

1 HONG KONG LEGISLATIVE COUNCIL -- 16 May 1990

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 16 May 1990

The Council met at half-past Two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (PRESIDENT)

SIR DAVID CLIVE WILSON, K.C.M.G.

THE CHIEF SECRETARY

THE HONOURABLE SIR DAVID ROBERT FORD, K.B.E., L.V.O., J.P.

THE FINANCIAL SECRETARY

THE HONOURABLE SIR PIERS JACOBS, K.B.E., J.P.

THE ATTORNEY GENERAL

THE HONOURABLE JEREMY FELL MATHEWS, C.M.G., J.P.

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

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

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

THE HONOURABLE CHAN YING-LUN, O.B.E., J.P.

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

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

THE HONOURABLE CHENG HON-KWAN, O.B.E., J.P.

THE HONOURABLE CHUNG PUI-LAM, J.P.

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

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

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

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

PROF. THE HONOURABLE POON CHUNG-KWONG, J.P.

THE HONOURABLE SZETO WAH

THE HONOURABLE TAI CHIN-WAH, J.P.

THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING, J.P.

THE HONOURABLE TAM YIU-CHUNG

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

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

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

THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.  
SECRETARY FOR TRANSPORT

THE HONOURABLE EDWARD HO SING-TIN, J.P.

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

THE HONOURABLE MARTIN GILBERT BARROW, O.B.E.

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE MICHAEL CHENG TAK-KIN, J.P.

THE HONOURABLE DAVID CHEUNG CHI-KONG, J.P.

THE HONOURABLE RONALD CHOW MEI-TAK

THE HONOURABLE MRS. NELLIE FONG WONG KUT-MAN, J.P.

THE HONOURABLE DANIEL LAM WAI-KEUNG, J.P.

THE HONOURABLE MRS. MIRIAM LAU KIN-YEE

THE HONOURABLE LAU WAH-SUM, J.P.

DR. THE HONOURABLE LEONG CHE-HUNG

THE HONOURABLE LEUNG WAI-TUNG, J.P.

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

THE HONOURABLE MRS. SO CHAU YIM-PING, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

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

THE HONOURABLE PETER WONG HONG-YUEN, J.P.

THE HONOURABLE YEUNG KAI-YIN, J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

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

THE HONOURABLE ALDOF HSU HUNG, J.P.  
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE RAFAEL HUI SI-YAN, J.P.  
SECRETARY FOR ECONOMIC SERVICES

THE HONOURABLE CLIVE WILLIAM BAKER OXLEY, E.D., J.P.  
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

THE HONOURABLE IAN ROBERT STRACHAN, J.P.  
SECRETARY FOR SECURITY

ABSENT

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

THE HONOURABLE KINGSLEY SIT HO-YIN

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL  
MR. LAW KAM-SANG

Oath

Mr. I.R. STRACHAN took the Oath of Allegiance.

Papers

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

Subject

Subsidiary Legislation L.N. No.

Immigration Ordinance 1990.....	139/90	Immigration (Amendment) Regulations	
Road Traffic Ordinance			
Road Traffic (Public Service Vehicles) (Amendment) (No. 2) Regulations 1990.....			140/90
Road Traffic (Public Service Vehicles) 1990		(Amendment) (No. 2) Regulations	
Road Traffic (Public Service Vehicles) (Amendment) (No. 2) Regulations 1990 (Commencement) Notice 1990.....			141/90
Supreme Court Ordinance Rules 1990.....		Rules of the Supreme Court (Amendment)	
142/90			
Immigration Ordinance (Detention Centres) (Designation) (No. 3) Order 1990.....		Immigration (Vietnamese Boat People)	

143/90

Immigration Ordinance (Detention Centres) (Amendment) (No. 5) Rules 1990.....	Immigration (Vietnamese Boat People)	
144/90		

Public Health and Municipal Services Ordinance Houses (Regional Council) (Amendment) By-Laws 1990.....	Slaughter-	
	Houses	145/90

Sessional Papers 1989-90

- No. 72 -- Report of the special meetings of the Finance Committee on the Draft Estimates of Expenditure 1990-91
- No. 73 -- Revisions of the 1989/90 Estimates approved by the Urban Council during the fourth quarter of the 1989/90 financial year
- No. 74 -- Securities and Futures Commission approved Estimates of Income and Expenditure for the financial year ending 31st March, 1991

Oral answers to questions

Issuance of dual licence plates to cross border vehicles

1. MRS. FONG asked: Since the 6-lane superhighway connecting Hong Kong and Guangzhou will come into operation soon, will the Administration inform this Council what measures will be taken to streamline the procedure for the issue of dual licence plates so as to facilitate motor vehicles carrying passengers and goods to travel between Hong Kong and Guangdong Province?

SECRETARY FOR TRANSPORT: Sir, Hong Kong vehicles entering China must satisfy the Chinese authorities' inspection and licensing requirements before they can cross the border. Similarly, PRC vehicles entering Hong Kong must first be registered and licensed with the Transport Department. Subject to PRC vehicles passing the Transport Department's vehicle examinations and on payment of the necessary fees, they can be registered and licensed in Hong Kong. This procedure is identical to that applicable to Hong Kong vehicles and normally takes only a few days to complete. It is difficult to see how it can be further streamlined given the importance of ensuring that all vehicles running on Hong Kong's roads satisfy the legal requirements for licensing and road worthiness.

Additionally, both Hong Kong and Chinese vehicles crossing the border must possess valid cross border permits issued by the Immigration Department in order to pass through the Frontier Closed Area. The procedure for applying for such permits is made as simple as possible. Normally, an application can be processed within a few days.

To facilitate goods vehicle traffic between Hong Kong and China, so essential to our economic growth, there are at present no restrictions on the Hong Kong goods vehicles from Hong Kong crossing the border into China. Other categories of vehicles are subject to quotas which are bilaterally agreed between the Hong Kong and the Chinese authorities. For PRC vehicles there is at present a quota of 350 goods vehicles, and 100 for official cars. These are also subject to review.

There are regular liaison meetings between the Hong Kong and Chinese authorities on transport matters. If any new measures to facilitate vehicular movements across the border are considered necessary, they can always be raised for discussion at these meetings.

MRS. FONG: I would like to seek further clarification about the cross border permits. I understand that there are three border crossings, namely, Sha Tau Kok, Man Kam To and Lok Ma Chau, and the cross border permits are extremely restrictive in their use. The restrictions relate to the specified border crossing point which a particular vehicle is entitled to use, a specific driver for a specific vehicle, and specific passengers which the vehicle can carry. Would the Administration clarify whether or not such restrictions are necessary?

SECRETARY FOR TRANSPORT: Sir, I think there are already established procedures to control the cross border permits. These are based on security grounds and not on transport grounds. I would defer to the Secretary for Security for an elaboration of the reasons behind those controls.

SECRETARY FOR SECURITY: Sir, closed road permits are necessary to enable Hong Kong security forces to control vehicular access to the frontier closed area.

MR. BARROW: Sir, could the Secretary clarify whether or not there is a waiting list for the permits and whether approval has to be received from the Chinese side prior to the issuance of a permit?

SECRETARY FOR TRANSPORT: Sir, again I would defer to the Secretary for Security.

HIS EXCELLENCY THE PRESIDENT: Secretary for Security, can you help?

SECRETARY FOR SECURITY: Sir, I do not have this information with me. Perhaps I could give a written reply. (Annex I)

MR. MCGREGOR: Sir, at a recent government seminar, Gordon WU of Hopewell Holdings advised those present that his company has not as yet received assurances from the Hong Kong Government and the PRC authorities that free movement of passenger vehicles to the extent required will be permitted when the highway opens. Since this is an essential matter of commercial viability, will the Government clarify this position?

SECRETARY FOR TRANSPORT: Sir, as far as the superhighway is concerned, this is of course a matter between the company and the Chinese authorities. The Government of Hong Kong is not a party to this transaction and cannot comment on the details. As far as the company's request for figures on traffic is concerned, we did receive a request from their bankers on the forecast of traffic across the border. Our response



has been that priority will be given to cross border goods traffic and indeed this has been our practice for many years; next come other vehicles in an order of precedence according to established practice. This has been the line given to the company concerned.

MRS. FONG: I would like to ask about the regular liaison meetings between Hong Kong and the Chinese authorities on transport matters. Can the Administration explain how often these meetings are held and when it was last held?

SECRETARY FOR TRANSPORT: Sir, these meetings are held regularly at about quarterly intervals. The last meeting was held about three months ago and the next one, in fact, is set for tomorrow.

MRS. CHOW: Sir, what measures are being taken to ensure that drivers of PRC vehicles with cross border permits comply with Hong Kong traffic laws and regulations?

SECRETARY FOR TRANSPORT: Sir, PRC vehicles and their drivers are subject to Hong Kong laws in the same way Hong Kong drivers and their vehicles are subject to. All PRC vehicles entering Hong Kong must be registered and licensed in Hong Kong to satisfy all Hong Kong standards, and the drivers must satisfy Hong Kong's driving test examinations. Hong Kong laws will apply to all these drivers and their vehicles.

MR. MCGREGOR: Sir, would the Secretary accept that there is a tremendous need for Hong Kong Government and the PRC authorities to be in close contact about the viability of this super highway, in particular in regard to the numbers of vehicles which will make the highway commercially viable? Would the Secretary care to comment on the liaisons that may now be developed between the Hong Kong Government and the PRC authorities on this matter?

SECRETARY FOR TRANSPORT: Sir, as I said earlier, contractually this is a commercial venture between the company concerned and the Chinese authorities. The Government of Hong Kong is not a party to this venture and Government cannot in fact enter into

any promise in relation to that venture.

Unleaded petrol

2. MR. POON asked: In view of the impending introduction of unleaded petrol in Hong Kong around the end of 1990 and the Government's plan to legislate to enforce conversion and compliance, will Government inform this Council:

(a) whether the upgrading processes to improve the octane rating will adversely affect the environment, and

(b) of the estimated number of vehicles affected which are not designed to use unleaded petrol, and the implications on such vehicle owners?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I confirm that there will be no adverse effects on the environment as oil companies have agreed not to increase the toxic components of petrol in the production of unleaded petrol.

According to the Environmental Protection Department's studies, 66% of vehicles can switch to unleaded petrol without modification or adverse effects, and a further 13% can switch if minor adjustments to spark ignition timing are made. I would emphasize that there is no risk of engine damage.

Of the remaining 21% some 14% can use unleaded petrol for most of the time, although they will need an occasional dose of leaded petrol to lubricate valve seats. The remaining 7% cannot use unleaded petrol at all. Leaded petrol will continue to be made available for these vehicles.

PROF. POON: Sir, with the introduction of unleaded petrol, will the Government consider introducing legislation:

(a) to control the importation of vehicles which are designed to use solely unleaded petrol; and

(b) to enforce the installation of catalytic converters to vehicles which can use unleaded petrol?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, the principal reason that unleaded petrol is to be introduced is indeed to enable the motor industry to introduce new technology into Hong Kong, particularly catalytic converters. If leaded petrol is used then catalytic converters are rendered useless very rapidly and it is very important that the leaded material be removed before any legislation is considered to enforce the proposals which Prof. POON has mentioned.

MR. PAUL CHENG: Sir, since most petrol station sites are limited in size, will the Administration inform this Council whether both unleaded and leaded petrol will be available at all stations? If not, what proportion of the stations will be converted to supplying only leaded petrol?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Yes, Sir. The percentage of filling stations which will continue to sell leaded petrol will be up to about 50%. Site restrictions will mean that not more would be able to do that. It is the intention that all filling stations will be required to offer unleaded petrol.

MR. PETER WONG: Sir, can the Secretary inform this Council what sort of engines are incapable of converting -- I think some of us would like to know which of our cars are incapable of doing so -- and whether, for the ones which need an occasional dose of leaded petrol, it would be possible to have resort to substitute additives instead of applying leaded petrol?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, those that are unable to convert -- in my main answer I said that 7% would not be able to use unleaded petrol at all -- are essentially very high-performance cars, turbo-charged cars, and also extremely old cars, that is to say vintage cars. For those that do require the occasional dose, they are essentially cars which were manufactured before 1985 and this problem will disappear in time. I understand from the oil companies that it

is not possible to provide an alternative additive.

MR. NGAI (in Cantonese): Sir, could the Government inform this Council whether similar vehicles running a similar mileage will consume more unleaded petrol than leaded petrol? If so, could I ask the Government whether it has assessed that there will have another kind of adverse effect on the air of Hong Kong if more unleaded petrol is consumed although it may reduce the content of lead in the air? It is because petrol is a kind of hydrocarbon fuel.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, it is important, I think, that unleaded petrol be substituted for leaded petrol as soon as possible because any emission of lead into the atmosphere is regarded as extremely unhealthy. If unleaded fuel is used and vehicles produce fumes which are considered to be toxic, it is our intention to require the introduction of catalytic converters to ensure that that is reduced to the minimum. I would also say that it is the intention to step up the Smoky Vehicle Examination Scheme to ensure that vehicles which are high pollution emitters are either remedied or taken off the roads.

PROF. POON: Sir, with reference to the first paragraph of the main answer, will the Government consider drafting regulations to control the percentage of aromatics in petrol?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, there is no intention to do that at the moment. As I did say in the answer, the oil companies have agreed not to increase the toxic components of petrol. So the situation would certainly not be worse than it is now, and in fact with the removal of lead it is likely to be significantly better.

MR. PAUL CHENG: Sir, I understand that unleaded petrol will be priced at a dollar cheaper than leaded petrol. Will the Administration advise this Council of the basis for arriving at this differentiation and whether this differentiation is deemed sufficient to induce consumers to shift to unleaded petrol?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I have not uttered the words "a dollar differential". I think this is a figure which is being bandied about in the press. There is certainly an intention within the Government to ensure that there is a price differential. We have not yet determined precisely what that level should be, but clearly there must be an economic inducement to induce people to take unleaded petrol rather than leaded.

MR. MCGREGOR: Sir, would the Secretary advise whether a diesel engine or a leaded petrol engine is the more dangerous to public health? And if the diesel engine is more dangerous, what is the Government doing to improve that situation?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I have no statistics to prove which is the worst. I am told that it is important that lead should be removed from vehicle emissions as soon as possible because it does have quite profound health effects. Diesel engines which are properly maintained are not a significant cause of pollution. The real problem lies in those which are badly maintained and, as I said earlier, the Smoky Vehicle Examination Programme will be stepped up to ensure that action is taken against them.

PROF. POON: Sir, would the Secretary inform this Council what kinds of additives are likely to be introduced to increase the octane rating of unleaded petrol?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I do not have the details of that. I suspect that Prof. POON, as a Chemistry Professor, might well know more about it than me. The intention is that sufficient additional hydrocarbons should be added to ensure that the octane rating is maintained at somewhere between 95 and 97. We will require specific additives to do that once lead is removed because the octane rating would drop unless additional additives are added.

Ambulance service

3. DR. IP asked: Since medical treatment of an accident victim should begin at the

site of the accident, will Government inform this Council whether consideration will be given to transferring the Ambulance Command Section of the Fire Services Department to the Hospital Services Department?

SECRETARY FOR SECURITY: Sir, it is always useful, when examining the current provision of a public service, to consider historically why such a service is provided in the way it is. In 1953 non-emergency ambulance services, provided by the then Medical and Health Department, and emergency ambulance services, provided by the Fire Services Department, were amalgamated and placed under the management of the Fire Services Department.

I believe that history has proven this decision to have been a correct one. The Fire Services Department Control Centre deals with all emergency calls for fire and ambulance services. The transfer of the ambulance service to the Hospital Services Department would result in either the establishment of a new control centre, with considerable duplication and loss of flexibility and expertise now available in the existing control centre, or it would result in problems of command and control if the present combined control centre were retained, but under the management of two departments. Thus, to ensure efficient management of these resources and, more importantly, to enable a prompt response in the event of an emergency, I consider that the ambulance service should remain under the management of the Fire Services Department.

The Hospital Services Department certainly has the facilities and the expertise to provide advanced training for ambulancemen. There has always been very close co-ordination and co-operation between the Fire Services Department and the Hospital Services Department to provide effective training programmes for ambulancemen. Hence, it is not considered necessary to place the ambulance service under the Hospital Services Department so as to achieve these training objectives.

DR. IP: Sir, in view of the comments made by the staff of the Fire Services Department that non-emergency calls for ambulance service often delay their response to emergency calls, would Government consider transferring the non-emergency ambulance service to the future Hospital Authority to be in line with the pre-1953 status?

SECRETARY FOR SECURITY: Sir, the Ambulance Services Review Steering Group is examining this very question at present, that is, the possibility of devising a more cost-effective system for the handling of non-emergency calls. The feasibility of transferring the duties of non-emergency ambulance services to other appropriate authorities will form part of this study.

DR. IP: Sir, in the answer given earlier, an impression was given that emergency calls for fire and ambulance services must go hand in hand, which in fact need not be. To clarify this, would the Secretary tell this Council the percentage of emergency calls for ambulance service not associated with fire?

SECRETARY FOR SECURITY: Sir, I cannot answer that question in the detail required but the number of emergency calls is 55% of the total number of calls.

"Make polluters pay" policy

4. MR. CHOW asked (in Cantonese): Will Government inform this Council whether consideration will be given to adopting a fee-charging policy on environmental polluters, initially by recovering from the polluters the actual cost to Government for providing services for the inspection, licensing and the issuance of permits in respect of premises or equipment which cause pollution to the environment?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, as is stated in the White Paper on Pollution in Hong Kong, the Government's broad intentions are that polluters should pay.

This general policy has not in the past been applied consistently for a variety of reasons.

Historically no charge has been made for the collection, treatment and disposal of waste waters and of solid wastes, although some of these costs are met by Government and municipal councils. The question of direct charging for these services is currently under review.

With regard to cost recovery on licensing and the issue of permits, there is already full cost recovery in some cases, such as registration and licensing fees under the Ozone Layer Protection Ordinance. In other cases, such as licences for the large number of often small establishments issued under the Water Pollution Control Ordinance, only a nominal fee is charged in order not to discourage applications for licences since failure to be licensed would increase the control effort required and be generally counter-productive.

As circumstances change, and particularly as polluters and generators of waste come to accept more fully their responsibilities for dealing with this aspect of their operations, then the fees charged will be reconsidered with a view to bringing them more in line with the general principle of full cost recovery.

The answer to the question therefore, is: Yes, Sir, Government is considering fee-charging in accordance with the strategies I have just explained.

MR. CHOW (in Cantonese): Sir, will the Government consider using the money collected under the fee-charging policy on environmental polluters to set up an environmental protection fund to cover the expenses for fighting pollution?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, it is a matter of general principle, which I think the Financial Secretary will endorse, that fees and charges normally accrue to general revenue.

MR. PETER WONG: Sir, the Secretary said that the Government is considering fee-charging. Can the Secretary please inform this Council when we will see any positive proposal or action?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, there are already many cases where fees are charged. Some are charged at full recovery, for example, the registration fee of \$1,000 under the Ozone Layer Protection Ordinance and the licence fee for import/export of \$500. Another example would be the Dumping at Sea Act where conditions for a licence to dump dispersants, spoil and other items are specifically set out. It is a continuing process, Sir.



MR. TAI: Sir, with reference to paragraph 3 of the reply, may I ask whether there is an intention on the part of the Government to increase the rates in view of the fact that the two municipal councils are dealing with waste disposal as well?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I do not really think that that is a matter for me to decide. Suffice it to say that the review is broad-ranging and the results will be made known as soon as possible.

Collective bargaining

5. MR. TAM asked (in Cantonese): The General Conference of the International Labour Organization adopted the Right to Organize and Collective Bargaining Convention (International Labour Convention No 98) in its Thirty-Second Session in 1949. Although the application of this Convention has been extended to Hong Kong by the British Government, the machinery for collective bargaining has yet to be extensively established in Hong Kong. Will the Administration consider enacting legislation to provide for collective bargaining so as to enable regular consultation between employers and employees on labour matters in a bid to mitigating conflicts and confrontations between both parties ?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the question implies that the extension of International Labour Convention No. 98 to Hong Kong obliges us to legislate for collective bargaining. This obligation does not exist. Article 4 of the Convention provides that --

"Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations ...."

It is clear that while the Government should encourage employers and employees to negotiate on a voluntary basis, there is no question of the Convention having created an obligation upon the Government to impose collective bargaining by statute.

Collective bargaining tends to work efficiently only in an environment where a small number of businesses employ large numbers of people, where the majority of them are represented by trade unions, and where both sides consider it mutually advantageous to avoid the trouble and expense of negotiating at the level of individual enterprises. Given the multiplicity of small businesses in Hong Kong, and having regard to the fact that our trade unions represent a relatively small proportion of our workforce, the environment I have just described clearly does not exist here.

That is not to say that the Government has done nothing to help resolve differences between employers and employees. The Labour Department has always encouraged the formation of consultative machinery at the level of individual enterprises. Where negotiations fail the Department has always shown itself willing to mediate. Voluntary negotiation, underpinned by the Department's conciliation service, has served us well. The number of man days per 10 000 working man days Hong Kong has lost through industrial action over the three years 1986 to 1988 was 0.04, compared with 0.12 for Japan, 0.13 for South Korea, 1.86 for the United States and 3.53 for the United Kingdom. Moreover, of the 47 150 disputes involving the conciliation service of the Labour Department over the three years 1987 to 1989, no fewer than 35 719 cases, or 76%, have been resolved satisfactorily.

MR. TAM (in Cantonese): Sir, although International Labour Convention No.98 does not rigidly stipulate for the implementation of collective bargaining between employers and employees, if the Government can establish a machinery or mechanism for collective bargaining, would it not be an encouragement to the employers and employees to use such effective channel as collective bargaining voluntarily so as to avoid labour disputes like the recent case of the China Motor Bus Company?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the answer to the question depends, as I have mentioned in the answer to the original question on whether both sides -- employers and employees -- can agree that collective bargaining would have the advantage of reducing or obviating the trouble and expense of negotiating at the level of individual enterprises. So far no case has been made to the Administration; so the Administration is unable to respond to the first part of the question. As to the second part of the question, I am sure Mr. TAM will remember that the Labour

Department successfully mediated in the China Motor Bus labour dispute. It was a particularly difficult exercise but it was resolved without collective bargaining.

MR. TAM (in Cantonese): Sir, with reference to the second point of the Secretary's reply, the condition between the civil servants and the Government is most favourable to collective bargaining. Will the Government consider setting up the machinery for collective bargaining between the civil servants and the Government to solve the problems of the civil servants? And this is also in line with the requests of the civil servants' unions.

SECRETARY FOR EDUCATION AND MANPOWER: I am sure Mr. TAM will agree that in the case of the Civil Service we have one large employer dealing with several unions and with large numbers of employees who are content under contractual arrangements to allow negotiations to proceed in a co-ordinated way. I am not entirely sure that these conditions exist in the private sector. As I mentioned in my answer to the primary question, we have a multiplicity of small businesses in the private sector and the fact remains that Hong Kong's workforce is not, by and large, unionized.

Fringe benefits for subvented organization employees

6. MR. HUI asked: As it is proposed that the staff of the future Hospital Authority, whether from Government or subvented hospitals, will serve under uniform employment terms including fringe benefits, will Government inform this Council whether the fringe benefits for employees of aided schools and subvented welfare organizations will be brought in line with those for the staff of the future Hospital Authority?

SECRETARY FOR HEALTH AND WELFARE: Sir, the Administration does not intend to extend the Hospital Authority remuneration package to the subvented social welfare and education sectors. There are entirely separate considerations surrounding the establishment of this Authority which amounts to a re-organization exercise to bring about management reforms. Given the intention that the subvented and government medical sectors will merge under a single authority, it is clearly necessary to provide common terms of service for staff who elect to join the Hospital Authority. There are no such arrangements being considered for the voluntary welfare sector or

for aided schools.

MR. HUI: Sir, one of the reasons for the establishment of the future Hospital Authority is the improvement of efficiency for such services. Can the Administration inform this Council whether Government will consider improving the fringe benefits of the subvented staff in the education and welfare fields in order to improve the efficiency of these services?

SECRETARY FOR HEALTH AND WELFARE: Sir, I would like first of all to say that as far as the welfare sectors are concerned, the service provided is already very efficient and, by inference from the question, they need very little improvement incentive. And I would like also to say, if I may, that I am extremely gratified to know that the Hospital Authority's remuneration package is considered to be sufficiently attractive in some quarters, even if this attraction is not yet apparent to those to whom the package is offered.

But on the explanation side, I think the circumstances surrounding the establishment of the Hospital Authority are quite different. With the Government and the subvented sectors to be integrated under the future Hospital Authority, there is, as I explained in the main answer, a need to devise some uniform employment terms to facilitate integration of all staff in the long term. The independence of the public hospital system from the civil service framework provides an opportunity for a large degree of flexibility to be built into the design of this new remuneration package. These two contributory factors which make the new package available are unique, even to the medical sector.

MR. MICHAEL CHENG (in Cantonese): Sir, some civil servants will leave the service and become staff of government-subvented hospitals under the future Hospital Authority. Will Government therefore inform this Council why employees of similar organizations such as subsidized schools and subvented welfare agencies cannot enjoy the same benefits as offered to the Hospital Authority staff? Could the Government give a reasonable explanation to this?

SECRETARY FOR HEALTH AND WELFARE: Sir, I do not think that we can look at the fringe

benefits in isolation. If we really want to make a comparison between the subvented sector and the Civil Service, then I think it must be between the total packages of terms and conditions of employment and not just the comparison of benefits. I think we would need to look at the non-monetary conditions as well, such as the qualifications for employment, promotion prospects, leave arrangements, or other restrictions on taking outside work as applicable to the Civil Service. So taking into account the varying conditions of employment, I think it is inevitable that discrepancies in respect of the fringe benefits will continue to exist.

MR. CHEONG: Sir, this is a follow-up question to Mr. Michael CHENG's. Continuous negotiations with Government to try to get equal fringe benefits for teachers in the aided sector as compared to their counterparts in Government schools have met with the answer "no". The reason is always that the teachers in the aided sector are not government employees. Since the employees of the future Hospital Authority are not government employees either, why are they treated differently?

SECRETARY FOR HEALTH AND WELFARE: I think I did try to explain in my answers to the main question and the first supplementary that the circumstances surrounding the special package to be offered in respect of future Hospital Authority employees have their own particular meaning and their own particular history. That is not to say that other considerations might not be applicable to other areas of the subvented sector, such as the welfare and the education sectors. So I would like to reconfirm my original statement that the circumstances which created the terms and conditions of service for the future Hospital Authority staff are quite different.

MRS. TAM (in Cantonese): I agree that the circumstances surrounding the establishment of the Hospital Authority are different from those of the present voluntary welfare agencies and subsidized schools. But is the Government aware that the discrepancies between the fringe benefits of the government and subvented staff are indeed very large? Does the Government have a plan to narrow the gap between the two? If so, when will it be carried out?

SECRETARY FOR HEALTH AND WELFARE: I think the Administration recognizes the good work done by the welfare sector and also the education sector. So I can confirm, Sir, that the Administration is considering ways of narrowing the gap in respect of the

provision of fringe benefits. But it is very early in the day, and in fact too early to come to a conclusion at this stage.

MR. PETER WONG: Sir, the Secretary in her response said that it is important to compare the packages. Would she please explain to this Council why there is always the proviso that a subvented employee can never be paid more than his equivalent in Government?

SECRETARY FOR HEALTH AND WELFARE: I think in the subvented sector -- certainly from the welfare point of view, the history is quite different -- the organizations are different. As far as I understand, there are many agencies which offer different packages -- fringe and other conditions. So because of the variety of conditions of service being offered in the welfare sector, it is not easy nor practicable to compare them with that of the Civil Service.

MR. CHEONG: Sir, will Government undertake to inform this Council of the full financial costs to the public purse arising from any possible change of heart on the part of the Government on this issue in future?

SECRETARY FOR HEALTH AND WELFARE: Indeed, I undertake to inform this Council if there is any financial commitment involving the allocation of public money.

MISS LEUNG (in Cantonese): Will the Secretary inform this Council whether employees of subsidized schools and subvented welfare agencies must be offered employment terms less attractive than their counterparts in the government service?

SECRETARY FOR HEALTH AND WELFARE: I think I can only answer on behalf of the welfare sector. The Government does not provide individual subventions on an ad hoc basis to agencies. The Government in granting subventions takes into account recognized provident funds. So except in the case of recognized provident funds, there is no specific provision for fringe benefits from government subventions. But I will defer to the Secretary for Education and Manpower for an answer to the education side of

the question.

HIS EXCELLENCY THE PRESIDENT: Secretary for Education and Manpower, can you help?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, as far as I am aware it is a cardinal principle of the Government's subvention policy that the terms and conditions of service for any aided or subvented organization cannot be superior to those applicable to a comparable group of civil servants. Now, the application of this policy has led to equalization of pay scales, for example, as between government and aided schools. But the application of this policy has obvious difficulties when it comes to fringe benefits. For example, in the case of the Civil Service, many civil servants are on a non-contributory pension arrangement, whereas virtually all aided school teachers are on a contributory provident fund arrangement. There are obvious difficulties here but that is not to say that we are not looking at the gaps which now exist.

Training of environmental protection personnel

7. MR. TIEN asked: In view of the demand for pollution control staff by both the Government and the industrial sector arising from the need to implement the recommendations of the White Paper on Pollution, will Government inform this Council what steps have been or will be taken to train sufficient qualified personnel, especially at the tertiary level, to meet the demand?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the demand for qualified manpower comes mainly from the Environmental Protection Department (EPD), which enforces legislation; the Hong Kong Productivity Council, which provides a range of advisory and consultancy services to industry; and industry itself, which engages consultants to design anti-pollution systems and staff to run them.

At the present time, the entry qualification for environmental protection work at the professional level within the public sector is a first degree, preferably in the sciences or in engineering, and three years of experience in a relevant area. Our tertiary education institutions now produce some 1 800 science and engineering graduates each year. This annual output will be more than doubled by the mid-1990s,

as the University of Science and Technology comes on stream and the expansion of first degree places gathers pace. In the circumstances, I do not expect any shortfall in the supply of graduate level manpower for the environment-related occupations. The tertiary institutions, moreover, have anticipated the growing public interest in environmental protection. They now offer no fewer than 22 environment-related courses at first degree and post-graduate levels and five at sub-degree level. Additional courses are being planned for the next triennium. The availability of such a diversified range of choices means that students are given the broadest possible grounding before they enter the job market.

Once these graduates have been employed, it is up to the employers to provide the necessary training to ensure that their employees become proficient in their jobs. For example, out of a current strength of 133 professional officers in the EPD, 100 have already received some kind of in-service training and there are plans to train the rest within three years. At the non-professional level, the Vocational Training Council operates eight environment-related courses each year for about 650 technicians at its technical institutes.

Over time, as Hong Kong becomes accustomed to the requirements of our anti-pollution measures and accepts environmental protection as an important civic obligation, it is likely that the demand for organized training will grow and take more concrete shape. I am confident that our universities, polytechnics and the Vocational Training Council would be willing to respond with more specific training programmes at various levels of proficiency.

MR. TIEN: Sir, the Secretary replied that he did not expect any shortfall in the supply of graduates because every year there are 1 800 science and engineering graduates produced by tertiary education institutions. I doubt many of those science graduates would enter factories as pollution control officers. Will the Secretary inform this Council how many out of the 1 800 graduates in science and engineering last year ended up working in pollution control areas?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, before I answer the question perhaps I should address Mr TIEN's doubts. We are producing 1 800 science and engineering graduates each year. By the mid-1990s we will be producing over 4 000 such graduates. So the supply will be greater. And as to the doubt about whether any of these people



will be entering environment protection-related occupations, the answer is plain: if the demand builds up and the pay is decent they will take up employment.

I am afraid, Sir, that I have not got any figures on how many of these graduates are so employed but I will supply a written reply. (Annex II)

PROF. POON: Sir, I would like to follow up on the Honourable James Tien's question. The Secretary mentioned in his primary answer that the entry qualification for professionals is a first degree and three years' experience but most fresh graduates do not have any work experience at all. So will the Government inform this Council if there is any policy to give proper training to these fresh graduates?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, to the best of my understanding, experience in the relevant areas was fairly restrictively defined a few years ago by the Environmental Protection Department. Since then, relevant experience has now been revised to mean experience in connection with such activities as air pollution, noise pollution, water pollution, waste management, environmental assessment and planning. I am assured by the director of the department that the interpretation of experience is taken fairly liberally. But the requirement that the degree-holders should have some working experience in a relevant field is important because the department requires experienced professionals.

MR. TIEN: Sir, will the Secretary inform this Council whether Government has conducted any survey to find out what manpower in terms of quantity and level of skill is required by industry in accomplishing the objectives; and if yes, whether such numbers match the manpower supply as those quoted earlier?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, no such detailed evaluation has been made but, as I mentioned in reply to the main question, I am confident that as the demand builds up over time -- in other words as industry becomes accustomed to the requirements and knows our anti-pollution measures more intimately -- then the demand for vocational training will take more concrete shape. At that stage, as I said in my main reply, I am confident that the Vocational Training Council will take steps to evaluate the demand both in quantity and in the type of training required. They

have the machinery for it.

MRS. FAN: Sir, as there seems to be some concern about whether there will be sufficient qualified people to work in industry as pollution control officers, would the Secretary provide us with information, possibly in writing, on the number of graduates and sub-degree graduates who are studying environmental protection-related subjects in the tertiary sector, as he indicated in his answer that there are no fewer than 22 environment-related courses at first degree and post-graduate degree levels? And further, could the Secretary inform this Council, possibly also in writing, whether in mounting such courses the tertiary institution has already conducted a survey whereby potential employers have been asked as to which kind of qualifications and training they would be looking for?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I should be pleased to reply to both questions in writing. (Annex III)

Intrusion into Hong Kong waters by a Chinese vessel on 3 May 1990

8. MRS. LAU asked: With reference to the incident on 3 May 1990 involving the alleged abduction of two Hong Kong policemen from Hong Kong waters by Chinese security officials, can the Administration inform this Council:

(a) what were the true circumstances surrounding the incident; and

(b) whether over the past three years, there have been incidents of Chinese boats carrying armed officials straying into Hong Kong waters, and if so, how did the Marine Police deal with such incidents?

SECRETARY FOR SECURITY: Sir, the facts of the incident as we know them are as follows:

The police organized an operation on 2 May against a group who were believed to be involved in the theft of cars with the intention of smuggling the vehicles to China. The operation involved the hire by two members of the police, working under cover, of a lighter and a tugboat, together with their 5-man crew. The vessels were moored

at the pier at Tap Shek Kok at 8.00 pm on 2 May. An ambush was set by other police officers surrounding the pier.

Just after 10.00 pm a speedboat came to the side of the lighter. In it were five men in what appeared to be Chinese official uniform, and one man in plain clothes. The latter boarded the lighter and enquired about the arrival of the goods. After half an hour he returned to the speedboat which departed.

The speedboat subsequently returned around midnight and the same man again boarded the lighter. He made telephone calls with a wireless telephone. The five men in uniform were still on board the speedboat.

The speedboat subsequently left but returned once more around 3.00 am. Shortly after 4.00 am three Mercedes cars arrived at the pier and were loaded onto the lighter. Just after 4.40 am the man who had been in civilian clothes, but was by now also wearing what appeared to be an official uniform, gave the order to sail. He himself left in the speedboat. Four of the personnel in uniform stayed on board the tug and the lighter. At least one of them was armed. Also on board the tug and lighter, were the 5-man crew and the two undercover police officers.

At 4.50 am the police arrested three men on the pier in connection with the theft of the cars.

Shortly after 5.00 am the Marine Police intercepted the tugboat and requested it to stop. This request was refused. When the police launch subsequently attempted to come alongside, a weapon was pointed at the launch. At about 5.50 am a Chinese Border Inspection vessel came alongside the Hong Kong police launch. The police launch sought co-operation from the Chinese vessel in stopping the lighter, but this was not forthcoming.

On receiving a report of the incident, the Hong Kong Government through the Political Adviser's Office requested the immediate return of the two members of the police, the tug, the lighter and their crew, and the stolen cars. The Government expressed grave concern to the New China News Agency over this incident and requested a full investigation into what had occurred. The two police officers returned to Hong Kong on the evening of 3 May.

In recent years there have been occasions when Chinese Border Inspection vessels

have strayed in error into Hong Kong waters and sought to exercise jurisdiction. On these occasions, the Marine Police have informed the Chinese personnel involved that they were in Hong Kong waters and directed them to leave.

MR. MCGREGOR: Sir, can the Government say whether there have been specific cases during the past few months of cars such as Toyota saloons being stolen in Hong Kong and being quickly delivered in bulk to China in exactly the same manner as that described in the main reply? In other words, is the latest case simply one of a series? If this is so, and if there has been suspicion of this fact, why was there not co-operation between Chinese officials and the Hong Kong police to trap the smugglers in a joint operation?

SECRETARY FOR SECURITY: Sir, this is the first case where the police have gone under cover in order to try and deal with this particular incident. Yes, we believe there have been previous cases involving other cars, as mentioned by Mr. MCGREGOR. Both the Hong Kong Government and the Chinese authorities do consider smuggling to be a serious matter and wish to resolve it.

MR. POON CHI-FAI (in Cantonese): Sir, at present the detained Hong Kong crewmen are not allowed to be visited by their families. Can the Government inform this Council whether it would try to persuade the Chinese authorities to allow their families to visit them? Moreover, what assistance will the Government offer to effect the prompt release of these crewmen?

SECRETARY FOR SECURITY: Sir, the Hong Kong Government wishes to see the most prompt release from China of the five crew members.

MR. CHOW: Sir, during the last five years, how many times have Chinese inspection vessels strayed into Hong Kong waters seeking to exercise jurisdiction?

SECRETARY FOR SECURITY: Yes, Sir, over the last three years, which was mentioned in the main question, the number of reported incidents has been as follows:

1988 45

1989 21

And thus far this year 16

Whenever there are serious incursions involving PRC vessels the matter is taken up with the Chinese authorities either through normal border liaison channels or through the Political Adviser's Office.

MR. HUI: Sir, can the Administration inform this Council why the speedboat and the men who appeared to be wearing Chinese official uniform were allowed to enter Hong Kong waters so many times without being questioned or detained by the proper Hong Kong authority?

SECRETARY FOR SECURITY: Sir, hindsight is an exact science. I think it is important in these circumstances to look at the police operational commander on the ground at the time. Up until 5 o'clock on the morning of 3 May everything was going well for the police. They were involved in an undercover operation involving smuggling of cars into China. At that time they had already arrested three men on the pier. The lighter was under way with the undercover policemen on board, an act of apparent smuggling was taking place, and a police launch was on its way to intercept the vessel.

MR. MARTIN LEE: Sir, does the Administration realize the great damage caused by this border intrusion incident to the public's confidence in the future, fearing that uniformed personnel from the PRC may arrest people in the future Hong Kong SAR after 1997, and have them secretly brought to and dealt with in Beijing for alleged counter-revolutionary offences in the Hong Kong SAR? And if so, will the Administration inform this Council what steps are being taken to ensure that such events will not happen after 1997?

SECRETARY FOR SECURITY: Sir, I am not prepared to speculate beyond 1997. I will deal with this particular incident. I am satisfied that this matter is being dealt with as expeditiously as possible. As I have already said, we are in urgent contact with

the Chinese authorities who are fully aware of our concern for the early return of the five crewmen, the two vessels and the three stolen cars.

MR. LI: Sir, in the light of the confusion over the nature of the letter written by the Political Adviser's Office, namely, whether or not it was or was not intended to be a letter of protest, will the Administration consider publishing the content of the letter to clear the confusion? And if not, would the Administration at least consider doing it by the usual way, that is, by taking the press into their confidence?

SECRETARY FOR SECURITY: Sir, in an incident like this, it is very important that negotiations with the Chinese authorities remain confidential.

MRS. CHOW: Sir, if I may refer to the answer. What in fact transpired between 5.00 am and 5.50 am? In other words, did the marine police decide not to take further steps such as using their own weapons to stop the lighter, or were they simply not prepared for the possibility that the suspected smugglers might be armed?

SECRETARY FOR SECURITY: Again, hindsight is an exact science. Hitherto there is no direct evidence of firing taking place between Hong Kong and Chinese authorities in the waters of Hong Kong. The police commander on the ground took the view that he should not engage the vessel further given that a weapon was being pointed at him.

MR. TAM (in Cantonese): Sir, on the basis of Government's understanding of the whole incident, can the Secretary confirm that the five Hong Kong crewmen are innocent, that they have committed no offence, and that they are not connected with the group involved in the theft of cars?

SECRETARY FOR SECURITY: Sir, there is no evidence to suggest that any of these five men were involved in smuggling.

MR. MCGREGOR: Sir, I have to take the last answer a little bit further. Were the

five detained sailors aware that they were being hired by the police for smuggling purposes so that they were in effect agents of the police? If so, will the Government treat with care any confessions obtained by the Chinese authorities from the five detained sailors as the price for freedom?

SECRETARY FOR SECURITY: Sir, the five crewmen were not aware that they had been hired by two undercover police officers. It is our objective to achieve the prompt release of these five crew members. I think it is futile to speculate on any possible trial.

MR. TIEN: Sir, the marine police intercepted the tugboat requesting it to stop at 5.00 am and was refused, and at about 5.50 am the Chinese Border Inspection vessel came alongside the Hong Kong police launch. Will Government inform this Council whether that took place in Hong Kong waters and whether the Chinese Border Inspection vessel was informed that they were in Hong Kong waters?

SECRETARY FOR SECURITY: Yes, Sir, this incident did take place in Hong Kong waters and the Chinese authorities have been informed of that, with photographs as well.

MR. CHOW: Sir, would the Secretary give us the figures for intrusions in 1986 and 1987 because my previous question was asking for figures for the last five years?

SECRETARY FOR SECURITY: I do not have those figures, Sir. May I give a written reply. (Annex IV)

MR. EDWARD HO: Sir, the Secretary for Security prefaced his main answer with the words "as we know them". Will he please inform this Council whether by that he means that he was not certain of the facts? If the answer is in the negative, could he please inform us how these facts can be disputed in public by the Chinese authorities?

SECRETARY FOR SECURITY: Sir, the evidence we have includes witness accounts given by the marine police officers at the scene. It also includes the evidence of the

two undercover officers who were returned to Hong Kong on 3 May. Thirdly, we have photographic evidence which has been passed to the New China News Agency.

MRS. CHOW: Sir, may I ask the Secretary to answer my last question and that was: between 5.00 and 5.50 am what actually happened? In other words, did the marine police decide not to take further steps such as using their weapons -- a course of action I suspect they would have been prepared for since they were fully equipped for the operation? So we are not talking about hindsight. Or were they simply not prepared for the possibility that the suspected smugglers might be armed -- and this, may I say, happened in Hong Kong waters?

SECRETARY FOR SECURITY: Speaking generally, whenever an official Chinese vessel is found in Hong Kong waters, the first thing to ascertain is whether under international maritime conventions, it is engaged in innocent passage through the waters of Hong Kong. It has a right to do so. Chinese official vessels are permitted innocent passage in transit to and from bases. Whenever an official Chinese vessel is found inside Hong Kong waters seeking to exercise jurisdiction as in this case, it is informed that it is inside Hong Kong waters and it is directed to leave. In this case the vessel refused to leave. Clearly, from my opening statement, there was a protracted time of negotiations. In the end the police commander on the ground decided that he was not prepared to escalate it any further.

Written answers to questions

Water pollution

9. MR. CHOW asked: Will Government inform this Council what long-term and short-term measures will be taken to tackle the problem of water pollution caused by the discharge of heavy metals from electroplating factories and those manufacturing printed circuit boards, in addition to the planned completion of the Stonecutters Island sewage treatment plant by 1995?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, there are about 800 electroplating and over 100 printed circuit board factories in Hong Kong. The



Government proposes six long-term and short-term measures to tackle water pollution by heavy metals arising from these industries. These are:

- (1) enforcement of the existing Water Pollution Control Ordinance (short-term);
- (2) strengthening the same Ordinance (medium-term);
- (3) landfill disposal of toxic wastes (short-term);
- (4) provision of a centralized chemical waste treatment facility (medium-term);
- (5) enforcement of chemical waste control regulations (medium-term); and
- (6) promoting locally available technology in waste treatment and recovery (long-term).

Measure (1): The Water Pollution Control Ordinance is currently implemented in four Water Control Zones, namely Tolo Harbour and Channel, Southern waters, Port Shelter and Junk Bay. Under the Ordinance, and unless they qualify for exemption, all polluting effluents including those from electroplating factories and those manufacturing printed circuit boards must be licensed. All new factories must install adequate waste treatment facilities before a licence is granted to allow them to discharge their effluents into the sewer. Most factories comply with the Ordinance, sometimes under pressure from the Authority, but violators are prosecuted. In the last 18 months there have been seven successful prosecutions against offenders in Fo Tan and Tai Po. It is expected that the remaining Water Control Zones will be declared according to the schedule set out in paragraph 3.25 of the White Paper, Pollution in Hong Kong -- A time to act, that is, by the end of 1991.

Measure (2): The Water Pollution Control Ordinance's effectiveness is severely limited by its generous exemption provisions. These allow most factories in existence when the Ordinance was introduced in each Water Control Zone to continue to operate and to increase their effluents by up to 30%. Apart from the pollution load on the environment, the exemption provision creates a control structure that is very difficult to administer. To overcome these difficulties and impose a fair and effective system of water pollution control, the Government has gazetted a Bill to amend the Ordinance. This proposes, inter alia, to delete the exemption provision in the Ordinance. Under this proposal all effluents will, within two years, have

to comply with effluent standards based on guidelines published in the Gazette as a Technical Memorandum. This Bill is due for enactment in the current Session of the Legislative Council. This will ensure that its provisions will apply to the next group of Water Control Zones to be declared later in the year.

Measure (3): Some wastes from electroplating and printed circuit board manufacturing contain toxic chemicals in high concentrations, and cannot practically be treated to meet the requirements for discharge to the sewers. These wastes have to be collected at the factories in drums and taken by the producer to the Government's Junk Bay waste disposal landfill, where they can be deposited in an approved and safe manner. The chemical waste is deposited along with much larger quantities of municipal waste. However the capacity of the landfill to receive chemical waste is very limited.

Measure (4): To overcome this deficiency, and to provide for other chemical waste disposal needs, a centralized chemical waste treatment facility will be developed on Tsing Yi Island. The contractor for the facility will be required to provide a chemical waste collection service to transport wastes safely from the premises where they arise to the treatment facility. Tenders for the project are now being examined by the Government, and it is expected that the service will be in operation in 1992-93.

Measure (5): As with sewage disposal facilities, it is necessary to implement and enforce laws to ensure that materials such as electroplating and circuit board wastes are properly handled within the system. Chemical waste disposal regulations will be made under the Waste Disposal Ordinance for this purpose. Industry, including the Industry Development Board and those associations more closely connected with electroplating factories and circuit board manufacturers, will be consulted on these regulations which will be promulgated before the treatment facility comes into operation.

Measure (6): Finally, the Government is promoting locally available technology in the fields of clean production, pollution control and waste recovery for the industries to which Mr. CHOW refers. This is done through support to the Hong Kong Productivity Council and the tertiary educational institutions, and by encouragement to the Centre of Environmental Technology for Industry which is jointly run by the Productivity Council and the City Polytechnic. These organizations are engaged in developing and implementing effluent treatment and waste recovery systems, with special emphasis on small and medium-sized factories in Hong Kong. The private

sector is also encouraged to install waste recovery systems and some factories in these sectors have, via energy saving and resource recovery, found that such systems provide a good financial return on their investment.

In conclusion, I would add that whilst the provision of the sewage treatment plant on Stonecutters Island is a key feature of our programme to deal with wastewaters, it is important to remember that the cost of operating this plant is estimated at \$365 million per annum. A considerable part of this cost will be required to remove substantial quantities of toxic metals discharged from industrial areas such as Tsuen Wan and Kwun Tong.

#### Pre-primary services

10. MR. HUI asked: Will Government inform this Council what progress has been made by the Working Group on Pre-primary Services set up in 1986 to study the recommendation by the Education Commission in its Report No. 2 that the unification of all pre-primary services should be the goal, further to the Secretary for Education and Manpower's reply to my similar question raised on 18 January 1989 in this Council?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the Working Group on Pre-primary Services set up in October 1986 completed its task last September. Partly on the strength of its advice and recommendations, the Government put forward a number of proposals to Executive Council last October.

The proposals for improving opportunities for the training of kindergarten teachers, for introducing a new fee remission scheme administered by the Education Department and for the adoption of recommended salary scales are now well known to Honourable Members. They were debated at some length in recent weeks. But Executive Council has also endorsed the view that, however desirable it may be in the long term, the unification of child care services with kindergarten education would be difficult, if not impossible, to achieve in the short term.

In arriving at the decision, both Executive Council and the Administration have taken into account the fact that child care centres and kindergartens serve different purposes, that the standards of the two types of institutions differ widely, and that their respective modus operandi are different. It was partly in recognition of these

differences that a conscious decision was taken to introduce a system of fee remission to help needy families with children in kindergartens.

The Administration, however, does not rule out the possibility of unification between the two types of services in the long term. Accordingly, a Working Party on Kindergarten Education with both official and non-official representation has been set up to study, inter alia, on the feasibility of ultimate unification.

The working party has met three times since December 1989 and has examined aspects of teacher training and over-enrolment. It will address issues of whole-day nursery classes, control of staffing standards, teacher:pupil ratios and space ratios in subsequent meetings. Once the working party has finalized its recommendations regarding these issues, it will turn its attention to the longer-term question of unification. It is not possible to consider unification without having first sorted out the foregoing issues.

Motions

PENSIONS (INCREASE) ORDINANCE

THE CHIEF SECRETARY moved the following motion:

"That the Second Schedule to the Pensions (Increase) Ordinance be amended with effect from 1 April 1990 -

(a) in Part I by adding at the end --

"23. The adjusted pension under paragraph 22 may be further increased by 10 per cent.";

(b) in Part II by adding at the end --

"22. The adjusted pension under paragraph 21 may be further increased by 10 per cent.";

(c) in Part III by adding at the end --

"22. The adjusted pension under paragraph 21 may be further increased by 10 per cent.";

(d) in Part IV by adding at the end --

"21. The adjusted pension under paragraph 20 may be further increased by 10 per cent.";

(e) in Part V by adding at the end --

"20. The adjusted pension under paragraph 19 may be further increased by 10 per cent.";

(f) in Part VI by adding at the end --

"19. The adjusted pension under paragraph 18 may be further increased by 10 per cent.";

(g) in Part VII by adding at the end --

"18. The adjusted pension under paragraph 17 may be further increased by 10 per cent.";

(h) in Part VIII by adding at the end --

"17. The adjusted pension under paragraph 16 may be further increased by 10 per cent.";

(i) in Part IX by adding at the end --

"15. The adjusted pension under paragraph 14 may be further increased by 10 per cent.";

(j) in Part X by adding at the end --

"14. The adjusted pension under paragraph 13 may be further increased by 10 per cent.";

(k) in Part XI by adding at the end --

"13. The adjusted pension under paragraph 12 may be further increased by 10 per cent.";

(l) in Part XII by adding at the end --

"12. The adjusted pension under paragraph 11 may be further increased by 10 per cent.";

(m) in Part XIII by adding at the end --

"11. The adjusted pension under paragraph 10 may be further increased by 10 per cent.";

(n) in Part XIV by adding at the end --

"10. The adjusted pension under paragraph 9 may be further increased by 10 per cent.";

(o) in Part XV by adding at the end --

"9. The adjusted pension under paragraph 8 may be further increased by 10 per cent.";

(p) in Part XVI by adding at the end --

"8. The adjusted pension under paragraph 7 may be further increased by 10 per cent.";

(q) in Part XVII by adding at the end --

"7. The adjusted pension under paragraph 6 may be further increased by 10 per cent.";

(r) in Part XVIII by adding at the end --

"6. The adjusted pension under paragraph 5 may be further increased by 10 per cent.";

(s) in Part XIX by adding at the end --

"5. The adjusted pension under paragraph 4 may be further increased by 10 per cent.";

(t) in Part XX by adding at the end --

"4. The adjusted pension under paragraph 3 may be further increased by 10 per cent.";

(u) in Part XXI by adding at the end --

"3. The adjusted pension under paragraph 2 may be further increased by 10 per cent.";

(v) in Part XXII by adding at the end --

"2. The adjusted pension under paragraph 1 may be further increased by 10 per cent.";

(w) by adding after Part XXII --

#### "PART XXIII

Applicable to a basic pension based on a salary in force from  
1 April 1989 to 31 March 1990 inclusive

1. The basic pension may be increased by 10 per cent."."

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

The Government's declared policy is to maintain the original purchasing power of civil service pensions, including pensions payable under the Widows and Orphans Pension Scheme and under the Widows' and Children's Pensions Scheme. This is achieved by periodic pension adjustments in line with movements in the Consumer Price Index (A).

During the latest review period from 1 April 1989 to 31 March 1990, the moving

annual average of the Consumer Price Index (A) rose by 12 points which is equivalent to 10%.

So, it is proposed that a pension increase of 10% be awarded with effect from 1 April 1990. The total cost of increasing all pensions by this percentage is estimated to be \$107 million for a full year.

This is a statutory charge which may be authorized by Resolution of this Council under the appropriate Ordinances.

Sir, I beg to move.

At this point, the following Members declared interest:

Mr. CHENG Hon-kwan as a government pensioner and member of the Widows and Orphans Scheme.

Mr. LAU Wah-sum as a government pensioner.

Mr. Jimmy McGREGOR as a recipient of government pension.

Mr. Ronald CHOW as a member of the New Pension Scheme.

Question on the motion proposed, put and agreed to.

#### WIDOWS AND ORPHANS PENSION (INCREASE) ORDINANCE

THE CHIEF SECRETARY moved the following motion:

"That the Schedule to the Widows and Orphans Pension (Increase) Ordinance be amended by adding at the end -

"48. The pension calculated on the total contributions up to 31 March 1989 inclusive plus the total increases in pension up to 31 March 1990 may be increased by 10 per cent with effect from 1 April 1990.

49. The pension calculated on contributions from 1 April 1989 to 31 March 1990



inclusive may be increased by 10 per cent with effect from 1 April 1990."."

He said: Sir, my explanation on the first motion standing in my name on the Order Paper which applies to Pensions (Increase) Ordinance equally applies to the subject of the second motion standing in my name which applies to the Widows and Orphans Pension (Increase) Ordinance. I therefore beg to move.

Question on the motion proposed, put and agreed to.

## Second Reading of Bills

### MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 2 May 1990

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

Bill read the Second time.

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

### ROAD TRAFFIC (DRIVING LICENCES REGULATIONS AND REGISTRATION AND LICENSING OF VEHICLES REGULATIONS) (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 2 May 1990

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

Bill read the Second time.

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

### BUSINESS REGISTRATION (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 2 May 1990

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

Bill read the Second time.

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

#### COMPANIES (AMENDMENT) (NO. 3) BILL 1990

Resumption of debate on Second Reading which was moved on 2 May 1990

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

Bill read the Second time.

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

#### BANKING (AMENDMENT) (NO. 3) BILL 1990

Resumption of debate on Second Reading which was moved on 2 May 1990

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

Bill read the Second time.

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

#### INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1990

Resumption of debate on Second Reading which was moved on 2 May 1990

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

Bill read the Second time.

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

ESTATE DUTY (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 2 May 1990

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

Bill read the Second time.

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

LAW REFORM (LEGAL EFFECTS OF AGE) BILL 1989

Resumption of debate on Second Reading which was moved on 21 June 1989

MRS. TAM: Sir, the Bill before us today is one of the most important Bills this Council will pass as far as young people in Hong Kong are concerned. It is based on the recommendations made by the Law Reform Commission, as contained in its previous report entitled "Young Persons -- Effects of Age in Civil Law". The purpose is to reduce from 21 to 18 the age at which a person attains majority.

The Legislative Council ad hoc group has held altogether six meetings, including two with the Administration, to scrutinize the Bill. In the course of its work, the ad hoc group has made reference to relevant legislation in western and neighbouring Asian countries. A number of points were identified by the group for clarification by the Administration. Finally, the Administration has agreed to a number of amendments which will be moved at the Committee stage.

The first written report of the ad hoc group was submitted to the Legislative Council In-house meeting on 20 April 1990 for consideration. Members of the ad hoc group were satisfied with the Bill and recommended that it should be supported. Having considered the report, some Members of the Legislative Council In-house meeting felt that a person at the age of 18, who would normally be studying, was not mature enough to perform the duties of a company director, guarantor, or trustee, and so on. After further discussion, it was agreed that the Administration should be invited to give a briefing to Members on the recommendations of the Law Reform Commission as well as the principle of the Bill. It was agreed that the Second Reading

debate on the Bill, originally scheduled for 2 May 1990, should be deferred for two weeks to enable other interested Members to join the deliberations.

The ad hoc group held another meeting on 30 April 1990. Members present had an in-depth discussion on the rationale for lowering the age of majority. The ad hoc group, with the exception of two Members present then, maintained its stand that the Bill should be supported subjected to the Committee stage amendments.

As regards the age for parental consent for marriage and age of voting, which are not dealt with by the Bill, majority of the ad hoc group Members considered that both should also be lowered from 21 years to 18 years. However, in view of the controversial nature of these issues, it was recommended that advice of the Legislative Council In-house meeting be sought before further action.

A second written report was submitted to the Legislative Council In-house meeting, and it was agreed that as the age of voting and parental consent for marriage were not dealt with by the Bill, it was not necessary for these two issues to be considered in conjunction to the Bill. This will avoid any misunderstanding. Members of the Legislative Council In-house then decided to put the issues to vote :

(i) Lowering of the age of majority as stipulated in the Bill : 16 Members were for and 10 Members were against the reduction of the age of majority from 21 to 18 as stipulated in the Bill.

(ii) Age of voting: 25 Members were against and 7 Members were for the lowering of the voting age from 21 to 18; and

(iii) Parental consent for marriage: 26 Members were against and eight Members were for the reduction of the age at which consent for marriage was no longer required from 21 to 18.

Sir, so much about the background of the scrutiny of the Bill.

A total of 15 Members will speak at the Second Reading debate on this Bill today. Some will speak for while others will speak against it. Such controversy highlights Members' concern for young people and their role in society. I am sure this debate will induce discussions on whether young people in Hong Kong today are able to assume more responsibilities in society.

Sir, as a youth worker myself, I am totally in support of the spirit of the Bill. First of all, this is in line with the international trend and the territory's social development. At present, the age of majority in most western countries is 18. We have always considered our city an international city and one of the world's most important financial centres, and that Hong Kong's development as well as achievements are comparable to those of other developed countries. In this respect, I believe it is just proper that we, likewise, should entrust more responsibilities to our young people.

Secondly, our young people are certainly attaining maturity much earlier these days. Hong Kong has provided nine-year compulsory education for over a decade and our youngsters are now much more educated. Bi-census of 1986 indicated that by 18 years of age, 63% of the young people are working or in post secondary educational institutions. More and more of our young people attain various degrees of social freedom and financial independence at an earlier age.

Thirdly, the recommendation of the Law Reform Commission on the age of majority was made four years ago after careful and extensive deliberations. It considered, even then, that Hong Kong was prepared to give more rights to its young people. Society will only move forward as time goes. It will be too conservative if we still believe today that our young people's social consciousness are at a low level and that they are not independent and mature enough.

Although a survey conducted a few years ago indicated that most of respondents favoured the retention of 21 as the age of majority, I wish to stress that Hong Kong has undergone rapid changes during the past few years as far as social and political awareness is concerned. When we refer to the findings of the survey, we should also objectively analyse the presently prevailing social conditions. In fact, it is law reform that we are talking about. As leaders of the community, we should consider it our duty to look ahead with decisiveness and to prepare our younger generation for this change.

Sir, it is not surprising that adults in general consider young people not mature enough and sometimes unwilling to assume responsibilities. I believe that the best way to teach them to face up to the challenges of society and to be a responsible person is to entrust them with responsibilities which they can rightly shoulder. Opportunities must be given to them to assume responsibilities in an independent manner. It is only by so doing that we can really guide them to play an active and

positive role in society.

Sir, to lower the age of majority is a first step towards showing our trust towards our young people. In the past, we have always stressed our concern and expectation for them; we would be contradicting ourselves if we are still clinging to a paternalistic attitude towards our young.

Sir, I realize that a lot of people, due to traditional belief, are not yet prepared to accept that young people of 18 years of age can get married without parental consent. I also understand that there are different views about the lowering of the voting age. I respect the views of these people, but I wish to point out that in a free, progressive and open society, it is but a natural development that young people would mature more quickly. I hope we need not wait too long for the community at large to recognize and to affirm the ability and maturity of young people. So, the passage of this Bill is a major step forward.

Sir, to our young people, I would like to take this occasion to urge them to make use of every available opportunity to demonstrate and to prove their ability, so that society will soon realize that today's younger generation is fast becoming society's masters tomorrow.

Sir, with these remarks, I am pleased to support the Bill.

MR. TAI: Sir, I rise to speak against the Law Reform (Legal Effects of Age) Bill 1989.

The effect of the Bill is to lower the age of majority to 18 years from 21 years of age, with consequential amendments to the effect that a person under the age of 18 can be in a position to make testamentary disposition, to act as a co-trustee, to be qualified to act as a company director, be that private or public, and to enter into a contract of guarantee.

What the Bill does not do is that it does not make any changes to the criminal law relating to youth, nor does it lower the age of parental consent for marriage, nor for voting rights, for a youth of 18 years of age.

The majority in the ad hoc group formed to study this Bill favoured the change; moreover it asked for greater change by recommending that the age for consent to marriage and voting rights be lowered to the age of 18 instead of 21 years. For my

part I fail to see a convincing reason why a person at the age of 18, if he is qualified to act as a trustee or be a director of a private or public company, cannot exercise his voting right.

I personally do not agree with the change to the reform in a piecemeal approach. If we are of the opinion that a youth at the age of 18 is mature enough to be trusted as an adult, then there must be consistent changes. The change should extend to lowering the age giving voting rights and the right to marriage without parental consent, because it is difficult to draw a dividing line. If at the age of 18 a person can be a trustee and be allowed to manage the day-to-day affair of a company -- and if that particular company qualifies as one of the members of a functional constituency -- then he can participate in exercising his vote to elect a member from that constituency to sit in this Council; yet he cannot participate in exercising his voting right in a direct election, or marry without his parents' consent. I find this illogical. But, Sir, I have to say, politics may not necessarily be logical.

Although the Law Reform Commission has spent a tremendous amount of time in studying this issue before making this recommendation, I personally feel that it has failed to note the social situation as existing nowadays in Hong Kong, and the education system whereby a lot of our youth at the age of 18 years are still receiving education. To that end, I do feel it is unwise to give our youth too much responsibility, too early in their station in life, because one mistake they make may have far reaching consequences to their future.

Sir, with these remarks, I stand against the motion.

MR. CHEONG: Sir, during deliberation on whether or not this Bill should be supported, it was suggested that Members should support the Bill because of the fact that Law Reform Commission members as well as its sub-committee members have done a lot of work for a long time on this subject. As such we should respect their findings and recommendations. Whilst I fully respect members of the Law Reform Commission and indeed would have no hesitation to pay tribute to their work, their diligence and their public spiritedness in carrying out their duty, I do not believe I should support the Bill simply because Law Reform Commission members have done a lot of work on the subject.

Sir, the central issue of this Bill is to lower the age of majority from the current 21 years of age to 18. This carries an implication that the community as a whole

accepts that most of our 18-year-old youth are well trained or mature enough to be able to make independent decisions that may have long and profound effect either on themselves or on others in society. I do not believe the views of the community have been adequately sought on this issue by the Law Reform Commission. Indeed, it was clearly stated that whatever survey the Law Reform Commission did was purposely so conducted that it was not a public opinion survey but just a survey of those organizations or members of the public having dealings with young persons in their day-to-day activities. Why such a course of action was taken was not clearly explained in the report and in my view, the work of the Commission on this subject so far has not addressed the underlying implications adequately. After all, the changing from 21 to 18 at which a person attains full capacity to be a majority should carry far more implications than just legal effect. It is, if anything, more of a social issue than a legal issue.

Sir, the years between 18 and 21 to any youth are very important formative years. It is not a question, as the Honourable Rosanna TAM has said, that we do not trust our youth. We do trust them. We do respect them and we do hope to give them the opportunity to make as much independent decisions as possible. But, Sir, during the school years up to 16 or 17, young people generally have little opportunity to interact with other members of society except their most immediate relatives, personal friends or classmates. At 18, they will either have the opportunity to attend tertiary education or will have to find employment. If they attend tertiary education, they will have the opportunity to interact with other youths and people from different backgrounds in an environment very different from secondary schools. If they enter employment, they will also have the chance to interact with other people in society in a much more complicated environment than that of their schooling days. Either route, whether studying in tertiary institutions or working in society, will give an 18-year-old youth the first few years' experience which will be most invaluable in his or her life. These first few years are the most formative years and generally it makes a big difference in a youth's maturing process. It is not to be conservative for parents to consider the well-being and the welfare of their children. It is, in fact, the care that carries generally with being parents. It is therefore wrong to say that if we do not agree to lowering the age from 21 to 18, it is a conservative measure. It is just a process of caring. Therefore, I am of the view that, by and large, a 21-year-old will have had more of an opportunity to acquire experience to become more mature than an 18-year-old.

It has been argued that maturing is a continuing process so why should the age



of majority be set at 21 and not later say 25 or 30. With respect, Sir, our society, rightly or wrongly, has accepted the age of 21 as appropriate to become an adult because those three years of experience in society and in the environment is very crucial to the development of a youth and also we generally recognize that a balance has to be struck between the provision of opportunities to learn to be more mature and the need of the youth to be given the responsibility of being independent. Twenty-one is the appropriate age because either through further studies or through work in society, a youth would have had three vital years of experience to interact with the much more complicated world. For example, this Bill stipulates that an 18-year-old cannot be the sole trustee until he or she is 21. This provision was inserted because it was felt an 18-year-old could not have the necessary experience to act as a sole trustee whose decision might have profound effects on other people. The principle that the 21-year-old is likely to be more mature than the 18-year-old is very much implied in this provision. The question I asked is that if an 18-year-old is not considered appropriate to act as a sole trustee, why then should an 18-year-old be considered appropriate to act as a director of publicly listed companies as well as being able to act as a guarantor. If we are to ask any 18-year-old what the implications are in acting as a guarantor, will he or she be able to understand the inherent dangers or the risks involved? Will he or she recognize that his/her financial future and life might well be very adversely jeopardized? After all, would not the youth of 21 stand a better chance to understand or to realize that such grave dangers exist after having had the opportunity to interact with more complicated facets of society for a few years?

Looking at the issue from another angle, Sir, the treatment of offenders of the age between 16 and 21 years in our criminal law strengthens the case of my concern that a person aged 18 years is not sufficiently mature to take on full responsibilities. Under section 109A of the Criminal Procedure Ordinance, no court shall sentence a person between 16 and 21 years of age to imprisonment unless the court finds that no other method of dealing with such person is appropriate. There is no such provision for any offender attaining the age of 21. What is the rationale behind this? Does it not imply that persons under 21 years of age are too young to be mature enough to know what he or she was doing and therefore should be given more opportunity to learn for the better? No doubt it will be argued that considerations in the criminal system of justice are different from those in civil law. My view is that if a person under 21 years is not considered old enough and mature enough to accept full responsibilities and consequences for his criminal activities, the same logic should apply to civil law.

Sir, I want to make it clear that I agree wholeheartedly with the practice of the criminal code to give our 18-year-old young offenders more opportunities to learn and to reform from their mistakes. There should be no changes to how we treat our 18-year-old offenders. I simply bring up this point to highlight the inconsistency of logic in dealing with this subject of the age of majority.

Sir, despite objections from myself and maybe some other Members to the provisions of this Bill, I expect that the Bill will pass, not necessarily because Members believe in its logic or merits but because it could bring in unpredictable or even undesirable consequences for the Administration if the Bill were to be defeated this afternoon. Many of my colleagues told me in private that they agree with my reasonings and my sentiments; nevertheless, in the interest of stability, they would vote "Aye" to the Bill. Also, since the most controversial topics of marriage age and voting age are not included in the provisions of the present Bill many may not mind lending a hand to the ad hoc group. Whilst I salute my colleagues for being so understanding of the need for compromise and quiet diplomacy in Hong Kong, I must caution the Administration that any future legislation on this subject should be handled with great caution. My humble advice is that before the questions of marriage age and voting age are to be brought to this Council, consultation with the community at large, especially parents should be widely held. After all, our society is made up of a whole host of small family units.

Sir, I do not support the motion.

MR. HUI (in Cantonese): Sir, the Law Reform (Legal Effects of Age) Bill 1989 which is presented to the Council for resumption of debate today can be described as a piece of "chicken rib". By "chicken rib", I mean it is something of little value, though it is a pity to discard it. Whether this Bill is passed or not, it gives me a feeling of imperfection.

First of all, I would like to stress that in the report entitled "Young Persons-Effects of Age in Civil Law" submitted by the Law Reform Commission in April 1986, it was recommended that the age of majority for certain legal responsibilities be lowered from 21 years to 18 years, to that effect, young people attaining the age of 18 may act as company directors and administrators of the estates of deceased persons, enter into contracts, become the personal representative of another person and act as a trustee or guarantor. While giving my full support to the said recommendations, I consider it unnecessary that the Law Reform Commission should have

had reservations on lowering the voting age and the age of marriage without parental consent to 18 years.

In my opinion, as the bone of contention is simply whether young people of 18 years are sufficiently mature to make their own decisions and assume legal liabilities on matters of voting and marriage, it is obviously a hen and egg question -- the paradox of which one comes first. What is the rationale for not giving such rights to our youngsters in the first place, so that those who need to exercise such rights will be allowed to learn from experience at an earlier stage? Why is an ambiguous and highly subjective excuse -- "intellectually immature" -- used to deprive the rights of our young people?

The Bill presented for resumption of debate today aims mainly at completing the legislative procedures required for implementing most recommendations of the report at a later date. It is most disappointing and regrettable that the Government has not given the least consideration to the present circumstances and future developments, and has insisted on not including into the Bill the reasonable rights of voting and of getting married without parental consent at the age of 18. In fact, the proposed provisions in the Bill are illogical and inconsistent with the stand of the Government in the following respects:

(1) If a person at the age of 18 is allowed to assume the duties of a company director and enter into contracts, to act as a trustee and a guarantor, his legal liabilities, intelligence and influence in exercising his discretion must be comparable, if not more significant than, what is required of him in the case of voting or marriage. If our young people are allowed by law to vote and to marry without parental consent at the age of 18, it does not necessarily mean that all of them will exercise these rights upon reaching the age of 18. Experience in Hong Kong and other countries shows that the majority of them will not exercise such rights at this age. But once they assume the role of company directors, it will be impossible for them to avoid making decisions. Even if they abstain from voting, there will be influence on the decision of the board whose members are limited in number. On this basis, we can say it is illogical not to bring the age of voting and marriage without parental consent in line with that of director appointment.

(2) In recent years, the government has been making an effort to promote civic education and encourage young people in particular to take part in community activities, as a means to cultivate our human resources. But on the other hand, it

takes advantage of its administrative power to deprive the young people of their political rights. Can it be the case that the government is only aiming at getting young people involved in community affairs but not activities with political implications? If that is not the case, I really cannot see the reason for such inconsistency between the words and deeds of the government authorities.

(3) The acceleration of democratization in Hong Kong hinges primarily on the mature and sensible performance of Hong Kong people in the elections. The Government should, therefore, take early action to provide more opportunities for our young people to go to the polls and elect capable representatives. Apart from failing to provide some directly elected seats in the Legislative Council in 1988, the Government now chooses to deny our 18-year-olds the experience of exercising their civil rights in 1991. Such a situation serves to indicate that the authorities never practise what they preach. But if this decision is based on political considerations, then it is even more regretful!

Sir, I fully understand the objectives of the Bill before us. Actually, I have long been a supporter of the proposal to lower the age of majority to 18 for the legal responsibilities, and theoretically, I should support the Bill today. But whenever I think of the illogical aspects of the Bill reflecting the inconsistency between the words and deeds of the government authorities, I am obliged to vote against it as dictated by my conscience and my principle of pursuing the ideal.

MR. MARTIN LEE: The Bill now before us deserves the support of this Council. The Bill represents a recognition that our young people in modern Hong Kong mature earlier than before and an effort to bring Hong Kong into line with the prevailing practice in the rest of the developed world. The Law Reform Commission which studied the question of the age of majority at great length has recommended the changes proposed by the Bill. Similarly the Legislative Council ad hoc group, after having carefully considered the Bill, has no hesitation in supporting it.

Sir, despite my support for the Bill, I feel that there are two grievous omissions in it. The first relates to the voting age. Like the strong majority of my colleagues on the ad hoc group who studied the Bill, I support the voting age of 18 in the 1991 elections and see no good reason at all to postpone the change until 1995 or even later. The second relates to the age for parental consent for marriage. And as to that, I have read the draft speech of the Honourable David LI and I agree with

his view. Nevertheless despite my strong feelings, I believe that it is important that this Bill be passed now. The issue of voting age is not finished however. When this Council later considers amendments to the electoral law in preparation for the 1991 elections, I will raise the issue of the voting age. I therefore earnestly appeal to my colleagues who want consistency and logic to support the Bill first and do something about the two outstanding matters later. For these reasons, Sir, I support the Bill.

MR. LI: Sir, in 1983, I chaired the Law Reform Commission Sub-Committee convened to discuss the issues involved in reduction of the age of majority in Hong Kong from 21 to 18 years. At that time, the most controversial aspect of the whole issue, namely the voting age, was not part of our mandate.

The Bill before us follows largely the recommendations of the Law Reform Commission and is, in the main, uncontroversial. It is however, more than a little strange that if this Bill is enacted, a person of 18 years can become a director of a public company, thereby influencing the lifestyles of thousands, and yet cannot marry of his own accord.

I personally support the views of Members of the Legislative Council ad hoc group, who have studied the Bill before us, that we should acknowledge the changing times in Hong Kong by formally reducing the age of majority in respect of marriage and voting from 21 to 18 years. In so doing, we would be correcting an anomaly of the law that is neither reasonable nor realistic in this day and age. I hope this matter will receive the thoughtful attention it is due at the earliest possible date.

With these remarks, Sir, I support the Bill.

MR. TAM (in Cantonese): Sir, the Law Reform (Legal Effects of Age) Bill 1989 is a piece of legislation to amend the law relating to the age of majority. The central issue of the Bill is to lower the statutory age of majority from 21 to 18. The proposed change thus involves the liabilities of young persons under the age of 21 in commercial matters. I take the view that a young person at the age of 18 is basically not mature enough to have an appreciation of and to handle complicated commercial transactions, and therefore is prone to making wrong judgements and decisions. Furthermore, there were numerous relevant examples in the past in Hong Kong, pointing

to the fact that young people easily fall prey to commercial frauds. I do have misgivings about the effects of the proposed change on young people as introduced by this Bill.

Moreover, members of the public are still divided in their opinions on this Bill. According to the findings of a survey conducted by the Law Reform Commission four years ago, the general public did not wish to lower the age of majority either.

Since the public does not have any common request for lowering the age of majority, and the relevant law in force at present does not pose any problem to the prevailing commercial practices in Hong Kong, there is no need for the Administration to make amendment thereto.

Sir, in view of the foregoing reasons, I oppose to the passing of this Bill.

MR. ANDREW WONG (in Cantonese): Sir, I rise to speak in support of the Law Reform (Legal Effects of Age) Bill 1989. I will not be making a long speech; I simply intend to highlight some flaws in the arguments advanced by the opponents to this Bill.

First of all, I would like to point out that "maturity of the mind" is basically a question of "practice" and "opportunity to practise", in other words, a question of "assumption of responsibility" and "opportunity to assume responsibility". If young people below 21 were really immature, their minds would take even longer to mature if we do not give them the opportunity to practise and assume responsibility.

The second point I wish to make is that for a number of matters under our present scheme of public life, young people between 18 and 21 are regarded as mature persons. For example, an 18-year-old qualifies to join the Police Force and, on passing out, can carry firearms; an 18-year-old can learn to drive motor vehicles and, on passing the requisite driving test, may drive a dangerous lethal weapon; an 18-year-old may also enter premises where alcoholic beverages are sold and enjoy a drink there. If we were to argue, with all due logic, for a certain age, for example 21, as the age of majority to be applied uniformly to all spheres of public life and to oppose the lowering of the age of majority for those matters covered in the Bill to 18, then we should, at the same time, advocate raising the present age of capacity for those previously mentioned matters from 18 to 21.

Lastly, I wish to say that, in reality, on this question of the age of majority, we are basically not seeking absolute uniformity. For expediency, we fix an age of majority for most of the spheres of public life. In this connexion, the age of 18 would seem to be more appropriate. It would be entirely a question of judgment as to what should constitute exceptions.

Sir, in supporting this Bill, I would like to draw particular attention to the question of the voting age. The glaring inconsistency about it lies not so much in the lack of uniformity as in the status of 18-year-olds who are, under the existing law, competent to own enterprises and, on passage of the present Bill, will be competent to hold office as company directors and hence, under the present electoral system, capable of controlling a vote in certain functional constituencies. It would be manifestly inequitable if we allow a person between 18 and 21 to have control of a vote in returning members to certain functional seats on the Legislative Council, yet to deny the vote in direct elections to him and to others of the same age bracket. It can be said that the electoral system which permits such a state of affairs is unfair. I therefore support the Honourable Martin LEE's plea made a few moments ago that the Government should, in the forthcoming review of the Electoral Provisions Ordinance, seek to lower the voting age to 18.

Sir, with these remarks, I support the motion.

MR. ARCULLI: Sir, I endorse all that my colleague, the Honourable Rosanna TAM, has said in support of the Bill. I, too, support the Bill. Apart from the obvious benefit to young people if the age of majority for those matters set up in the Bill is lowered, I would like to briefly highlight one or two matters which bring about what I call some rather sensible changes to remove some anomalies. An example is where a person stands as a guarantor in respect of a contract entered into by a minor, such contract would not be enforceable because of the minority or may be repudiated by the minor and the guarantor is also discharged from any liability. It is now proposed that the guarantee should not for that reason be unenforceable. This is clearly correct because the guarantor, who is obviously an adult, knew what he was doing and what he was letting himself into. The law as it stands does not always require a minor, for instance, Sir, to restore goods that he might have obtained and not paid for, and possibly resold. An amendment would alter this curiosity enabling a court to order the return of such goods or proceeds of sale or other property traceable to such goods. That in my view is clearly also a step in the right direction.

Another change relates to the making of a will by a person who attains majority which is 18 under the Bill today. This also removes an inconsistency in the existing law which allows a minor, that is, a person under 21, to make gifts but does not allow him, as it were, to dispose of his property except under two rather exceptional circumstances -- (1) where he is on actual military service, and (2) where he is a seaman at sea. But even such an exception has a curiosity in the sense that if a serviceman or a seaman makes a will he cannot revoke it even though he leaves the service or returns to shore. To those of my colleagues who do not support the Bill for some of the reasons that we have heard and no doubt for some of the other reasons that will emerge this afternoon, I would draw attention of this Council to the fact that by 18 almost two-thirds of our young people are no longer in school and indeed by the time they are 19, over 18% of them are not attending school. And the inconsistency that one of my colleagues drew attention to regarding a sole trustee being required to be of 21 as opposed to a company director being allowable at the age of 18 is not easy to reconcile. But that does not mean that leaving the age of a sole trustee at 21 is correct. What we must not forget, Sir, is that the appointment of a trustee sole or joint, or a company director of a private or public company, really depends on the act of a third party, namely, an adult, generally speaking. So if adults wish to appoint 18-year-olds as a sole trustee or indeed as a company director, I see absolutely nothing wrong with it unless one says that the adult does not know what he is doing.

Sir, I support the Bill for another reason because I learnt from my youth a simple lesson -- in dealing with adults a little at a time is better than none for a longer time. Those who advocate a delay perhaps do so because if the Bill is delayed for three years those young people who are 18 today will be 21 then.

Lastly, Sir, I do not understand the reference that my colleague, the Honourable Stephen CHEONG, made regarding the embarrassment to the Administration should this Bill fail. I hope he is not suggesting that those of us who support the Bill are doing so for reasons other than on pure merit of the Bill before this Council. For if he is, I, for one, will take exception to his remarks. Finally, Sir, parents will always be parents and, indeed, if my mother had her way, she would be sitting behind me today and even telling me what to say (laughter). Sir, with those remarks, I support the Bill.



MR. CHOW (in Cantonese): Sir, some time ago, I watched an API programme on television which admonished parents not to take excessive care of their children, as it would generate negative effects hindering the children's development. The Law Reform (Legal Effects of Age) Bill 1989 provides for the lowering of the age of majority from 21 to 18. I consider this provision to be entirely appropriate. Although a society can determine at its discretion the recognized age of majority, there are still some specific objective criteria to be based on. We can neither disregard the current education standard and degree of maturity of the average young people, nor detach ourselves from the existing social, economic and cultural conditions. The situation in other countries can also serve as an important source of reference.

Having considered the issue from various aspects, I cannot find any justification for not supporting the lowering of the age of majority to 18. The only flaw in the Bill is that it does not deal with the voting age. I am of the view that in Hong Kong, our youths aged between 18 and 20 should be granted the right to vote and are fully capable of exercising that right. A comprehensive survey of various places in the world shows that there is a trend to lower the voting age from 21 to 18. According to a survey conducted in 1976, 31 out of 55 countries set their voting age at 18. This age is adopted even in mainland China. Why is it that countries generally considered to be lagging behind us offer more rights to their young people than we do?

A look at our youths between the ages of 18 and 20 will show that most of them have completed secondary school education. They are either pursuing their studies in tertiary institutions or working in society. Why do we think that they lack the ability to vote? The average educational level of youths aged between 18 and 20 is certainly higher than those above 21 years of age. It is hard to imagine how we can allow an illiterate adult to vote while forbidding his 18 to 20 years old children who are receiving higher education to vote! The more significant question is, while youths aged between 18 and 20 may become company directors or professionals and vote through functional constituencies on behalf of their organizations, they are not eligible to vote in general elections. Is this somewhat unfair? If one believes that our 18-year old youths are intellectually immature, why are these immature people allowed to serve as policemen, and patrol our streets carrying revolvers? Our society is progressing. Please do not assess our youths today by the standard of our maturity at the age of 18.

There is another more ridiculous argument against lowering the voting age to 18.

It is argued that young people are more easily mobilized and more inclined to a particular type of candidates. Thus, to allow them to exercise their ballots will upset the balance of various parties in councils. The so-called upset of balance reflects, in essence, an anxiety that a favoured candidate may fail to gain the support of young people. If such argument is to be developed further, it is possible that these people may even demand in future that only their supporters should become voters. This is an extremely dangerous state of mind.

Sir, with these remarks, I support the motion and call for the lowering of the voting age to 18.

MRS. FONG: Sir, what is the proper age of majority? There is no one answer that can clearly apply to all cases. Thus, the fixing of a legal age of majority is both subjective and sensitive. Some may want the age of majority to remain at its current level of 21 and some may want to lower it, and from their respective points of view they may both have massive support for them being the only logical ones. In my view, a change in something as fundamental as the age of majority should only be seriously contemplated when the Government feels that the general maturity of its people has risen and that they can be given much heavier responsibilities at an earlier stage.

Our Government asked the Law Reform Commission to study the issue and it recommended lowering the age of majority to 18. I, as a legislator, must give a lot of weight to the recommendation of such an illustrious group and especially so when the group spent significant time studying the issue. However, whether I can accept the Commission's recommendation depends on many other factors and one of the most important must be my own judgement whether this is best for Hong Kong.

In considering the matter I was dismayed to find that the results of the Commission's survey of various segments of public opinion found that the sentiments of those segments were completely the opposite of the recommendation. The Commission survey attracted over 1 500 replies. The replies came from people from a wide variety of backgrounds and organizations including the general public (1 014), students (437), commercial organizations (64), the legal profession (24), the medical profession (22), religious bodies (13), and social services (13). The replies were overwhelmingly in favour of retaining the age of majority at 21 on eight out of the 10 scenarios presented in the survey. The exceptions involved only lowering the age for consent to treatment by medical practitioners and the minimum age for marriage. All the

questions brought replies that were overwhelmingly in favour of retaining the age at 21. The degree of support for retaining the majority age at 21 was in some cases several times more than that for lowering it to 18. In most of the cases, those favouring the present age exceeded by more than 50% the number who favoured its being lowered.

I found no good reason why overwhelming general opinions could be ignored. The report of the Commission indicated that it was guided by the results of the survey. That is not apparent. However, the report also referred to the survey as not having been a public opinion survey, but rather a survey of those organizations or members of the public having dealings with young persons in their day-to-day activities. If that was the case, should their opinions not be heard?

If there is a need to lower the age of majority because the population is now maturing earlier, then show me a survey to support this argument.

I find the argument for lowering the age of majority by comparison with other countries to be very weak. I see no basis for assuming that their environments are the same as ours or for feeling that their experience means that the views of our local people should be ignored. I do not see sufficient support for making a decision of such major importance as this at this time.

Sir, my colleagues, Mr. CHUNG Pui-lam and Mr. James TIEN, have indicated that they share my view and they will not join the whole queue of speakers on this topic.

Sir, with these remarks, I oppose the Bill.

HIS EXCELLENCY THE PRESIDENT: There are still five Members who wish to speak in this debate. But despite that and depending somewhat on the length of those speeches, if Members will have the tolerance, I propose we go on without a break so as not to interrupt the discussions.

MRS. LAU: Sir, I welcome the Law Reform (Legal Effects of Age) Bill 1989. It is a Bill which I have personally looked forward to for some time and I am very pleased that it is before this Council today.

Sir, we take pride in the fact that Hong Kong is a modern international city. We profess of our young people being more intelligent, more knowledgeable and mature than what we were when we were young. Yet we have not, before this Bill, seen fit to accord them the respect and give them the status which young people in other developed countries enjoy. Nor have we considered our young people old enough to handle more important responsibilities in life until they have attained the age of 21 years, which age of majority actually dates back to the Middle Ages.

Sir, the time has come when such a paternalistic and outdated view towards our young people should end. Times have changed. Our society has progressed considerably. Our young people are now more educated and more sophisticated. Most countries throughout the world, including many Asian countries, have already lowered the age of majority of their youth to under 21 years, in most instances 18 years. If other countries have considered it timely and proper to do so, it is not right to allow Hong Kong to linger behind times.

The present Bill seeks to lower the age of majority to 18 years and to make consequential amendments to the law relating to contracts and wills made by minors as well as their participation in companies and role as trustees. Both the voting age and the age for obtaining consent to marriage have not been mentioned in the Bill and these will remain at 21 years. I regret that most Members of this Council have not seen fit to support the ad hoc group's majority view that both these ages should also be reduced to 18 years. Nevertheless the Bill as drafted still marks a major step forward in recognizing the capabilities and value of young people today, which is encouraging.

Some Members have expressed concern that if young people were allowed to execute valid guarantees as from the age of 18 years, then there is a real risk that they will unwittingly incur financial liabilities which they may live to regret. This concern is in my view unfounded. In the past, minors have not been entirely absolved from legal liability for their acts. Section 46 of the District Court Ordinance provides that minors are liable for claims falling within the District Court jurisdiction up to the amount of \$60,000. However, I am not aware of any case whereby a minor has got himself into trouble by reason of this section. This seems to suggest that young people have not in the past acted stupidly in relation to their finances and there is no reason to believe that they will do so in the future when their age of majority is reduced. Of course I am not suggesting that young people should be encouraged to go around signing guarantees or otherwise committing themselves to

liabilities which they will not be able to meet. Rather, I believe that they should be trusted to manage their financial and business affairs prudently and responsibly. In this regard, their parents can play an important role by acting as their mentors rather than guardian angels.

Similar concerns have been expressed in relation to young people of 18 years being able to act as directors of companies and trustees. If there is any validity in such concern, I believe that the necessary safeguards against young people going off on a tangent are already in place. In the case of company directors, they almost always act through a board of directors and a sole director cannot on his own make major decisions affecting the company. In the case of trustees, clause 9 of the Bill provides the necessary safeguard by specifying that persons under the age 21 years shall not be eligible to act as sole trustees. In both cases, it is my view that if anyone should see fit to appoint a young person under 21 years to be a director or to be a trustee that person must have valid reason for doing so. His decision ought to be respected and the young person should be given the chance to prove himself capable of doing the job for which he was entrusted. I know that Mrs. Nellie FONG referred to the Law Reform Commission's report and the result of the survey contained therein stating that the majority of respondents favoured retaining the age of 21 years as the age for various issues. I wish to urge this Council to also consider the fact that there is a diversity of views as contained in the report and that although public opinion should be considered, it is not public opinion that actually leads the Administration in decisions regarding what the state of the law should be. The Administration should decide what is best for the public and should not be led by public opinion, although it should take public opinion into serious consideration.

Sir, Hong Kong is moving towards a time when our young people will necessarily have a greater part to play in the running of our society. It remains our society's duty to educate them, train them and give them opportunities for advancement, but eventually it must be the young people themselves who must show their worth. To enable them to do so, we must give them the trust and confidence which they deserve. In this regard, I personally have no doubt whatsoever that they will live up to expectations.

Sir, with these remarks, I support the Bill.

DR. LEONG: Sir, it has been most disappointing to see the Government arbitrarily tear

apart the issue of the age of majority into a patchwork of fragmented controversies leading to endless debates.

The result, I am afraid, will only create much confusion and inconsistent policies.

Hong Kong's 18-year-olds are indeed living in a dilemma. They were told they could now do things their parents could not do at the age of 18. But on the other hand, they were also told they were still not mature to perform some other civic duties like voting in an election.

Sir, it is most unconvincing to ask young people to accept responsibilities to carry on businesses in their own names or to make them eligible to administer estates at the age of 18 while forfeiting their rights to have a say in matters affecting their daily lives and their future.

The question before us is a simple one and that is, do we consider a young person at the age of 18 mature or perhaps the better way to ask is what makes the age of 21, as we have so far accepted, mature. Let me put it to you, Sir, at this Council, that the 18-year-olds of today are both mature internally and externally. By that, I mean they are physically and socially mature enough to take up responsibilities.

There is no doubt that the improvement of diets and a better understanding and maintenance of health during early childhood has moved puberty to a much younger age than what we are used to. Unfortunately, early physical maturity is also shown by the fact that we are now getting many diseases which are supposed to affect only the "old" age at a much younger age now.

Socially, the young mature much earlier than their previous counterparts as a result of susceptibility to a well developed communication medium and a much wider network of social contacts. Nurtured by the vast input of the environment their minds are exposed to facts and fancies which were sheltered from their counterparts of yesteryears until a much later age. The development of the brain and its intricate reflexes and connections are thus set to take shape in a much younger age.

It must be established too that whilst responsibilities should only be given in face of maturity, responsibilities cultivate maturity.

Sir, I fully support the lowering of legal effects of age as proposed in this draft Bill not because of the fear of embarrassment to the Administration, not because of asking for consensus, but because I fully believe in it. But in supporting this Bill, Sir, I make no apologies for airing my thoughts on lowering the age of legal effects for all issues, and in particular the age of voting rights.

Sir, the proposal to lower the voting age has become a controversial subject, not so much because of the issue itself but the politics that hung around it.

It has been argued by some that the liberals want them (18-year-olds) in because they could be manipulated to vote in their favour. Conservative leaders tend to worry that the young votes would have a great influence on the outcome of the elections, tilting the balance in favour of the liberals. And therefore they rule that they are not mature to take up the voting responsibility.

It is indeed most dangerous, Sir, to presume the young people in question are the most sought-after group for cajolery.

Politics is an art of lobby. The chance is open to all who wants to play the game. Only the inert few who jibe at lobby work fear to take part in it. One could not dispute the fact that the democratic movement last year in this territory had vividly shown the high level of political consciousness and concern of young people over the future of Hong Kong and that of mainland China.

This, Sir, is a good starting point. We have to make use of this opportunity to further enhance their political maturity, political experience and their participation in Hong Kong affairs.

Seeds were sown in the field. It is time for us to harrow them up.

Sir, we have been given the short end of the stick so far as the work of boosting the flagging confidence and sagging sense of belonging to the territory is concerned.

It has become a burden we have had to bear. Lowering the age of voting is definitely a means in the right direction in face of the exodus of professionals and businessmen who chose to vote with their feet.

Sir, over a relatively short period of time, a political system new to Hong Kong

will come into being. Among its feature is a high degree of mass participation. Young people must be encouraged and allowed to shape their own destinies.

Sir, with these reservations, I support the Bill.

MISS LEUNG (in Cantonese): Sir, until now, it has been stipulated in the law that a person in Hong Kong shall attain full age legally only after he or she has reached the age of 21. However, no one is clear about the rationale behind the original decision to set the age of 21 as the age of majority. We were told by the secretary of the Law Reform Commission that setting the age of majority at 21 might probably have been the result of an arbitrary decision of the Administration in the past. The Report on "Young Persons -- Effects of Age in Civil Law" published by the Law Reform Commission in April 1986 holds the view that this arbitrary decision may probably have been made on the basis that the age of majority was set at 21 in Britain during the Age of Chivalry. The same report points out, "It has been said that originally, in England, 21 years was selected as the age for maturity since at that age a young man could reasonably be expected to be able to wear a full suit of armour." Consequently, Hong Kong has blindly adopted the age of 21 as the age of majority for more than a century and, surprisingly enough, no doubt has ever been cast upon its rationality in all these years.

Sir, if the Law Reform (Legal Effects of Age) Bill 1989 is smoothly passed and enacted into law by this Council, the age of majority in Hong Kong will be lowered from the age of 21 to 18. The practice of setting the age of majority at 21, which has been borrowed blindly from the Age of Chivalry in Britain, will for all practical purposes return to where it should belong in ancient British history. At least, we can give ample reasons to justify the proposal of setting the age of 18 as the age of majority. In moving the Second Reading of this Bill on 21 June 1989, the Attorney General said in this Council, "This Bill gives effect to the main recommendation in a report by the Law Reform Commission on the effects on age in civil law . . . . From various surveys and studies, the commission concluded that at 18 years of age most young persons have attained the necessary independence. Clauses 2 and 6 of the Bill therefore provide for the age of majority to be reduced to 18."

A comprehensive survey of this Bill reveals that the provisions therein either propose to reduce the age of majority from 21 to 18 or recommend the legal age for certain issues to remain at 21. Hence, while the ages of 18 and 21 are once and again



mentioned in this Bill, no reference has been made to the intervening ages, such as the age of 19, 20 or 19 and a half. We cannot but ask whether the minimum age at which a young person should attain certain legal capacities can only be set at 18 or 21 but not at 19, 20 or 19 and a half years instead.

Sir, the Legislative Council ad hoc group which studied this Bill has attempted to incorporate into the Bill the proposals of lowering the age of voting and the age at which parental consent for marriage is not required from 21 to 18. However, these two highly controversial proposals were separately voted down by a majority at a Legislative Council in-house meeting. The so-called reasons for rejecting these proposals are primarily that young people at the age of 18 still do not know how to think, and are not mature enough to perform the responsibilities of an adult. Such rejection on such grounds is indeed exasperating, ridiculous and regrettable.

Sir, on the issue of voting age, Britain, our present sovereign state which practises welfare capitalism, has set the age at 18. In seven years' time, our territory will be returned to China, our motherland, where socialism of the preliminary stage is practised with the voting age set at 18 as well. Apart from a few countries and regions where the age of voting is conservatively set at 21, most countries and regions around the world set the voting age at 18. Of course, there are also countries and regions where voting age is set at 19 or 20.

Up to the present, Hong Kong has made remarkable achievements that have brought us pride and contentment and won the admiration and envy from all over the world. Hong Kong is a splendid city of international standard and one of the world's most important trading economies. Hong Kong is one of the jurisdictions with the most sound and impartial judicial system, one of the fastest growing economies and one among the many places that provide the best banking and financial services and the most advanced information and communication facilities. It is also one of the places where great success has been made in universal education. Living in such an environment, we are no doubt among the cream of the world and are on the whole well educated.

Young people between the age of 18 and 21 in Hong Kong have all received nine years of compulsory education. Most of them even continue to pursue further studies. When compared with their counterparts in other countries who have the statutory right to vote and the elderly in Hong Kong who are now enjoying the statutory right to vote, these young people are, in general, better educated, more knowledgeable and, as a

result, more adaptable to this fast changing world. How can we say that they do not even have the ability to elect their spokesmen in mind by way of voting in the elections?

Sir, as for the issue of the age at which parental consent for marriage is not required, the same arguments for lowering the present voting age also apply. Hence, they young people between the age of 18 and 21 in Hong Kong should also have the right of marriage without parental consent.

Sir, with these remarks, I support the motion.

MR. MCGREGOR: Sir, I do not know if the views I am about to express have the support of each and every member of my constituency. I have not been able to contact all 2 700 of them. I feel, however, that the young members and the young at heart (and there is a good many) will agree with me.

Sir, I support the Bill. In doing so, I wish to say that I believe young persons in Hong Kong have over a long period of time indicated in many different ways that, at the age of 18, they are capable of taking part fully in the development of Hong Kong affairs. Over the last 30 years, the educational level of Hong Kong's young people has risen continuously. In a place like Hong Kong, subject to so many changes and pressures, young people have had the great advantages inherent in a free and liberal society. They have had a free press, a liberal government regime and also a most open system of education within which they have been able to question and to seek answers, to disagree and to dissent, to discover, to assess, and to state their views without fear of consequence.

They are welcome to join the police and the auxiliary armed forces, and to use firearms in the execution of certain duties. They are required to exercise careful judgment in these and in many other ways. In all these things, they are given adult status. There is no evidence that they have failed to act responsibly.

I believe that these young adults are our economic life blood, our hope for the future and our greatest asset.

At 18 years of age I was myself in Royal Air Force uniform and with a bomber squadron in India in 1943. I knew what I was doing and what was expected of me. I

believe that our young people know what they are doing and what is expected of them.

I therefore strongly believe that the legal age for young persons should be 18, not only for those functions indicated in the Bill but also in regard to the right to vote. I may have a slightly different view about the right to decide on marriage with a son of 20, Sir. (laughter) It is a great pity that the Government has been so cautious, in this regard, with respect to the 1991 elections -- I mean voting, not marrying. (laughter) There is still time to change the situation, however, and I hope our young people will continue to press us to do so.

With these remarks, Sir, I support the Bill.

ATTORNEY GENERAL: Sir, I must start by expressing my thanks to Mrs. Rosanna TAM and the other members of the ad hoc group for the considerable time and effort they have spent in considering this important Bill. I am pleased to say that the amendments to be moved later this afternoon by Mrs. TAM and Mrs. LAU have the full support of the Administration.

In the light of the many comments on the Bill made here this afternoon, I think it is right that I remind Members of the history of the Bill and make clear what it does.

The Bill, as we have heard, gives effect to the main recommendations of the Law Reform Commission report which was published in 1986. The report recommended that the age at which a person attains majority should, for most purposes, be reduced from 21 to 18. Mrs. Rosanna TAM has clearly and, if I may say so, vividly described the philosophy underlying this Bill. If I might add to what she said, the level of education attained in Hong Kong, the attitude of its people to work and to earning one's living, the natural aspiration to own property and to go into business, in short the willingness to take on the responsibilities of normal adult life indicated to the Commission and the Government that the age of 21 was no longer appropriate.

In meeting that recommendation of the Law Reform Commission this Bill removes some of the impediments which prohibit minors from acquiring, holding and disposing of real and personal property and it consequently effects changes to the law relating to contracts, wills and companies. As I said when introducing this Bill into Council in June of last year, other legislative changes will be necessary to other areas of

the law because the recommendations of the Law Reform Commission cover a wide range of disparate subjects.

Some Members have queried the extent and the manner in which the Law Reform Commission consulted the public over its proposals and the degree of support for its proposals. The Law Reform Commission values highly public consultation on those legal issues which have been referred to it. The sub-committees which are appointed to consider references and report to the Commission invariably spend much time deciding how best to gauge public opinion and evaluate it. The Sub-committee on the Legal Effects of Age chaired by Mr. David LI was no exception. That committee contacted some 206 persons and organizations canvassing views from both the organizations and individual members. Nearly 1 600 completed questionnaires were received, the vast majority of which were from individuals. In addition, members of the sub-committee discussed the issue on radio, television and at meetings with the district boards. As I said last June, views on some areas were divided. But I think it would not be correct to say that there was total opposition to what the Law Reform Commission was proposing. It was the proposals which have the general support of groups and organizations that have found their way into this Bill. But generally in this area, I agree with Mrs. Rosanna TAM and Mrs. Miriam LAU that naturally proper regard should be paid to public opinion. The Law Reform Commission and the Administration should, in some areas of law reform, be prepared to lead public opinion. I believe that to be the case with regard to the proposals in the present Bill.

Sir, the question of the age at which persons should be able to vote and stand for election is a sensitive and difficult one. The issue is one on which many Members hold strong views as we have heard this afternoon; indeed it would be surprising if that were not so. The Commission's report made no recommendation in this regard, taking the view that this aspect was outside its terms of reference. The question has nevertheless been given thorough consideration by the Administration. As Members will recall, on 21 March this year the Chief Secretary made a statement in this Council on this issue. He recognized that the arguments were finely balanced. He addressed Members as to the competing considerations, and informed them that in all the circumstances the Administration had decided that the voting age should, for the present, stay at 21, but that consideration would be given to lowering the voting age to 18 in 1995.

There has been some misunderstanding about the extent of the changes brought about

by this Bill. Eighteen-year-old company directors or trustees will not be able to vote in functional constituencies. Part III of the Legislative Council Electoral Provisions Ordinance deals with the electoral franchise in functional constituencies. Putting it simply, one is entitled to vote in a functional constituency only if one is registered as an elector, and in order to be registered as an elector for a functional constituency one must first of all be registered as an elector under the Electoral Provisions Ordinance. And section 9 of that Ordinance prohibits persons under the age of 21 from registering as an elector in any register.

I turn now to the question of criminal responsibility and the relevance of age in the criminal justice system. It would not in my view be correct to assume that there should be any uniform watershed of age for criminal and civil matters. Penal policies are founded at least partly .....

HIS EXCELLENCY THE PRESIDENT: Mr. WONG, are you rising on a point of order?

MR. ANDREW WONG (in Cantonese): Yes, Sir. Would the Attorney General tell us which Member said a few months ago that a person under the age of 21 could register as an elector in a functional constituency?

ATTORNEY GENERAL: Sir, perhaps I could deal with that point at the end of the debate. If I may continue, please.

HIS EXCELLENCY THE PRESIDENT: Please continue.

ATTORNEY GENERAL: Penal policies are founded at least partly on the basis that the younger one is the less likely one is to be criminally fixed and the more likely one is to respond to rehabilitation. These considerations are different from those underlying codes regulating civil rights.

The Administration did not accept the recommendation of the Law Reform Commission that 18 should be the age at which a person could marry without parental consent. But the Law Reform Commission did recommend that custody and guardianship orders

should cease to have effect at the age of 18. The result of this would be the implied partial repeal of the inherent jurisdiction of the High Court to hear applications from minors for consent to marry where such consent has been withheld by a parent or guardian. It has been decided, therefore, that there should be a provision which would enable any person of marriageable age, which is 16, who requires the consent of a parent or a guardian to marry, to apply to a court for permission to marry if consent is withheld. An amendment will be moved during the Committee stage to amend the Marriage Ordinance to achieve this end. It will enable a District Court judge to hear in chambers an application for consent to marry by any person other than a ward of court who needs the consent of any other person to marry. Wards of court, because of their legal status, always require the consent of a High Court judge to contract a marriage.

Sir, I am grateful for Mr. Andrew WONG's intervention. The point was limited to trustees.

MR. ANDREW WONG: Sir, the point I was trying to make was that the Attorney General was referring to Members' misunderstanding as to persons under the age of 21 being able to register as voters in the functional constituencies. I made that point, but not quite in that way. I said a director under 21 has control over the company and hence he has control over the vote. I did not say he can be registered as a voter. So I am seeking clarification as to whether the Attorney General was referring to me or to some other Member.

ATTORNEY GENERAL: I am grateful for that further intervention. The point was in relation to Mr. TAI Chin-wah. If I may continue.

Sir, this Bill has been rightly described as one of the most important to come before this Council. It brings together the accumulated considerations and deliberations stretching over a number of years and focuses on an area of social reform -- though described as law reform this is also a measure of social reform. The debate this afternoon has, I think, quite fairly indicated that in such matters it is unlikely that there will ever be complete unanimity of view. The Law Reform Commission is, as Members will know, a body composed not of civil servants but of members of the community drawn from a wide spectrum of interests. The Commission carefully considered the many issues that have been before this Council this afternoon. The

Bill represents the distillation of those views. It is, if I may say so, a serious attempt to address a social issue. As such, I commend it to this Council.

Sir, I beg to move.

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

Bill read the Second time.

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

#### EMPLOYEES' COMPENSATION INSURANCE LEVIES BILL 1990

Resumption of debate on Second Reading which was moved on 14 March 1990

Question on Second Reading proposed.

MR. NGAI: Sir, the Employees' Compensation Ordinance (Cap. 282) provides for compulsory insurance for the benefit of employees with effect from 1 January 1984. However, it is still possible for an injured employee to be left uncompensated for injuries he sustains at work. This can occur, for example, where an employer has failed to insure and cannot himself meet the claim; or where, despite such insurance having been effected, the insurance company becomes insolvent and cannot meet the claim.

The purposes of this Bill are therefore to establish the Employees' Compensation Insurance Levies Management Board; to impose a 1% levy on the employees' compensation insurance premia paid by employers for the purposes of the Employees' Compensation Ordinance (Cap. 282); and to provide for the Board to collect the levy through the insurance industry for funding an Employees' Compensation Assistance Scheme, to be established later by a separate Bill, which will receive claims for and make payments of, employees' compensation in default cases in respect of accidents arising out of and in the course of employment occurring on or after 1 January 1984. The intention of this Bill is to establish the Management Board and impose the levy in advance so that when the Employees' Compensation Assistance Scheme comes into existence it will have the resources to start operations immediately.

In moving the Second Reading of the Bill on 14 March 1990, the Secretary for

Education and Manpower explained the reasons for providing that the Board would collect another 1% levy on behalf of the Occupational Safety and Health Council.

An ad hoc group consisting of seven members has been formed to study the Bill. The group has met the Administration to discuss and clarify various points of the Bill. The main concern of the group has been about two issues. Firstly, members feel that the cost of setting up the secretariat of the Board, which is estimated to be \$650,000 per annum, is too high. As the Occupational Safety and Health Council already has a secretariat readily available, Members have suggested that the Employees' Compensation Insurance Levies Management Board should be asked to consider making use of it for the receipt and distribution of the levies. This would minimize the administrative cost. The Administration has assured Members that discussion is being held with the Occupational Safety and Health Council to ensure that the levy scheme will be carried out in a cost-effective manner. Secondly, the group feels that the insurance industry is a very competitive business, and secrecy should be maintained regarding the information it gives to the Board in performing its role of collecting the levy on the Board's behalf. The group suggests an amendment to the Bill to the effect that employees of the Board who do not keep the information secret commit a criminal offence. The proposal has also been agreed by the Administration.

The group has also proposed some drafting amendments to both the English and Chinese texts of the Bill. These have also been accepted by the Administration. Mr. TAM Yiu-chung and I will move these amendments in the Committee stage.

Sir, the ad hoc group is satisfied that the establishment of the Board and the fund will go a long way to protecting unfortunate employees who would otherwise have been deprived of their right to compensation for injuries sustained at work. The Group is happy to note too that employers have raised no objection to the Bill even though it has some cost impact on them. This is, I think, yet another example of the co-operative spirit shared between employers and employees for the common good of Hong Kong.

With these remarks, Sir, I am pleased to support the Bill.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I would like to thank Mr. NGAI Shiu-kit and members of his ad hoc group for supporting the Bill.



As regards administrative costs, we will ensure that the levy is collected and distributed in the most cost-effective manner. This will involve a degree of co-operation between the Management Board and the Occupational Safety and Health Council, the details of which are now being examined by the Labour Department.

I agree with the ad hoc group that the Bill should be amended to require employees of the Management Board to refrain from disclosing any information provided by insurance companies, except in the discharge of their duties. This will protect business information against unauthorized disclosure. I also agree with the various technical amendments to be moved at the Committee stage. They should make it easier for the Bill to be read and understood.

Following its enactment we will proceed quickly to appoint the Employees' Compensation Insurance Levies Management Board and to introduce the 2% combined levy on employees' compensation insurance premia. As I said in this Council on 14 March, the Management Board will collect the combined levy on behalf of the Occupational Safety and Health Council and the proposed Employees' Compensation Assistance Scheme.

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

Bill read the Second time.

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

Committee stage of Bills

Council went into Committee.

APPROPRIATION BILL 1990

Heads 21 to 194 were agreed to.

Schedule was agreed to.

Clauses 1 and 2 were agreed to.

MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 1990

Clauses 1 and 2 were agreed to.

ROAD TRAFFIC (DRIVING LICENCES REGULATIONS AND REGISTRATION AND LICENSING OF VEHICLES REGULATIONS) (AMENDMENT) BILL 1990

Clauses 1 to 3 were agreed to.

BUSINESS REGISTRATION (AMENDMENT) BILL 1990

Clauses 1 and 2 were agreed to.

COMPANIES (AMENDMENT) (NO. 3) BILL 1990

Clauses 1 and 2 were agreed to.

BANKING (AMENDMENT) (NO. 3) BILL 1990

Clause 1

FINANCIAL SECRETARY: Sir, I move that clause 1(1) be amended as set out in the paper circulated to Members.

This simple amendment is necessary because the original Banking (Amendment) (No. 2) Bill 1990, which was introduced into this Council on 21 March 1990, is still being examined by an ad hoc group of the Legislative Council. The numbering of this present piece of legislation, therefore, needs to be changed following enactment. It will be entitled the Banking (Amendment) (No. 2) Ordinance 1990.

Sir, I beg to move.

Proposed amendment

Clause 1

That clause 1(1) be amended, by deleting "(No. 3)" and substituting "(No. 2)".

Question on the amendment proposed, put and agreed to.

Clause 2 was agreed to.

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1990

Clauses 1 to 7 were agreed to.

ESTATE DUTY (AMENDMENT) BILL 1990

Clause 1 to 10 were agreed to.

LAW REFORM (LEGAL EFFECTS OF AGE) BILL 1989

Clauses 8, 11, 12, 14 to 16 and 18 were agreed to.

Clauses 1, 5 and 17

MRS. TAM: Sir, I move that clauses 1(1), 17(8) and 5(1) be amended as set out under my name in the paper circulated to Members. Clauses 1(1) and 17(8) relate to the short title of the Ordinance. The ad hoc group considers that the present short title does not reflect precisely the main purpose of the Bill, that is, to amend the law relating to the age of majority. The new clauses 1(1) and 17(8) reflect clearly the purpose. Clause 5(1) provides a statutory formula for the calculation of a person's age. The ad hoc group considers that the clause may create difficulty to people born on 29 February. To put matter beyond doubt, the new subclauses 5(1) and (8) clearly provide that for a person born on 29 February, his birthday in a year where there

is no 29 February is 1 March.

Sir, I beg to move.

Proposed amendments

Clause 1

That clause 1(1) be amended, by deleting "Law Reform (Legal Effects of Age) Ordinance 1989" and substituting "Age of Majority (Related Provisions) Ordinance 1990".

Clause 5

That clause 5 be amended, by adding after sub-clause (1) --

"(1A) Where a person has been born on 29 February in a leap year, the relevant anniversary in any year other than a leap year shall be taken to be 1 March.".

Clause 17

That clause 17(a) be amended, by deleting "Law Reform (Legal Effects of Age) Ordinance 1989 ( of 1989)" and substituting "Age of Majority (Related Provisions) Ordinance 1990 ( of 1990)".

Question on the amendments proposed, put and agreed to.

Question on clauses 1, 5 and 17, as amended, proposed, put and agreed to.

Clauses 2 and 20

ATTORNEY GENERAL: Sir, I move that the clauses specified be amended as set out in the paper circulated to Members.

The proposed amendments qualify all numerical references to age by adding the word "years". This is done in order to achieve stylistic consistency with the Chinese

version of the Bill.

Sir, I beg to move.

Proposed amendments

Clause 2

That clause 2(1) be amended, by adding "years" after "18".

That clause 2(2) be amended, by adding "years" after "18" and "21" respectively.

Clause 20

That clause 20(2) be amended, by adding "years" after "18".

Question on the amendments proposed, put and agreed to.

MRS. LAU (in Cantonese): Sir, I move that clauses 2 and 20 be further amended as set out under my name in the paper circulated to Members. The expression "所指意義者" in the said clauses contains a tautology in that "所指者" already covers "意義". I propose that "意義", which is tautological, should be deleted.

Proposed amendments

Clause 2

That clause 2(5) be further amended, by deleting "意義".

Clause 20

That clause 20(1)(b) be further amended, by deleting "意義".

Question on the amendments proposed, put and agreed to.

Question on clauses 2 and 20, as amended, proposed, put and agreed to.

Clauses 3, 4 and 21 to 23

MRS. LAU (in Cantonese): Sir, I move that the clauses specified be amended as set out under my name in the paper circulated to Members.

"因該立約一方在合約訂立時……未成年……以致他悔約" in clause 3(b) of the Bill might easily be misconstrued to mean that minority itself causes the repudiation of a contract. What the clause in fact means is that minority could be a ground for repudiating a contract. I therefore propose that "以致他" be amended to read "他藉此". For the same reason, "以致答辯人" in clause 4(a) should be substituted by "答辯人藉此".

"Any other remedy" in clause 4(2) is rendered into Chinese as "其他法律補救途徑". The "法律" would appear to be superfluous. To ensure consistency of the Chinese and English texts, I propose that "法律" should be deleted.

"Periods for the accumulation of income under settlements" in clause 22 is rendered into Chinese as "限制財產繼承安排……所容許的收益累積期間". "Settlement" in other Ordinances has already been translated as "授產安排". "期限" would appear to be a terser term to be preferred to "限制……期間". I propose that "限制財產繼承安排" and "期間" should be deleted and substituted by "授產安排" and "期限" respectively.

The proposed amendments to clauses 21 to 23 are for reasons similar to clauses 2 and 20, which I will not repeat here.

Sir, I beg to move.

Proposed amendments

Clause 3

That clause 3(b) be amended, by deleting "以致他" and substituting "他藉此".

Clause 4

That clause 4 be amended --

(a) in subclause (1)(b), by deleting " 或以致答辯人" and substituting "或答辯人藉此";

(b) in subclause (2), by deleting "法律" and " 途徑".

Clause 21

That clause 21 be amended, by deleting "意義".

Clause 22

That clause 22 be amended, by deleting "限制財產繼承安排" and "期間" and substituting " 授產安排" and " 期限" respectively.

Clause 23

That clause 23 be amended, by deleting " 意義".

Question on the amendments proposed, put and agreed to.

Question on clauses 3, 4 and 21 to 23, as amended, proposed, put and agreed to.

Clauses 6, 7, 9, 10, 13 and 19

ATTORNEY GENERAL: Sir, I move that the clauses specified be amended as set out in the paper circulated to Members.

The reasons for these proposed amendments have been explained by me when I moved the amendments to clauses 2 and 20.

Sir, I beg to move.

## Proposed amendments

### Clause 6

That clause 6(1)(a) be amended, by adding "years" after "18".

That clause 6(1)(b) be amended, by adding "years" after "18".

### Clause 7

That clause 7(a)(i) be amended, by adding "years" after "21".

That clause 7(a)(iv) be amended, by adding "years" after "21".

That clause 7(b)(i) be amended, by adding "years" after "21".

### Clause 9

That clause 9 be amended, by adding "years" after "21".

### Clause 10

That clause 10 be amended, by adding "years" after "21".

### Clause 13

That clause 13 be amended, by adding "years" after "18".

### Clause 19

That clause 19 be amended, by adding "years" after "21" and "18" respectively.



Question on the amendments proposed, put and agreed to.

Question on clauses 6, 7, 9, 10, 13 and 19, as amended, proposed, put and agreed to.

New clause 16A Section added

Clause read the First time and ordered to be set down for Second Reading pursuant to Standing Order 46(6).

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

Clause read the Second time.

Proposed addition

New clause 16A

That the Bill be amended, in Part III by adding after clause 16 --

"Marriage Ordinance

16A. Section added

The Marriage Ordinance (Cap. 181) is amended by adding after section 18 -

"18A. Consent of a District Judge

(1) Where a person whose consent is required under section 14 or 15 refuses to give his consent with respect to a party to an intended marriage, other than with respect to a ward of the court, or has, under section 16, forbidden the issue of the certificate of the Registrar, a District Judge may, on application being made, consent to the marriage and the consent so given shall have the same effect as if it had been given by the person whose consent is refused or as if the forbidding of the issue of the certificate had been withdrawn.

the (2) The power to make civil procedure rules under section 72 of District Court Ordinance (Cap. 336) shall extend to -

(a) prescribing the method of application for consent;

(b) prescribing the service of copies of the application and any ancillary documents, if any;

(c) prescribing the procedure to be followed at the hearing of the application including provision for the application to be heard in chambers; and

(d) authorizing the District Judge to call for and receive a report from an officer of the Social Welfare Department or other suitably qualified person before giving consent to a marriage under subsection

(1).".".

Question on the addition of the new clause proposed, put and agreed to.

#### EMPLOYEES' COMPENSATION INSURANCE LEVIES BILL 1990

Clauses 1, 2, 4, 5, 8, 10, 13, 16, 19, 20, 22, 24 to 27 and 29 to 31 were agreed to.

Clauses 3, 17, 21 and 28

MR. NGAI: Sir, I move that the clauses specified be amended as set out in the paper circulated to Members.

Clause 3(2) in the original Bill specifies the composition of the Employees' Compensation Insurance Levies Management Board which shall consist of a chairman, up to five members representing employers, employees and the insurance industry, a member of the Occupational Safety and Health Council, and up to two public officers. The amendment is to spell out clearly that the membership of the Board shall consist of an equal number of persons who represent employers and employees respectively.

The amendments to clauses 17, 21 and 28 are drafting improvements.

Sir, I beg to move.

Proposed amendments

Clause 3

That clause 3(2) be amended, by deleting paragraph (b) and substituting --

"(b) not more than 2 other members not being public officers who, in the opinion of the Governor, represent employers and who shall be appointed by the Governor for a term not exceeding 3 years;

(ba) not more than 2 other members not being public officers who, in the opinion of the Governor, represent employees and who shall be appointed by the Governor for a term not exceeding 3 years;

(bb) a member not being a public officer who, in the opinion of the Governor, is connected with the insurance industry in Hong Kong and who shall be appointed by the Governor for a term not exceeding 3 years;"

Clause 17

That clause 17 be amended, by deleting subclause (2) and substituting --

"(2) In relation to any financial year, every insurer shall submit to the Board, not later than 3 months after the end of that financial year, a statement, in such form and certified in such manner as may be prescribed, containing -

(a) the amounts of premium received during that financial year;

(b) the amounts of levy received during that year under section 15(1) or deemed under section 15(2) or (3) to have been so received;

(c) the amounts of levy or such amounts equivalent thereto remitted during that year; and

(d) the amounts of levy refunded during that year."

That clause 17(4) be amended, by adding ", without reasonable excuse," before "contravenes".

Clause 21

That clause 21(2) be amended, in paragraphs (a) and (b) --

(a) by deleting "knowingly"; and

(b) by adding "to his knowledge" after "which".

Clause 28

That clause 28 be amended, by deleting clause 28 and substituting --

"28. Protection of members, etc. of Board

(1) No -

(a) member of the Board;

(b) member of any committee of the Board;

(c) employee of the Board;

(d) person exercising powers in association with the Board under section 5(2)(c),

acting in good faith shall be personally liable for any act done or default made by -

(i) the Board;

(ii) any committee of the Board;

(iii) any such member, employee or person, in the exercise and performance (or the purported exercise and performance) of powers and functions conferred and imposed on the Board under this Ordinance.

(2) The protection afforded under subsection (1) to any member, employee or other person in respect of any act or default shall not affect any liability of the Board for that act or default."

Question on the amendments proposed, put and agreed to.

Question on clauses 3, 17, 21 and 28, as amended, proposed, put and agreed to.

Clauses 6, 9, 11, 14 and 15

MR. TAM (in Cantonese): Sir, I move that the clauses specified be amended as set out in the paper circulated to Members.

Proposed amendments

Clause 6

That clause 6 be amended, in subclause (2) by deleting "放在" and substituting "入".

Clause 9

That clause 9 be amended, in subclause (2) by deleting "接納" and substituting "正式通過".

Clause 11

That clause 11 be amended, in subclause (1) by deleting "對他執行職能是必要的" and substituting "執行職能有此需要".

Clause 14

That clause 14 be amended, in subclause (2) by deleting "的生效日期" and substituting "於何時生效".

Clause 15

That clause 15 be amended --

(a) in subclause (2) --

(i) by deleting "在符合第き款規定下" and substituting "除第き款另有規定外"; and

(ii) by adding "已" after "視為".

(b) in subclause (4) --

(i) by deleting "在符合第く及ぐ款規定下" and substituting "除第く及ぐ款另有規定外";

(ii) by adding "被" before "視為" where it firstly occurs; and

(iii) in paragraph (b), by deleting "放在" and substituting "入".

Question on the amendments proposed, put and agreed to.

Question on clauses 6, 9, 11, 14 and 15, as amended, proposed, put and agreed to.

Clauses 7, 12, 18 and 23

MR. TAM (in Cantonese): Sir, I move that the clauses specified be amended as set out under my name in the paper circulated to Members.

Proposed amendments

Clause 7

That clause 7 be amended, in subclause (1) by deleting "它".

Clause 12

That clause 12 be amended --

(a) in subclause (2), by deleting "爲".

(b) in subclause (3), by adding "長" after "署署".

Clause 18

That clause 18 be amended --

(a) in subclause (1), by deleting "指明及" and substituting "指明並";

(b) in subclause (1)(a), by adding "已發出及" before "有效".

(c) in subclause (3), by deleting "或".

(d) in subclause (9)(c), by deleting "施行".

Clause 23

That clause 23 be amended, in subclause (1) --

(a) by deleting "會同行政局"; and

(b) by adding "的事宜" after "權力".

Question on the amendments proposed, put and agreed to.

MR. NGAI: Sir, I move that the clauses be further amended as set out under my name in the paper circulated to Members. The reason for amending clause 18 has been stated in my speech earlier.

Proposed amendments

Clause 7

That clause 7(2) be further amended, by deleting "Section 23(3) of the" and substituting "The".

Clause 12

That clause 12(3) be further amended, by deleting "shall" and substituting "may".

Clause 18

That clause 18(4) be amended --

(a) by adding "or information" after "the records"; and

(b) by adding "or that information" after "those records".

That clause 18(8) be amended, by deleting subclause (8) and substituting --

"(8) Save as provided in subsection (9), no person (including a person designated for the purpose of subsection (4)) shall disclose to any other person, other than a member of the Board or another person so designated and acting in the course of his duties, any information obtained under this section."

Clause 23

That clause 23 be amended, by adding "(1)" before "The".



Question on the amendments proposed, put and agreed to.

Question on clauses 7, 12, 18 and 23, as amended, proposed, put and agreed to.

Schedules 2 and 4 were agreed to.

Schedule 1

MR. NGAI: Sir, I move that schedule 1 be amended as set out under my name in the paper circulated to Members. The amendment is consequential to the amendment to clause 3.

Proposed amendment

Schedule 1

That schedule 1 be amended, in paragraphs 3(2), (3) and 4, by adding ", (ba), (bb)" before "or (c)" wherever it occurs.

Question on the amendment proposed, put and agreed to.

MR. TAM (in Cantonese): Sir, I move that Schedule 1 be further amended as set out under my name in the paper circulated to Members.

Proposed amendment

Schedule 1

That schedule 1 be further amended, in paragraph 4(b), by deleting "償債" and substituting "債務償還".

Question on the amendment proposed, put and agreed to.

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

Schedule 3

MR. NGAI: Sir, I move that schedule 3 be amended as set out in the paper circulated to Members. The ad hoc group feels that in order to achieve consistency, relevant sections of the Occupational Health and Safety Council Ordinance should be amended accordingly as a result of the amendments to clauses 21 and 28 of the Bill. This the Administration has agreed.

Sir, I beg to move.

Proposed amendment

Schedule 3

That schedule 3 be amended --

(a) in the item relating to section 24 by deleting paragraph (b) and substituting --

"(b) In subsection (2) -

(i) in paragraphs (a) and (b) repeal "knowingly";

(ii) in paragraphs (a) and (b) add "to his knowledge" after "which"; and

(iii) repeal all that follows after "\$10,000".; and

(b) by adding after the item relating to section 29 --

"Section 30 Repeal and substituting --

"30. Protection of member of Council

(1) No -

(a) member of the Council;

(b) member of any committee of the Council;

(c) employee of the Council;

the (d) person exercising powers in association with  
Council under section 5(2)(f),

or acting in good faith shall be personally liable for any act done  
default made by -

(i) the Council;

(ii) any committee of the Council;

(iii) any such member, employee or person,

in the exercise and performance (or the purported exercise and performance) of the powers and duties conferred and imposed on the Council under this Ordinance.

(2) The protection afforded under subsection (1) to any member, employee or other person in respect of any act or default shall not affect any liability of the Council for that act or default."."

Question on the amendment proposed, put and agreed to.

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

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

APPROPRIATION BILL 1990

MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 1990

ROAD TRAFFIC (DRIVING LICENCES REGULATIONS AND REGISTRATION AND LICENSING OF VEHICLES REGULATIONS) (AMENDMENT) BILL 1990

BUSINESS REGISTRATION (AMENDMENT) BILL 1990

COMPANIES (AMENDMENT) (NO. 3) BILL 1990

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1990 and

ESTATE DUTY (AMENDMENT) BILL 1990

had passed through Committee without amendment and the

BANKING (AMENDMENT) (NO. 2) BILL 1990 the original title of which was BANKING (AMENDMENT) (NO. 3) BILL 1990

AGE OF MAJORITY (RELATED PROVISIONS) BILL 1990 the original short title of which was LAW REFORM (LEGAL EFFECTS OF AGE) BILL 1989 and

EMPLOYEES' COMPENSATION INSURANCE LEVIES BILL 1990

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

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

Bills read the Third time and passed.

Private Bills

First Reading of Bill

DAO HENG BANK LIMITED BILL 1990

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

## Second Reading of Bills

### DAO HENG BANK LIMITED BILL 1990

MR. LI moved the Second Reading of: "A Bill to provide for the vesting in Hang Lung Bank, limited of the undertaking of Dao Heng Bank Limited and for other related purposes."

MR. LI said: Sir, this Bill is technical in nature and uncontroversial and follows the pattern of a number of other banking institution merger Bills introduced by me in recent years. I am pleased to report that the Bill has been circulated to the Companies Registry, the Financial Secretary and the Secretary for Monetary Affairs for their comments.

A private Bill such as this is the most expedient method of providing for the merger of Dao Heng Bank and Hang Lung Bank whilst assuring certainty to the customers and business associates of both institutions.

Members may be reassured that no stamp duty will be saved by this Bill. Both the Dao Heng Bank and Hang Lung Bank are anxious to ensure that the stamp duty position shall be precisely the same as if no legislation had been enacted. There is no intention to avoid stamp duty by means of this Bill.

Sir, I believe this Bill to be uncontroversial. Hang Lung Bank is a wholly owned subsidiary of Dao Heng Bank, and for the better conduct of their businesses, it is expedient that their respective undertakings be merged.

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

Question on the adjournment proposed, put and agreed to.

### DEN NORSKE BANK BILL 1990

Resumption of debate on Second Reading which was moved on 2 May 1990

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

Bill read the Second time.

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

Committee stage of Bill

Council went into Committee.

DEN NORSKE BANK BILL 1990

Clauses 1 to 15 were agreed to.

Preamble was agreed to.

Council then resumed.

Third Reading of Bill

MR. LAU WAH-SUM reported that the

DEN NORSKE BANK BILL 1990

had passed through Committee without amendment and moved the Third Reading of the Bill.

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

Bill read the Third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: I am grateful to Members for their patience and tenacity in continuing through without a break. And now in accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 23 May 1990.

Adjourned accordingly at seventeen minutes to Six o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of Appropriation Bill 1990, Age of Majority (Related Provisions) Bill 1990, Employees' Compensation Insurance Levies Bill 1990, Den norske Bank Bill 1990 and Dao Heng Bank Limited Bill 1990, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.