, benefits and job security enjoyed by RTHK staff should not be lowered; and
- (3) RTHK staff, including both Government employees and departmental contract staff, who have been adversely affected by the restructuring of the station should be given a reasonable compensation and early retirement gratuity.

Finally, I hope that in deciding the future development of RTHK, the Government could first consult the RTHK's staff union.

DR. TSE (in Cantonese): Sir, I am happy to be the last Member that speaks today.

With regard to the present review of the television broadcasting industry, I wish to put forward the following views:

- (1) To use a specified frequency for public broadcasting in a certain area is the right given to that area under an international agreement. Strictly speaking, this right cannot be freely used by the public although it is owned by them. When Government acts on behalf of the public in allocating this right to private bodies for commercial use, it has the responsibility to ensure that the contents and quality of the programmes satisfy the needs of the public.
- (2) The most appropriate and effective way for Government to shoulder this responsibility is by implementing simple guiding legislation as well as a powerful monitoring system to ensure fair, reasonable and adequate competition within the broadcasting industry and all broadcasting-associated business. As to their mode of operation, enterprise structure and scope of business, Government should be consistent with its laissez-faire policy and avoid imposing passive restrictions on them.
- (3) Since television broadcasting in Hong Kong has become the most effective medium of contact with the whole community, it should be a powerful means to widen the public's scope of knowledge about our society, promote civic education and foster democratic consciousness in addition to providing entertainment programmes to enliven the life of the public. To ensure that the public is provided with an adequate and objective service in this respect, Government should make use of the tax on profits of commercial broadcasters and their associated business to set up and support a public broadcaster which is not a government department. But in order to uphold the principle of reasonable and fair competition, the public broadcaster should not enjoy the privilege of monopolising a specified prime time and there should not be a great difference between the working capital of the public broadcaster and the commercial licensees.
- (4) Today, international broadcasting by satellite is very popular in advanced countries. Technically, Hong Kong citizens may be able to receive satellite-broadcast programmes so long as they can afford the installation cost of a particular dish antenna. On the other hand, there is an obvious trend of revival of cable broadcasting on a localised level. Although these two types of broadcasting have not yet been developed in Hong Kong, the possibility of their future development and the social impact which they may bring about should not be overlooked. Hence, it is not too early for us to mention this today as an aide-memoire.

Sir, I hope Government will consider the above points before it makes any decision on the broadcasting industry.

6.50 pm

CHIEF SECRETARY: Sir, I hope I can finish in time for us to go and listen to the news on television.

Dr. Ho Kam-fai has described how he and 24 other Members of this Council formed an ad hoc group of Unofficial Members to study the report of the Broadcasting Review Board. The ad hoc group has held many meetings and interviewed all those who are principally concerned with this subject of such vital concern to our community. Before I say anything else I should like to record the thanks which we, as a community, owe them for the thoroughness of their deliberations. Their observations and the recommendations which are reflected in the speeches of Members today are an invaluable contribution and distillation of the public debate which has taken place since the report was published.

But, just as we owe the ad hoc group our gratitude so, too, I should like also to place on public record our thanks to the hon. Mr. Justice POWER and the members of the review board for their awareness of the heavy responsibility placed upon them and for providing us with such a comprehensive and thought-provoking document.

Clearly, it would be inappropriate and, indeed, discourteous to attempt to provide immediate answers to the questions and recommendations put forward by Members this afternoon. However, the eight principles which have the unanimous support of the Unofficial Members of this Council and which have been spelt out by Dr. Ho constitute an important summary of the main themes which have emerged from this period of public consultation.

Few reports of a similar nature have aroused such debate and diversity of opinion and public interest as the report of the Broadcasting Review Board. The Government has received over 800 submissions; it has been discussed by almost all the district boards; and it has been the subject of intense attention in the press. A report is now being written summarising and analysing all the views received during the period of public consultation, and this report will be made public shortly.

Members have rightly pointed out that licence to broadcast is different from other kinds of commercial licence and enterprise: it is subject not only to normal commercial imperatives but places on the licensees, the operators, a heavy public responsibility. They have been entrusted with a precious resource which has great influence over the minds of men, women and children; they are franchised to use a public asset which, although invisible, reaches into every house; they have a solemn duty to exercise this responsibility in the public interest. And, because it is a public trust, because of its all pervading nature, the

Government of any place has with justification to apply to the broadcasting industry sensible restraints and a greater degree of regulation and supervision than would be applicable to other commercial enterprises operating in an entirely free market.

This is the background against which the Broadcasting Review Board's proposals must be judged. The board consistently asked itself the question: what is the appropriate balance that should be struck between the commercial returns which licensed broadcasters rightly expect and require and the responsibility to the public which they must, no less, fulfil? In some instances the board has reached the conclusion that such a balance has not been struck, or that the commercial and public goals of broadcasting have conflicted. The board has sought to redress these problems with a number of far-reaching proposals. The board has suggested that in some areas of programming, variety and balance has been lacking, and for this reason has proposed the creation of a public broadcaster with guaranteed access to television prime time in order to correct the balance by providing alternative programmes. The board has also expressed concern that a true state of competition does not exist in the industry, and has proposed measures aimed at restoring a more competitive situation. It has also argued that control of the broadcasting industry has not been sufficiently comprehensive, and has therefore proposed the establishment of a broadcasting authority to improve regulation of the industry. It has proposed that the public broadcaster, or in other words Radio Television Hong Kong, RTHK, should come under the general supervision of a board of governors.

Many paragraphs in the report deal with the complex issues of cable television and satellite broadcasts and this is one particular issue which I should like to mention specifically this evening, that is, the question of cable television and advances in technology in general. It is public knowledge that an application has been made to the Government to operate a cable television service to one of our large residential estates. A cable television service could, it is asserted, offer the purchaser a greater choice of programmes than provided over the air. This will require careful evaluation because, if it proved popular, it would clearly have a far-reaching effect upon the existing television broadcast stations.

Dr. CHAM and other Members have also drawn attention to satellite broadcast reception systems and to recent improvements in technology. It may be, with our high-density, high-rise residential areas, and the prevalent use of communal aerials in these high-rise buildings, that economies of scale will make these systems more viable in Hong Kong. In any event, their operation would have a profound effect on the broadcasting industry in Hong Kong. It will, therefore, be essential to reappraise the recommendations in the report on cablevision and satellite broadcasting in the light of these fresh developments.

Sir, because of the time constraints in the Television Ordinance, we expect to reach decisions on the principal recommendations of the Broadcasting Review Board during the course of the next six months and following consultation with the Executive Council to publish a paper setting out the background and the

rationale for the conclusions reached and the decisions taken. Some matters such as cablevision and satellite reception will almost certainly require a longer look.

Whatever decisions are made about the future of broadcasting, they must be based on common sense and sound judgement, and above all they must be made in the wider public interest. Some of the board's proposals have, as I said before, been the subject of a vigorous public debate over the past few months. The objective now is to see beyond the controversies, to avoid being swayed by emotion and tendentious arguments, and to take a cool look at the real issues in order to arrive at solutions which will be welcomed by the public and, viewed dispassionately, accepted by the private interests involved.

The broadcasting industry in Hong Kong is, as the review board itself acknowledged, 'in a healthy state'. We have little reason to denigrate and many reasons to be proud. The board has suggested ways of making improvements. These recommendations, the views of Members expressed today, other representations that have been made and the need to take a closer look at the implications of cablevision and satellite broadcasting must all now be brought together by the Government. Conclusions must be reached in the light of the advice received and these conclusions must be publicly explained. Whatever decisions are taken, they must be taken in with the aim of improving the industry, of fostering its growth and its competitiveness, its sense of responsibility, its contribution to knowledge, to enjoyment, to information and its service to the people.

Sir, I move that this Council do now adjourn.

*Question put and agreed to.*

### **Next sitting**

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 26 March 1986.

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

*Note:* The short titles of motions/bills listed in this Hansard have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

---

## WRITTEN ANSWERS

### Annex I

#### Written answer by the Secretary for Health and Welfare to Mr. Peter C. WONG's supplementary question to Question 3.

The numbers of death as a result of total kidney failure in the last three years were:

1983	794
1984	884
1985	847

It may be reasonably assumed that all of these people were undergoing some form of medical treatment before they died.

### Annex II

#### Written answer by the Secretary for Transport to Mr. Martin LEE's supplementary question to Question 4.

I am now able to confirm that there are five situations where prosecution action has to be taken for speeding under 30 kph:

- (a) A driver who holds an international driving permit or a foreign driving licence recognised in Hong Kong;
- (b) A driver who cannot be stopped at the scene of the speeding offence and cannot be traced after three and a half months;
- (c) A driver who commits speeding and other traffic offence(s) at the same time;
- (d) A driver who received the fourth fixed penalty notice and had the notice converted into a summons under the Road Traffic Ordinance before September 1985 but had his case adjourned for hearing after pleading not guilty; and
- (e) A driver who could not be stopped at the scene and received a summons before September 1985.

I am afraid outstanding prosecutions in respect of cases which fall within the above categories would have to proceed notwithstanding the suggestion to include retrospective provisions in the proposed amendments to the Road Traffic Ordinance.