

1 HONG KONG LEGISLATIVE COUNCIL -- 17 July 1991

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 17 July 1991

The Council met at half-past Two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (PRESIDENT)

SIR DAVID CLIVE WILSON, G.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 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, O.B.E., J.P.

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

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

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

THE HONOURABLE TAM YIU-CHUNG

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

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

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

THE HONOURABLE GRAHAM BARNES, C.B.E., J.P.
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

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 DAVID CHEUNG CHI-KONG, J.P.

THE HONOURABLE RONALD CHOW MEI-TAK

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

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

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

THE HONOURABLE MRS MIRIAM LAU KIN-YEE

THE HONOURABLE LAU WAH-SUM, O.B.E., 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 KINGSLEY SIT HO-YIN

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 MRS ANSON CHAN, J.P.
SECRETARY FOR ECONOMIC SERVICES

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

THE HONOURABLE ALISTAIR PETER ASPREY, O.B.E., A.E., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE JOHN CHAN CHO-CHAK, L.V.O., O.B.E., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE ALBERT LAM CHI-CHIU, J.P.
SECRETARY FOR HOME AFFAIRS

ABSENT

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

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

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

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR LAW KAM-SANG

Papers

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

Subject

Subsidiary Legislation L.N. No.

Fixed Penalty (Traffic Contraventions) (Amendment) (No. 2) Regulations 1991.....	249/91
Registration of Persons (Amendment) (No. 2) 1991.....	Regulations 250/91
Road Tunnels (Government) (Amendment) 1991.....	Regulations 251/91
Road Traffic (Parking) (Amendment) 1991.....	Regulations 252/91
Commodities Trading (Amendment of Schedule 1) 1991.....	Order 253/91
Frontier Closed Area (Amendment) Order 1991.....	259/91
Public Health and Municipal Services (Public (Amendment of Fourth Schedule) (No. 5) Order 1991.....	Pleasure Grounds) 260/91
Public Order Curfew (Amendment) Order 1991.....	261/91
Public Swimming Pools (Designation) (No. 2)	Order

1991.....	262/91
Registration of Persons (Invalidation of Old (No. 2) Order 1991.....	Identity Cards) 263/91
Continuing Legal Education Rules 1991.....	264/91
Museums (Regional Council) (Amendment) 1991.....	By-Laws 265/91
Pleasure Grounds (Regional Council) (No. 2) Bylaws 1991.....	(Amendment) 266/91
Slaughterhouses (Regional Council) (Amendment) 1991.....	Bylaws 267/91
Securities (Disclosure of Interests) Ordinance Notice 1991.....	(Commencement) 268/91
Securities (Insider Dealing) Ordinance 1990 Notice 1991.....	(Commencement) 269/91

Sessional Paper 1990-91

No. 89 -- Customs and Excise Service Welfare Fund Income and Expenditure Account with Balance Sheet and Certificate of the Director of Audit for the year ended 31 March 1991

No. 90 -- Report on the Administration of the Immigration Service Welfare Fund from 1 April 1990 to 31 March 1991 prepared by the Director of Immigration

No. 91 -- Sir David Trench Fund for Recreation Trustee's Report 1990-91

No. 92 -- The Third Annual Report of The Commissioner for Administrative Complaints Hong Kong June 1991

No. 93 -- Hong Kong Broadcasting Authority 1988-1990

No. 94 -- Hong Kong Trade Development Council Annual Report and Accounts 90-91

No. 95 -- Provisional Airport Authority Annual Report 1990

Address by Member

Provisional Airport Authority Annual Report 1990

FINANCIAL SECRETARY: Sir, in accordance with section 10 of the Provisional Airport Authority Ordinance, the Annual Report and Accounts of the Provisional Airport Authority for the year ending 31 March 1991 are tabled today.

Members have, over the past year and more particularly in recent weeks, probably heard more than enough about the airport project. Nevertheless, I thought it would be remiss of me not to signal this event with a few remarks.

The report covers the period from the establishment of the Provisional Authority in April last year to the end of March this year. Given the earlier uncertainty surrounding the future of the airport project, especially towards the end of that period, the Authority did not have an easy start in life. Its Chief Executive Officer, Mr Richard ALLEN, arrived only in March this year. During its first year the Authority has relied heavily on government staff seconded to it and on the Airport Master Plan consultants who were steered on behalf of the Board of the Provisional Authority by the Director of Civil Aviation. Since his arrival, Mr ALLEN has begun rapidly to create a separate identity for the Authority within the constraints imposed by the uncertainty prevailing prior to the initialling of the Memorandum of Understanding.

Despite these earlier uncertainties, the Authority has had a productive year. In particular, it has determined the overall engineering approach to the formation of the airport platform which, at 1 270 hectares, is about the size of the Kowloon peninsula. It has also determined the length and distance between the two parallel runways. These are fundamental decisions determining the shape of the airport. Meanwhile, work has commenced on site since February this year with the Provisional Authority's first construction contract to form 30 hectares of land for an advance

works area on north Chek Lap Kok.

Now that the way ahead is clear, the Authority can look forward to a far more active second year. Subject to the approval by the Finance Committee of this Council for the additional funding currently being sought for the Authority, the next 12 months should see the development of its organization and staffing, together with an intensification of construction activity, as the main contract for formation of the airport site gets underway.

Meanwhile, work on drafting the Airport Authority Bill is in full swing. The Bill will be put to the Council for consideration in the coming Session.

Sir, notwithstanding the earlier problems now happily behind us, as Chairman of the Provisional Airport Authority, I am happy to be able to assure Members of this Council that the Board of the Provisional Authority and all others associated with the airport project have shown great dedication and enthusiasm. I am convinced that the Authority will succeed in developing a new airport ideally suited to our long-term strategic needs and one that will play a vital role in securing our continued prosperity.

Oral answers to questions

Control of animal wastes

1. MR ANDREW WONG asked: Will the Government make a statement on its intended policy on the control of animal wastes through the issuance of licences?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, livestock keeping has for many years been one of the main sources of pollution of the beaches and streams of the territory, but until a few years ago, little was done officially either to discourage the polluting discharge of waste or to encourage waste treatment to discharges from livestock farms.

In 1988 a scheme was established which involved banning livestock keepers with compensation from some areas and buying out those who wished to abandon it voluntarily to others. Where livestock breeders remained they were obliged to comply with the

Waste Disposal Ordinance. This has resulted in a considerable number of pig and poultry breeders leaving the industry and significant improvements in water quality in the water catchments and the beaches affected by them. This policy with some modification will continue until all areas of the territory have been brought within that control net. Nevertheless pig and poultry farming is expected to continue, and it is important in the interests of the environment that there should be an adequate system of control. The Government feels that this can best be done by a licensing system under which proper waste treatment facilities are required and consistently monitored.

The Livestock Keeping Licence would contain conditions which require the licensee to observe all the requirements of the Animals and Birds Ordinance, the Waste Disposal Ordinance, and the Water Pollution Control Ordinance. The Director of Agriculture and Fisheries would be the licensing authority. The licence would be issued to any pig or poultry farm which is equipped with a waste disposal method acceptable under a code of practice or conditions specified in a certificate issued by Director of Environmental Protection. Methods involving discharges would require two licences: the Livestock Keeping Licence and a discharge licence under the Water Pollution Control Ordinance. Farms operating without a proper system could be prosecuted for operating without a licence and persistent breaches of the licensing conditions would result in cancellation of the licence. The proposed licensing system will provide more effective control on pollution caused by indiscriminate discharge of livestock wastes to the environment as well as allow for a more systematic development of the livestock keeping industry in Hong Kong.

MR ANDREW WONG: Sir, if licensing control is the best means of controlling animal wastes in the interests of environmental protection, why was this approach and policy not adopted back in 1988-89, and will the Secretary confess that the Government did make a mistake and should be eating its humble pie now?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I do not think the Government has any reason to be ashamed or eat humble pie over its policy so far. In 1988 when the policy, which I have described, of buying out pig breeders and livestock breeders was initiated, there were many hundreds, even thousands of pigsties and poultry sties in the New Territories. To render all these little farms operating under totally unlicensable conditions into a state in which they could comply with all the

Ordinances was certainly beyond the resources which the Government could put into it. So there was no question, in my view, of a full licensing system prior to an attempt to reduce the number of underprovided-for poultry and pig farms in the New Territories. So the order was: get the problem down to a reasonable size, and for those who are prepared to do it properly, license them. There are resources required for that but they are not nearly so great as they would have been had we started with that system in 1988.

MR LAU WONG-FAT (in Cantonese): Sir, will the Government inform this Council why it is bent on controlling the livestock breeders through the issuance of licences even when its trial schemes cannot provide an effective and practicable way to deal with animal wastes thus far?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, the trial schemes have shown very clearly that the "pig on litter" system can be very effective and should be economic in New Territories circumstances. I would expect that the majority of farms to be licensed in the future will be dealing with their waste through that system.

MR LAM (in Cantonese): Sir, if the number of farmers applying for capital grants remains low, will the Government consider raising the amount of these grants?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, the amounts of capital grants have borne a relationship with the expected capital expenditure. This would be under regular revision but I do not think the issue of the number is going to be the more important one.

MR TAI: Sir, given that the number of pig breeders and poultry farmers has decreased over the last decade -- especially the last three or four years after the enactment of the Waste Disposal Ordinance -- could the Secretary explain why the problem of animal waste pollution still exists in such an unmitigated form and whether the Environmental Protection Department has been in contact with the farmers and breeders over this?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Of necessity, such a large scale scheme, Sir, must be taken step by step, which means area by area. As Members will recall, the Prohibited Area Scheme was concluded well over a year ago and since then the Environmental Protection Department and many other departments involved have been working progressively into the New Territories. They have yet to complete all the New Territories. It must be remembered that even when they have completed there are still farms left over and there will still be a considerable pollution problem left in the New Territories. We believe that the way in which this will be reduced will be by progressive licensing schemes as well.

MR ANDREW WONG: Sir, would the Secretary care to comment on a very rough estimation on my part, that is, considering that ex-gratia payments to farmers who opt to go out of business are in the region of \$400 per sq m, whereas capital grants are in the region of \$120 per sq m, 80% of the poultry farmers and pig breeders would go out of business thereby making it impossible for local poultry farmers and pig breeders to set an indicator as to what the fair price ought to be on pigs and poultry?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I understand that the Economic Services Branch, one of whose concerns is with food supply, does not feel that the industry will be so reduced that it will provide no effective stimulus and competition in the markets in Hong Kong.

MR PETER WONG: Sir, will the Secretary inform this Council to what extent farm waste now is contributing to the poor water quality in and around Hong Kong waters?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, this is a reducing problem because of the action which is being taken about it. But in the northern part of the New Territories where the bulk of the pig population remains, this is still a very substantial problem. I cannot really take it as a percentage of the territorial whole but up in those areas it is a very substantial part of it.

MR LAU WONG-FAT (in Cantonese): Sir, will the Government inform this Council why it

should on the one hand maintain that the duck breeders need no control because they are not causing pollution and thus the Government has no intention of compensating farmers who are forced to go out of business while on the other hand claim that those duck farmers who cause pollution to the environment will be prosecuted?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, the ex-gratia scheme which we have described for pigs and poultry is of course aimed at preventing pollution. If there was not the pollution prevention element in it there would not be such a scheme. The pollution is very serious. The Administration considered and the Finance Committee of this Council agreed that public money should be used to encourage farmers, who could not provide adequate waste facilities, to go out of the business. In the case of duck farmers, they have naturally, in their organization, a very effective built-in waste system in the ponds and the fish which live in them. So there is really little justification for spending public money to buy out the farmers. In the case of duck farmers who are on land, we have said we will consider the possibility of extending the ex-gratia system to them. They are the most likely of the duck farmers to cause substantial pollution and to fall foul of the Water Pollution Control Ordinance and become possibly subject to fines. So we are, as I have said, looking at the possibility of giving them an out option also.

Day activity centres for the mentally handicapped

2. MR ARCULLI asked: Will the Administration inform this Council :

(a) what are the existing criteria for admission to Day Activity Centres and whether such criteria place the severely mentally handicapped at a disadvantage when they seek admission when compared to those who are low or moderately mentally handicapped;

(b) whether there is a shortfall in the number of places available to mentally handicapped in Day Activity Centres and, if so, the extent of such shortfall; and

(c) what measures it is proposing to take for the severely mentally handicapped after they leave rehabilitation school at the age of 16 so as to improve the existing sad and tragic position as they are otherwise either left at home or sent to Macau or China?

SECRETARY FOR HEALTH AND WELFARE: Sir, the objective of Day Activity Centres (DAC) is to help mentally handicapped persons become more independent in their daily living and prepare them for sheltered or supported employment where possible.

Admission criteria for DACs include essentially two points:

(a) First of all, as DACs cater for mentally handicapped persons, aged 15 and above, who lack the ability to benefit from vocational training and sheltered or open employment, the applicant should have potential to learn and be able to receive and follow simple instructions.

(b) However, DACs do not accept people who are bed-ridden or require infirmary care or other forms of medical care.

It is clear that the criteria do not discriminate against severely mentally handicapped persons. All applicants meeting the criteria are treated equally when they seek admission. To facilitate the placement of pupils, including the severely handicapped pupils, from special schools into various post-school services for disabled adults, the placement procedures have recently been reviewed and streamlined. In addition, a set of standardized admission criteria and guidelines for adult services has been adopted by all non-governmental organizations.

I am very sad to say that there is a shortfall of 2 176 DAC places. Provision of an additional 1 000 places by 1994-95 is planned.

In view of the fact that time is required to overcome the shortage of DAC places, the Social Welfare Department has introduced home-based training programmes as an interim measure for mentally handicapped persons awaiting placement so that they can receive training in self-care and other maintenance or supportive services in their own homes. The aims of the programmes are to minimize the adverse effect of school leavers staying idly at home and to maintain and develop the skills which they acquired from special education to facilitate their future placement.

MR ARCULLI: Sir, bearing in mind that complaints of discrimination have been received from mothers of severely mentally handicapped persons regarding admission into DACs

will the Secretary for Health and Welfare please elaborate on several points referred to in the third paragraph of her reply, namely:

-- when the review was carried out;

-- how the placement procedures were streamlined; and

-- how the Administration will ensure that the set of standardized admission criteria and guidelines used by all non-governmental organizations will be observed?

SECRETARY FOR HEALTH AND WELFARE: Sir, I think I should perhaps elaborate on my main answer with some statistical facts to indicate that there is indeed no discrimination. From the 10 DACs of the Social Welfare Department, data indicate that 42% of the trainees are severely mentally handicapped; 29% are low or moderately mentally handicapped; and the remainder 29% are persons with multiple handicaps. So statistics themselves speak for the non-discrimination. With regard to the last part of the question, the criteria were formulated and endorsed by an ad hoc group on the placement of special school leavers in June last year, chaired by the Commissioner for Rehabilitation and with representatives from the Hong Kong Council of Social Service and concerned departments. Indeed, from the experience of streamlining, the admission standards for various post-school services have been worked out and agreed by all service agencies. Therefore it is very evident that some of the agencies now can no longer confine their services to specific groups of disabled persons and they do share a common objective.

MR BARROW: Sir, could the Secretary advise how many beds are available in special wards for those whose handicaps make day care inappropriate, and whether there are any additional facilities being planned in order to help reduce the tragic cases referred to by Mr ARCULLI?

SECRETARY FOR HEALTH AND WELFARE: Sir, I do not have, offhand, the precise figures but I doubt very much whether there is any DAC in hospital as designed because DACs are not part of the hospital setup. Indeed, as I implied in my main reply, people who require hospital care are not admitted to DACs.

MRS LAU: Sir, in relation to the existing DACs, can the Secretary inform this Council whether the Administration would consider specifying a fixed ratio between the low or moderately mentally handicapped and the severely mentally handicapped, so as to ensure that those who are severely mentally handicapped will not be unfairly discriminated against?

SECRETARY FOR HEALTH AND WELFARE: Sir, I think the application of a ratio itself has an implication for discrimination. The shortage of places in DACs, as I see it, is attributable to several factors. First of all, there is a real shortage of places, particularly because the development of new DACs requires co-ordination with different departments and takes considerable lead time to plan and to implement. Another factor is the reliance in the past and, also now, on some outdated policy objectives and standard models of provision. We have three stages of provisions on a progressive basis: the DAC where trainees should theoretically progress to Sheltered Workshop (SW) and thereafter to supported employment and open employment. But there is hardly any mobility; people are stuck there. The discharge rate is 5% on an average for DAC and 12% for SW. So we need a much more innovative approach towards the types of services and employment, and this indeed is being addressed through the Green Paper Committee and through various other sub-committees. We need to invent and implement innovative new services so that we can actually help the parents to look after the trainees in home surroundings, not specifically in centres. And we need to create a much better environment for DAC trainees to be properly trained, perhaps to move upwards to SW, and SW trainees to move upwards to open employment or self-employment. So these are being positively explored by the Green Paper Working Group and by members of the non-government organizations.

HIS EXCELLENCY THE PRESIDENT: Could I encourage Members to ask short supplementaries, and encourage shortish answers too, please.

MRS TAM (in Cantonese): Sir, will the Government inform this Council whether the admission criteria for the four DACs scheduled to be put into service next year are the same as those currently adopted by DACs for mentally handicapped in general; and whether consideration will be given to handling the severely, moderately and low mentally handicapped persons separately?

SECRETARY FOR HEALTH AND WELFARE: Sir, yes to all the three parts of the Honourable Mrs Rosanna TAM's question.

HIS EXCELLENCY THE PRESIDENT: That was indeed short.

MR PETER WONG: Sir, there is a real fear by parents of handicapped children that the existing shortfall, as well as emigration of qualified workers, will mean that the handicapped children will have to fend for themselves in the years to come. Will the Administration confirm that it is fully committed to ensuring that both facilities and suitably qualified staff will be available to look after this very unfortunate part of our society?

SECRETARY FOR HEALTH AND WELFARE: Yes, Sir.

DR IP: Sir, will Government inform this Council whether all those who are on the waiting list for DACs are now receiving the home-based training programme which is an interim measure? If not, can home-based training programmes be increased such that all those on the waiting list for DACs could be accorded a temporary facility?

SECRETARY FOR HEALTH AND WELFARE: My answer to this question, Sir, is no. We have only four teams at the moment serving 80 clients. It is a multi-disciplinary team which we only brought into being last year. A fifth team will be in service by October 1991 covering in effect all the five regions of the territory. But I feel that the home-based training programme has potential for major development and Members will recall that way back in 1987 we introduced a higher disability allowance in order to help the parents look after those who need special care at home, particularly those who have children or adults at home who are disabled.

MR EDWARD HO: Sir, I have difficulty in understanding the Secretary's very short "Yes" reply to Mr Peter WONG on Government's commitment. Her information in the main reply

was that there is a shortfall now of 2 176 DAC places and an additional 1 070 places would only be available in 1994-95. My question is: what will be the demand then in 1994-95, and also when will the full demand be met?

SECRETARY FOR HEALTH AND WELFARE: The full demand will be met progressively, Sir. The shortfall is calculated by means of identifying those who are already on the waiting list plus 30% to allow for those who may or may not have reported to us. So the commitment that the Government has entered into is a genuine one because we are addressing the problem from various angles. We are addressing the problem from the static provision of services such as the current model of DAC, SW and various others, plus also new ideas for implementation. And I would have liked to share, with your indulgence, Sir, some of the new ideas which would perhaps better allow me to answer Mr HO's question.

For example, in the DACs, we are training some of the staff and re-training some of the teachers there in order to teach them a skill which will enable the trainees to move up to a different training level. And we are also introducing direct paramedical support service in the DACs thereby improving service for facilitating mobility of trainees from DACs outwards to SWs and thence outwards to other forms of employment or indeed, self-employment. For SWs also, we are introducing in conjunction with the Technical Education and Industrial Training Department some pilot projects to help people to better establish themselves in terms of working in an environment which will be very conducive to self-help and also supported employment. These are but a few examples of the sort of thinking we are undertaking in order to improve the situation.

Additionally, we are introducing new forms of care and attention services for the mentally handicapped because they may not benefit from training and yet they are not requiring medical care. So we are attacking the problem from a multi-faceted angle, Sir. We are fully committed to helping the parents to look after their disabled children at their homes.

MRS LAM (in Cantonese): Sir, part of my question has been asked by my colleagues, but regarding the remaining 1 100 mentally handicapped persons, could the Secretary inform us whether there is any plan by the Government to provide them all with DAC places by a specific year?

SECRETARY FOR HEALTH AND WELFARE: I am afraid, Sir, I cannot give an answer as to whether the services could be fully provided at a specified time. All I can say, Sir, is that we will do our very best within the resources available. By resources I mean financial resources and also manpower resources.

MR ARCULLI: Sir, the Secretary for Health and Welfare has given us the statistic of 42% regarding the admission into DACs for the severely mentally handicapped. Can the Secretary also give us figures regarding the demand in that particular sector as compared to the other two, namely, the moderately and the multiple-handicapped, so as to see whether the 42% is in fact proportionate to the demand in that particular sector?

SECRETARY FOR HEALTH AND WELFARE: Sir, according to the statistics available in Hong Kong under the Rehabilitation Programme Plan, the number of severely mentally handicapped persons are 3 932; the moderately handicapped persons are 23 362; and the mildly handicapped persons are 87 608. If there were discrimination, Sir, it would be in favour of the severely mentally handicapped.

Structural safety for buildings on newly reclaimed land

3. MR LAM asked (in Cantonese): In view of the land subsidence occurring in recent years around the buildings in the Tai Po Industrial Estate and the Lung Tin Estate in Tai O which were built on newly reclaimed land, will the Administration inform this Council:

(1) whether the huge cracks recently discovered on the walls of certain units in On Ning Gardens in Tseung Kwan O have been caused by the subsidence of the newly reclaimed land; and

(2) whether proper surveying procedures are in place to ensure that newly reclaimed land is sufficiently stable before approval is given for commencement of construction works upon the land?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, when a building is built on reclaimed land, the developer and his architect must design for a certain degree of settlement, which is likely to continue for some years after completion of the building. The cracks which have occurred in some ground floor slabs and partitions in three blocks in On Ning Gardens, which is a Private Sector Participation Scheme estate, are not in the structural parts of the building. They are due to a slightly greater settlement under the slabs than anticipated. Since in the structural design the foundation rests on piles driven through to the bed rock there is no question about the structural stability of the blocks as a whole. I understand that remedial works on the affected slabs and partitions are being carried out by the developer.

Sir, we are very experienced in reclamation projects in Hong Kong and staff of the Civil Engineering Services Department and the Territory Development Department monitor both the placing of reclamation fill and the subsequent settlement very carefully and with highly professional methods.

MR LAM (in Cantonese): Can the Secretary inform this Council whether subsidizing buildings built on newly reclaimed land are structurally dangerous?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: No, Sir. When a building, as I said, is built on reclaimed land, it has to be designed for a certain degree of settlement and even for a certain degree of settlement after the completion of the building. And the foundations of the building must also comply with the building construction regulations and these drawings for foundations are carefully checked by the Building Authority. So almost all multi-storey buildings are normally supported on piles driven into solid rock.

MR MCGREGOR: Sir, could the Secretary say who will pay for the remedial work required on buildings, particularly private sector buildings, built on reclaimed land where the damage is not the fault of the constructor or developer?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, that is something of a hypothetical question and the question of fault in these issues is always the one

which is most argued about at this stage. I think that the issue would have to be settled under the terms of the land lease and that would have to be construed to decide what the responsibilities were.

MR CHENG HON-KWAN: Sir, will the Secretary inform this Council whether or not the cracks in On Ning Gardens which are said to be due to the slightly greater settlement are in fact the result of inadequate design by the architect?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, if I were to answer that question, I might well impute a degree of fault to a party, which would be inadvisable. But it is certainly the responsibility of the developer and his architect to ensure that the buildings are built safely and that would have regard doubtless to subsidence and settlement of the ground on which the building stands.

MRS LAM (in Cantonese): Sir, can the Government inform this Council whether there exists a policy to the effect that buildings shall only be built on reclaimed land a certain number of years after the land has been reclaimed?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, in a modern reclamation in Hong Kong, we now generally take steps to accelerate the rate of settlement and, in fact, settlement in an average reclamation, approximately half the final settlement, takes place by the first five months and normally possession of the land is given approximately 30 months after the beginning of filling, so that although there is no regulation, that is the practice. But each reclamation is looked at on its own merits because reclamations do have different characteristics of settlement including the amount of bottom mud that has been left under the fill and also the amount of artificial drainage conduits which have actually been placed in that bottom mud.

MR ANDREW WONG: Sir, would the Secretary inform this Council whether or not the built-up parts of the Tai Po Industrial Estate and the built-up parts of the Tseung Kwan O reclamation are still sinking, and if so, by how many inches or centimeters or millimeters per year?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I have some material on that. I understand that parts of the Tseung Kwan O reclamation are certainly still settling because many parts of it have been reclaimed fairly recently. In the case of Tai Po Industrial Estate, it will be continuing to settle down over very many years still, but the degree of settlement will be extremely small and I do not think it could be measured in inches. We would be measuring the degree of settlement in millimeters at this stage.

MR MCGREGOR: Sir, I find a little difficulty in understanding the question of government responsibility in a reclamation which the Government itself has constructed and on which buildings are piled through to bedrock. The Government approves the plans for the building and therefore the standards which apply. Why is it therefore that the Government does not accept responsibility where settlement causes damage to the buildings? And is there a system by which the developer can appeal to the Government for compensation?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I emphasize that the Government had approved the foundations and the structure of the building under the Building Construction Regulations and that is the main concern. The main concern of the Building Authority is safety and the Buildings Ordinance in its subtitles says it is about health and safety. The cracks in the buildings which we have been referring to through settlement are cracks which have appeared in non-structural parts of buildings on the ground floor and, in the case of On Ning Estate, on commercial premises, not even residential premises. Under the Buildings Ordinance the Government is not responsible for the failure of buildings which have been approved by it and constructed by the developer because the Government's responsibilities are largely tied up with the approval of plans and the inspections cannot cover the full range of the monitoring which must be exercised by the Authorized Person. So, to put it briefly, responsibilities derived from the Buildings Ordinance and the Government's responsibilities would not extend to covering against superficial failures of building material of this kind.

MR LAM (in Cantonese): Can the Government inform this Council whether further survey will be undertaken on the other parts of the new Tseung Kwan O Reclamation before launching other projects?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I think that the method of watching settlement in Tseung Kwan O is totally conventional and totally professional and I see no reason for further survey.

Written answers to questions

Sewage treatment facilities

4. MR PETER WONG asked: Will the Administration inform this Council:

(i) of the priority in resource allocation given to the sewage treatment facilities so that there will be no further slippage in the timetable for declaration of Water Control Zones as set out in the 1989 White Paper on pollution?

(ii) of the proposed costings of the Chemical Waste Treatment Plant at Tsing Yi and how these costs will be recovered?

(iii) whether and what understanding has been reached with the industry and chemical producers/importers to ensure that both the costings and the proposed method of recovering the costs will be acceptable to them?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, the implementation of legislation and the provision of facilities for sewage disposal must go hand in hand, as the question implies. However it is not the timing of the provision of funds for sewage disposal facilities which determines the pace of implementing water control zones. Rather, it is the sufficiency of enforcement staff in the Environmental Protection Department (EPD) and the difficulty in estimating how long each programme of enforcement will take. Enforcement is an activity that needs a great deal of labour, because every factory must be visited, samples must be taken and analyzed, and advice and warnings given. These are all jobs that can be done only by specialist technical staff. Everything possible is being done to find ways to reduce the labour demand, and the simplifications in the control system that were introduced in December 1990, have helped. The Environmental Protection Department has had an increase in staff that is generous in relative terms -- but it is still not enough to implement the

controls as fast as was earlier planned.

Nevertheless, the Government still gives very high priority to the provision of sewage disposal facilities. Approximately \$1.7 billion is now allocated for sewerage improvements. This year, a further commitment of funds will be sought for repair and refurbishment of sewers and the construction of the first phase of the strategic sewage disposal scheme. We will do our best to maintain the programme as set out in the 1991 Review of the White Paper on Pollution.

Sir, concerning the Chemical Waste Treatment Centre (CWTC), its capital cost will be repaid over five years, starting in 1992-93. Five equal instalments of \$260 million will be paid annually to repay the \$1.3 billion cost at money of the day prices (present value \$731 million at 1990 prices).

As to recurrent costs, the operation fees paid to the contractor for the collection and treatment of chemical wastes for an operating period of 15 years will depend on the type and quantity of waste received and will be calculated on a tendered schedule of rates which will be adjusted annually having regard to the Consumer Price Index. The operating costs are expected to average about \$313 million annually over 15 years.

The Government's policy is to recover the full costs of the development and operation of the new facilities and is seeking to generate around \$340 million per annum in revenue for this purpose. The sum is calculated on the basis of recovering the full capital cost of the treatment facilities over a period of 15 years together with estimated operating costs over the same period. The method that Government proposes to recover these costs is a broad based ad valorem levy of approximately 0.75% on chemical imports, a charge on locally manufactured chemicals to ensure compliance with GATT requirements, and a charge on Marpol wastes. These latter two charges have not yet been estimated.

Lastly, Sir, full details of the proposal to recover the costs of the CWTC were included in a consultative document released to industry last month. As part of the consultative arrangements, staff from the Planning, Environment and Lands Branch and the EPD have now completed briefing key industrial groups on the consultative document. I cannot presently say that our proposed method of recovering costs is acceptable to industry, because additional costs are never easy to accept, but we are expecting industry to submit their written views by the 1 August. On the basis of these views,

the Administration will consider what further action, if any, it needs to take on its proposals for the recovery of costs before making a submission to the Governor in Council.

Contracting out of health care services for civil servants

5. DR LEONG asked: Will the Administration inform this Council whether it has any plans to contract out the provision of health care services for civil servants to private practitioners? If so, what are the plans and how will they be implemented?

CHIEF SECRETARY: Sir, the Administration did consider the possibility of contracting out the provision of health care services for civil servants in an overall review of medical facilities for civil servants conducted in 1989. However, this would require substantial additional resources, which were not available at the time, nor is it likely that they will be available in the near future. The establishment of the Hospital Authority, the Report of the Working Group on Primary Health Care and the deliberations of the Medical Insurance Study Group have added new dimensions to the provision of health care services in Hong Kong. The Administration will review its position in respect of civil servants in the light of these new developments.

Old age pension scheme

6. MR MCGREGOR asked: Will the Government begin the process of evaluating the possibility of establishing an old age pension scheme in Hong Kong for all qualified citizens of 65 years of age to replace the present restrictive old age allowance system and can the Government advise on the time scale for completion of such a study?

SECRETARY FOR HEALTH AND WELFARE: The overall objective of social security in Hong Kong is to provide for the basic and particular needs of vulnerable groups in the community, including the elderly, who are in need of financial or material assistance.

Contributory old age pension schemes would be similar to a central provident fund scheme or other compulsory retirement schemes, the motion for which was defeated in this Council last week. The Administration's position was reflected in the speeches from the Secretary for Health and Welfare and the Secretary for Education and Manpower.

Old Age Allowance and Public Assistance are non-contributory social security payments. The former provides a flat-rate allowance to those aged 65 and above to meet special needs arising from old age, while the latter helps those persons, including elderly persons, who do not have sufficient resources to maintain a basic standard of living.

In October 1987, proposals were announced in this Council for a package of improvements to the main social security schemes, including the phased extension of the Old Age Allowance to persons in the 65-69 age group. One element of this proposed package was that all new applicants for the Old Age Allowance should be required to declare that their income and assets did not exceed specified levels. However, following consideration of public views, the Government decided that it would not be appropriate to proceed with the income and asset declaration for new applicants aged over 70, while retaining it for those between 65 and 69. At present, there is still an unresolved debate as to whether to extend this requirement of an income and asset declaration to persons aged 70 and over.

The Government will continuously review the needs of the elderly people. Every effort will be made to improve and expand the current provision of assistance and services for the elderly within the resources available and guided by the accepted principles detailed in the White Paper on Social Welfare into the 1990s and Beyond.

Dangerous signboards

7. MRS LAM asked: In view of the recent cases of falling sign-boards endangering the safety of pedestrians, will Government inform this Council:

(a) what the progress is of the survey conducted by the Buildings Ordinance Office for the purpose of identifying dangerous sign-boards; and

(b) whether there are any plans to expedite the demolition of dangerous sign-boards so as to prevent similar dangerous incidents from recurring?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: By October 1989, a dedicated team in the Buildings and Lands Department had completed the tasks of seeking out dangerous

sign-boards and carrying out surveys on sign-boards in densely populated urban areas. Since then, the work of identifying dangerous sign-boards has been carried out as part of the survey on buildings. Detailed inspections of all pre-war buildings have been completed. The emphasis is now on inspections of post-war buildings in a suspect condition that are without any management organization. Demolition Orders are issued wherever dangerous sign-boards are found. From October 1989 to 30 June 1991, a total of 393 such orders were made.

Government policy is to ensure that sign-boards which may pose a threat to public safety are removed either by the owners themselves or, where necessary, by Government. There are sufficient legal powers for the necessary action to be carried out speedily.

Inter-citizen rights

8. MR MCGREGOR asked: With the exclusion of inter-citizen rights from the Hong Kong Bill of Rights Bill, will the Government now introduce legislation specifically to prevent any form of discrimination against individuals by private citizens and organizations, whether on the basis of race, creed, colour or sex?

CHIEF SECRETARY: Sir, as I have informed this Council in concluding the Second Reading debate on the Hong Kong Bill of Rights Bill 1991 on 5 June 1991, the Administration has already started consideration of the question of anti-discrimination legislation for Hong Kong. However, the legal, social and economic implications of detailed anti-discrimination legislation are complex and they need to be carefully studied before a mature decision can be taken. We would wish to reach an informed policy position on the basis of detailed studies.

Flight safety standards for the new airport

9. MR POON CHI-FAI asked: In view of the public concern over flight safety standards formulated for the new airport following the consultancy studies which have cost hundreds of millions of dollars of public funds, will Government inform this Council:

(a) the reason for not adhering to safety standards in the control of obstructions as applicable to international airports in the planning of the new airport; and

(b) whether any explanation has been given in the consultancy reports for not abiding by the internationally accepted standards?

SECRETARY FOR ECONOMIC SERVICES: Sir, if there is indeed public concern over safety standards adopted in planning the new airport, I welcome this opportunity to clarify the position in this regard. No factor is more important than safety in planning and operating an airport and it is on this fundamental premise that the planning of Chek Lap Kok and the operation of Kai Tak is based.

The new airport is being planned to operate in full compliance with internationally recognized safety standards. The world authority on aviation safety standards and practices is the International Civil Aviation Organization (the ICAO).

Under the relevant ICAO technical guidelines, the hills immediately to the south of the new airport could constitute an obstacle if flight operations were to take place in that area. But with excellent access to the north, east and west of the airport there is no need for any flight operations to take place there; the high ground involved does not, therefore, constitute any threat to the safe operation of the airport. Some minor terrain removal might be necessary from high ground much further away and to the east of the airport on North Lantau and in the Tai Lam Chung Country Park. This will be carried out if the airport master planners recommend that it is necessary in order to comply fully with the relevant international safety guidelines.

Contingency measures for mass transit breakdowns

10. MRS LAM asked: In view of the recent KCR services breakdown and the chaos thus caused to the traffic along the railway line, as well as the failure to arrange alternative means of transport to provide prompt and effective back-up service, will Government inform this Council whether contingency measures are in place for the Transport Department to cope with any mass transit services breakdowns and accidents of various degrees that may occur in different locations and circumstances, in order to minimize the impact of such incidents on the public?

SECRETARY FOR TRANSPORT: Sir, I would like to assure the Council that the Transport

Department does have contingency measures to cope with mass transit breakdowns and accidents in order to minimize their impact on the travelling public. These measures include procedures for rapid dissemination of information during emergencies, strategies to deal with different emergency situations, and co-ordination of alternative transport to relieve passenger congestion at potential problem locations.

Under the current emergency procedures, a major transport operator who has a breakdown or an accident expected to cause service disruption for over 20 minutes is required to notify immediately the police, Information Services Department, other major operators, and the Transport Department. The purpose of such notification is to ensure that, as soon as practicable, the travelling public is informed at the first opportunity, crowd control measures are in place, and any necessary relief transport services are provided without delay. Upon such notification, the Emergency Transport Control Unit in the Transport Department is immediately activated as required. In addition, Transport Department Duty Officers equipped with pagers and mobile telephones are on standby 24 hours a day to co-ordinate emergency measures.

Following a review of recent major incidents, it is apparent that there is room for improvement in the efficiency of communication of individual transport operators. This has been taken up urgently. One of the improvements being pursued is the installation of multi-fax systems to facilitate simultaneous dissemination of information to all parties concerned in response to emergencies.

The Transport Department has also developed a variety of contingency strategies to meet a number of different emergency situations, such as railway breakdowns and tunnel closures, and is now refining them with the police and the transport operators. Because the circumstances of transport emergencies are complex, varied and rapidly changing, these plans are meant to provide only the broad framework for an immediate response. Decisions as to the exact contingency measures to be implemented on the spot will have to be flexible in the light of circumstances of each particular incident.

Any incident affecting a breakdown of mass transit usually involves a rapid build-up of passengers at points of disruption as was evident in the recent Kowloon-Canton Railway services breakdown. The Transport Department has identified a number of potential problem locations, including railway stations, and is developing detailed operational plans for passenger management at these locations

in consultation with the police and the transport operators.

Finally, the Transport Department is closely monitoring and reviewing contingency procedures in the light of experience. However, it should be noted that, while contingency measures help reduce or minimize the adverse impact of transport emergencies on the public, some delays and inconvenience caused by breakdowns and accidents in the mass transit services are inevitable. Hong Kong's public transport systems are fully utilized during the peak periods. Peak hour flows on the KCR are about 50 000 and on the Mass Transit Railway 72 000 in one direction. It would not therefore be realistic to expect passengers displaced from a mass transit service to be provided with immediate and complete relief by other transport modes.

Additional resources for whole-day primary schools

11. MR DAVID CHEUNG asked: As a token of encouragement to primary schools already in whole-day operation, will Government inform this Council whether it will consider giving additional resources to these schools by:

- (a) increasing the class-teacher ratio from 1:1.2 to 1:1.4; and
- (b) providing one additional clerical staff?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the proposal to increase the class-teacher ratio to 1:1.4 is part of the package of recommendations made by the Education Commission in its Fourth Report, to encourage whole-day schooling for upper primary classes (mixed mode operation). Taking into account public comments on mixed mode and the Education Commission's further thoughts on the subject, the Government is now formulating proposals for consideration by the Executive Council. Until a decision is reached in this regard, we do not intend to revise the class-teacher ratio for existing whole-day primary schools.

However, under existing policy, encouragement is given to whole-day schools in the form of an enhancement grant of \$950 per class per annum and a one-off subsidy, up to a maximum of \$20,700 per school, for the purchase of additional classroom furniture. These measures will be reviewed, and other forms of encouragement may be added, when the long-term policy for whole-day schooling is decided.

As regards the second part of the question, there is no clear correlation between whole-day operation and increased clerical work in schools. There have been suggestions, however, that the present workload of clerical staff in schools is too heavy. The Government is therefore considering means of addressing the problem. One possibility under examination is the provision of a micro-computer for each school so that some of the school administration work can be computerized. We believe that this will be more cost effective in the long run than providing additional manpower. This study on enhancing the productivity of clerical staff covers all types of schools and is not confined to whole-day primary schools.

Self-claimed environment protection products

12. MRS TU asked: Will the Government inform this Council:

(a) what attempts the Environmental Protection Department made to verify the credentials of a product between the time of its first public advertisement and the time the Department issued a statement refuting that product's ability to reduce exhaust emissions and enable all petrol engine vehicles to operate on unleaded petrol;

(b) what hard scientific evidence did the Department have to substantiate its refutations against the product;

(c) knowing that other similar products making similar claims were also in the local market, why did the Department refute the claims of only one of these products; and

(d) in refuting the claims made for the product, was one of the Department's objectives to protect the launch of unleaded petrol?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: I think the question refers to a television advertisement of a product which appeared in early February this year in which the Government's green booklet *The Motorists Guide to Unleaded Petrol* was prominently displayed. The advertisement made claims that the product could reduce polluting emissions by 60% and enable all petrol engined vehicles to switch to the use of unleaded petrol without any problems.

The Environmental Protection Department is not of course in the business of

testing or recommending products. However, the Department made a preliminary assessment of the product based on the knowledge of its professional staff of the physical and chemical processes involved in petrol engine combustion, and concluded that to the best of their knowledge, there was no hard scientific evidence to back-up the claims made for this product.

The Environmental Protection Department also checked the status of a document bearing the letterhead of the Royal Aerospace Establishment (RAE), Farnborough, United Kingdom, which was offered by the firm in question to substantiate its claims. Advice received from the United Kingdom Ministry of Defence's (MOD) Defence Research Establishment on the status of this document stated that:

"The assessment did not constitute an official trial and was not conducted on a sound scientific basis. The results quoted represent the observations of non-scientific personnel and their findings have no formal recognition with RAE or MOD."

The advice further stated that the MOD have advised the companies in the United Kingdom which market the product that they would require positive independent scientific proof of the device's effectiveness before considering making any further purchases.

As to parts (c) and (d) of the question, Sir, the Department did not comment on the claims made for this specific product. Rather the comments related to the claims made for this type of product generally. The Government was, and remains concerned that motorists, already perhaps a little anxious and confused when faced with a change, would be misled into believing that their vehicle needed this special device, whereas in reality 70% of vehicles need no adjustment to run perfectly well on ULP and another 17% only require some small adjustment. The Department was concerned that the confusion caused by the promoters of the device, who sought to link it in the advertisement with the Government's unleaded petrol programme, would lead to motorists being unjustifiably conservative and continuing to run leaded petrol for the wrong reasons. Sir, changes are always difficult to implement, and the change to unleaded petrol is no exception. I believe that the EPD acted correctly in trying to reduce the confusion that surrounded this product.

Fax machines for government and aided schools

13. MR DAVID CHEUNG asked: Will Government inform this Council whether it will

consider adding a fax machine to the standard equipment list for government and aided schools with effect from September 1991?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the Government has decided in principle to add a fax machine to the standard equipment list for schools and is examining the feasibility of implementing this decision in September 1992 through a reallocation of resources. In the meantime, if any school is able to identify savings from within its School and Class Grant, the Director of Education will not object to its purchasing a fax machine, the limitation of the standard equipment list notwithstanding.

NICAM system

14. MR HO SAI-CHU asked: Is the Government aware that the sudden announcement in February this year that the two television stations could broadcast programmes in NICAM system with effect from 1 July this year has dealt a severe blow on the visual equipment trade in that stock of products not fitted with NICAM functions is left unsold whereas products fitted with such functions cannot be made available in sufficient quantity to meet market demand? What measures will be taken by Government to prevent the recurrence of similar problems in other trades in future, such as by consulting the relevant trade associations before making any announcement?

SECRETARY FOR HOME AFFAIRS: Sir, prior to the announcement in February this year of the introduction of NICAM broadcasts, the visual equipment trade was made aware of the plan to introduce the NICAM technology on many occasions. For example, in May 1985, a demonstration of the technology was given by the two television broadcasters for the press, sales agents and manufacturers of television sets. In December 1986, the specification for the equipment was distributed by Television Broadcasts Limited (TVB) to sales agents and manufacturers. In May 1987, a technical seminar was organized jointly by TVB and the Radio Association of Hong Kong (which represents the trade). In June 1988, the Post Office contacted the Radio Association of Hong Kong and consulted them on the technical aspects of introducing NICAM broadcast. In May 1989, the Post Office wrote to all known suppliers of television equipment, and consulted them about the price and availability of NICAM-compatible television sets. In February 1990, TVB held a press conference and announced their plan for test transmissions. With all these consultations and publicity, it can hardly

be said that the trade was caught by surprise by the February 1991 announcement.

The timing for the introduction of NICAM broadcast was carefully considered by the Broadcasting Authority. The question of equipment supply was given due consideration before a decision was taken to allow formal introduction of NICAM on 1 July, more than four months after the first announcement was made. For such a versatile market as we have in Hong Kong, this is a reasonable period for the trade to respond to any new demand, and adjust accordingly.

The Government considers that adequate consultation has been made with the trade before NICAM technology was introduced into the broadcasting system. The present system of consultation is considered adequate.

As regards the last question, the Government believes that it is really a matter of commercial judgement for each trade to decide what the market demand for new equipment may be when the new technology is introduced. In a free economy, these matters are best left to commercial decisions.

Inflation

15. MR TAI asked: Will the Administration inform this Council:

(a) whether and to what extent the various measures recently taken by Government to control inflation are effective; and

(b) given Government's policy on the linked exchange rate, how the upward revision of interest rate by 1% has affected the public coffer?

FINANCIAL SECRETARY: Sir, in my speech to the Legislative Council during the motion debate on inflation on 29 May 1991, I referred to the need to take steps to curb inflationary expectations. An important element in that was for the Government to take a lead thus altering the perception that the rise in the rate of inflation was inexorable. Clearly it is in the interests of the community as a whole if those in a position to do so can resist the temptation to raise prices in the expectation of further inflation. Accordingly, while it is our normal policy to revise fees and charges annually, I announced on 29 May that we would place a moratorium on fee

revisions until the end of February 1992. So far the proposed revision of 2 249 fees and charges has been held up.

While the inflationary impact of the original proposals would not have been great even if they had gone ahead, it is clear that by imposing the moratorium a clear example has been set to both the public and private sectors. In this connection, I am gratified to see that this lead has already gained the support of the Housing Authority.

As regards the second part of the question: the increase in interest rates by 1% has benefitted the Government's general revenue deposits in the Exchange Fund by a marginal increase in interest earnings.

Inter-modal co-ordination policy

16. MR CHAN asked: Will Government inform this Council whether the Transport Department's inter-modal co-ordination policy can be implemented with flexibility in the light of different circumstances, so as to enable residents in Siu Sai Wan to have access to more efficient and competitive franchised bus and green minibus services leading to the Chai Wan MTR station?

SECRETARY FOR TRANSPORT: Sir, six franchised bus routes now serving Siu Sai Wan pass close to the Chai Wan MTR Station en route. They provide a capacity for over 4 000 passengers an hour at an average waiting time of six minutes during the morning peak. This is considered adequate to meet the travelling needs of the 16 000 residents now living in Siu Sai Wan.

As part of a planned service improvement programme, a dedicated China Motor Bus service between Siu Sai Wan and the Chai Wan MTR Station will shortly be introduced during the morning peak. This is expected to reduce the average waiting time of passengers bound for the Chai Wan MTR Station to five minutes.

The need to complement existing CMB services with green minibus routes is being kept in view. The Transport Department intends to invite tenders later this year for a green minibus service linking Siu Sai Wan with the Chai Wan MTR Station between midnight and 6:00 a.m.

The Department will continue to monitor closely the adequacy of public transport services for Siu Sai Wan residents. There are plans to further enhance services in early 1993 when the next major intake of population is expected.

Under the Government's inter-modal co-ordination policy, priority is given to efficient mass carriers. Such a policy has always been applied flexibly to meet changing circumstances, including shifts in passenger demand, the utilization and financial viability of various modes, as well as traffic patterns.

Land resumption

17. MR MARTIN LEE asked: Will Government inform this Council:

(i) under what circumstances the Government will invoke the Crown Lands Resumption Ordinance to resume lands that need to be recovered for the redevelopment projects of the Land Development Corporation;

(ii) what compensation the Government will offer to those owners and tenants affected by such land resumption exercises;

(iii) for what reasons the tenants on the third floor of No. 189, Queen's Road East have not been awarded as much compensation as their counterparts in the same land resumption exercise in which the property at Nos. 189-193, Queen's Road East was resumed by the Government under the Crown Lands Resumption Ordinance; and

(iv) what measures the Government will take to rectify such unfair arrangements?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, section 15 of the Land Development Corporation Ordinance provides that the Secretary for Planning, Environment and Lands may recommend to the Governor in Council the resumption of land under the Crown Lands Resumption Ordinance in respect of the Land Development Corporation's redevelopment projects. The section also provides that the Secretary should not so recommend unless, amongst other things, he is satisfied that the Corporation has taken all reasonable steps to otherwise acquire the land, including negotiating for the

purchase of the property on terms that are fair and reasonable. In practice, the Secretary is advised by the Director of Buildings and Lands, who will assess in detail the terms offered by the Corporation to acquire the properties, having regard to the market value of the property interest concerned and the total package of compensation and allowances in other government clearances. Upon receiving the Director's advice, the Secretary may also consult any person not being a public officer whom he considers may assist him in forming an opinion on whether the offer made by the Corporation were fair and reasonable. A recommendation to the Governor in Council to resume land for the Land Development Corporation will only be made when the provisions of the Land Development Corporation Ordinance are fully complied with.

Government will offer compensation to the owners and tenants affected by such resumptions in accordance with the provisions of the Crown Lands Resumption Ordinance, under which there is a right of application to the Lands Tribunal if the offer is not agreed. In addition, ex-gratia allowances such as removal allowances will be payable to those eligible. Rehousing will be offered where appropriate in accordance with the Corporation's eligibility criteria and terms as agreed by the Secretary for Planning, Environment and Lands.

The owner of the third floor of 189 Queen's Road East has agreed to surrender the premises and some others at nos. 187-193 Queen's Road to Government with vacant possession as part of an agreed land exchange to Government. No resumption is involved and hence the Government has no relationship with the tenants of these premises. Any arrangements for compensation are matters between the tenants and the present owner of the premises. Government's resumption included only those property interests not included in the agreement for surrender. The owners and tenants affected in the latter case were offered compensation and rehousing where appropriate in accordance with Government policy.

The relationship between the owner and tenants of the third floor of 189 Queen's Road is subject to the provisions of the Landlord and Tenant (Consolidation) Ordinance and normal commercial practice. Government has little cause to intervene.

Motions

PUBLIC FINANCE ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:

"That with effect from 1 August 1991 the resolution made and passed by this Council on 29 January 1986 and published as Legal Notice No. 20 of 1986 be amended in paragraph (6) by repealing "\$40,000,000" and substituting "\$80,000,000"."

He said: I rise to move the resolution standing in my name on the Order Paper. The purpose of this resolution is to seek approval for raising the statutory limit of indebtedness for the Correctional Services Industries Special Suspense Account in order to accommodate an increased volume of business.

The Correctional Services Department operates a number of industries to keep inmates purposefully occupied. The goods and services provided are supplied to government departments at the cost of materials used and to semi-government and non-government organizations at market prices decided at the discretion of the Commissioner of Correctional Services.

On 29 January 1986, by a resolution of this Council, a Special Suspense Account was established under section 30(1) of the Public Finance Ordinance for the operation of the Correctional Services Industries. Under the accounting arrangements, all payments for the purchase of materials for the industries are debited to the Account and all payments made by client departments and organizations (excluding recoveries above the cost of materials used) for the goods and services supplied by the industries are credited to the Account. The difference between the debit and credit entries represents the stock balance, or the level of indebtedness. Under Clause 6 of the original resolution which established the Account, the maximum ceiling (the statutory limit) of indebtedness may not exceed \$40 million or such lesser sum as the Financial Secretary may determine (the administrative limit).

Owing to the steady growth in the volume of business conducted by the Correctional Services Industries over the years, the level of indebtedness reached \$36.5 million as at 1 October 1990. Business continues to increase, and revision of the limit is needed in order to permit the growth to continue in an orderly fashion. Having regard to inflation since 1986 when the present level of indebtedness was set, and the 100% increase in business volume, it is proposed to increase the statutory limit of indebtedness from \$40 million to \$80 million with effect from 1 August 1991. The revised statutory limit is based on the Correctional Services Department's projected needs over the next five years. A prudent administrative limit, within the revised

statutory limit, will continue to be set from time to time.

Sir, I beg to move.

Question on the motion proposed, put and agreed to.

DUTIABLE COMMODITIES ORDINANCE

THE SECRETARY FOR HEALTH AND WELFARE moved the following motion:

"That with effect from 1 September 1991 Part III of the Schedule to the Dutiable Commodities Ordinance be amended by adding after paragraph 3 -

"4. Subject to such conditions as the Commissioner may impose for the protection of the revenue, duty payable on hydrocarbon oil for use by a disabled person as defined in regulation 2 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.) in a private car, or an invalid carriage, owned and driven by him shall be waived, such waiver to be subject to a limit of 200 litres per month for each such person."."

She said: Sir, I move the motion standing in my name on the Order Paper in respect of the Dutiable Commodities Ordinance.

Under section 4(2) of the Ordinance, this Council may by resolution amend the Schedule to the Ordinance "to increase, decrease, recast, abolish, vary, waive or remit whether generally or particularly any duty imposed therein to any extent whatever".

Part III of the Schedule to the Ordinance sets out the rates and the manner in which duty shall be assessed, payable and refunded in respect of hydrocarbon oil. The proposed amendment to the Schedule seeks to provide that no duty shall be payable on fuel for use in private cars owned and driven by disabled persons, subject to a monthly limit of 200 litres for each disabled person. This is to enhance the mobility of disabled drivers which has been hampered by the increasing cost of fuel. The amendment will come into effect on 1 September 1991 to allow time for instituting the necessary administrative arrangements.

Sir, I beg to move.

Question on the motion proposed, put and agreed to.

LANDLORD AND TENANT (CONSOLIDATION) ORDINANCE

THE SECRETARY FOR HOME AFFAIRS moved the following motion:

"That the Landlord and Tenant (Consolidation) Ordinance be amended in Section 74B(1) by repealing "18 December 1991" and substituting "31 December 1994"."

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

Amending legislation has been passed by this Council each year since 1981 with a view to bringing controlled rents progressively closer to prevailing market rates and eventually allow for decontrol. Indeed, the Government remains committed to phasing out rent controls provided that this can be achieved without adverse social consequences.

Part II of the Landlord and Tenant (Consolidation) Ordinance which controls rent increases of certain post-war premises will expire at midnight on 18 December 1991. It provides security of tenure and controls increases in rent in respect of domestic premises completed before 19 June 1981, tenancies created before 10 June 1983, and tenancies of premises with a rateable value of less than \$30,000 in 1983. As at 1 January 1991, there were about 43 000 units protected by Part II. This number is diminishing at the rate of about 5 000 units a year as they are repossessed by their owners, let out at market rental rates, or demolished for redevelopment.

As at 1 January 1991, tenants of Part II controlled premises were paying an average rent of \$2,565 per month. This represents 62% of the prevailing market rent. Rents are reviewed every two years and, if Part II controls were allowed to lapse on 18 December 1991, tenants of the affected tenancies could be faced with average increases of over 60% in 1992 and 1993. Such increases are considered excessive and socially unacceptable. It is therefore proposed that the life of Part II of the Ordinance should be extended by three years.

In pursuit of Government's commitment to eventual decontrol, great care has been taken to determine an appropriate period for extending Part II. Tentatively, proposals are being formulated to adjust the relevant control mechanism so as to allow Part II rents to rise to within 10% of the prevailing market rents by the end of 1994.

Sir, I beg to move.

HIS EXCELLENCY THE PRESIDENT: There are a number of Members who have already told the Clerk that they have an interest to declare. I will ask the Clerk to read out the names of those Members. If there are in addition to that list any other Members who wish to declare an interest, perhaps they could indicate that after that list has been read out.

CLERK: Mrs Selina CHOW as a director of a company which is a landlord; Miss Maria TAM as a landlady; Dr Henrietta IP as a director of a company which is a landlord; Mrs Rita FAN as a landlady; Mr CHUNG Pui-lam as a landlord and a tenant; Mr HO Sai-chu as a director of a company which is a landlord; Mr TAI Chi-wah as a tenant, a landlord and a director of a company which is a landlord; Mr LAU Wong-fat as a landlord and a director of a company which is a landlord; Mr Ronald ARCULLI as a director and shareholder of a property company; Mr Martin BARROW as a director of a company which is a landlord; Mr Paul CHENG as a director of a company which is a landlord and a tenant; Mrs Peggy LAM as a tenant, a landlady and a director of a company which is a landlord; Mr LAM Wai-keung as a landlord; Mr W S LAU as a director of a company which is a landlord; Dr C H LEONG as a landlord; Mrs SO as a landlord and a director of a company which is a landlord; Mr James TIEN as a landlord and a director of a company which is a landlord.

MISS TAM: Sir, I am a landlady but the company of which I am a director owns a business premises which it operates on, not domestic premises.

MR CHEONG: Sir, I am a director of several companies which are landlords and I myself am a tenant.

MR PETER POON: I am a landlord and I am a director of a company which is a landlord.

MR CHENG HON-KWAN: I am a director of a company which is a landlord.

MR NGAI: I am a director of a property company.

MR LI: I am a director of a number of companies which are landlords.

HIS EXCELLENCY THE PRESIDENT: Does that leave anyone else? Yes, Mr Kingsley SIT.

MR SIT (in Cantonese): I am a landlord and a tenant.

Question on the motion proposed, put and agreed to.

Second Reading of Bills

BANKING (AMENDMENT) (NO. 2) BILL 1991

Resumption of debate on Second Reading which was moved on 8 May 1991

Question on the Second Reading proposed.

MR ARCULLI: Sir, despite the complexity of this Bill, I shall be brief and would only draw to the attention of this Council the essential points and major amendments of special interest to the banking industry. The ad hoc group set up to examine this Bill held seven meetings altogether. I shall only deal with five of these points. The first deals with the restrictions on and sale of shares. Under section 70B(3) of this Bill, where a person acquires or continues to retain shares despite objection by the Commissioner, restrictions on these shares which include, inter alia, the right to transfer shares may be imposed by the Commissioner. Such power has caused concern. The ad hoc group has noted that since the Commissioner's restriction order is not appealable, the person concerned cannot dispose of his shares even if he has a genuine need to do so while the restriction order is still in force.

The ad hoc group felt that this was unfair and has successfully sought amendments to allow the person concerned to apply to the High Court for an order to sell his shares after he has made a request to the Commissioner to do so and such request has either been refused, or not dealt with within one month.

The second point involves the power of the Commissioner. The banking industry was of the view that the new discretionary powers given to the Commissioner by the Bill to regulate risk concentrations was a bit wide. To allay the concern, the Administration has agreed to issue, in consultation with the industry, guidelines to explain how the Commissioner will exercise such powers. Although the ad hoc group is satisfied with this arrangement, I urge the Commissioner to ensure that he would exercise such powers with great care, or it might convey a wrong message.

The third point is to deal with the preservation of secrecy. Section 79A of the Bill requires an authorized institution to observe the provisions of Part XV of the Ordinance on a consolidated or unconsolidated basis or both.

The concern is that a subsidiary disclosing customer information to its parent institution in compliance with the consolidation requirements might breach its duty of confidentiality to its customers.

The Administration has agreed to amend the Bill to protect such subsidiaries from claims by customers where the disclosure of customer information to its parent authorized institution is made pursuant to section 79A.

The fourth point deals with limitation on advances by authorized institutions. The Administration has agreed to a suggestion put forward by the ad hoc group on behalf of the industry that provisions be made in section 81(4) to empower the Commissioner to exempt the financial exposure of an authorized institution to its holding company and one or more of its subsidiaries.

A further exemption will now be introduced in section 81(4) so that where an authorized institution is a subsidiary of the holding company referred to in section 81(1)(c), the Commissioner shall have the discretion to exempt exposure made to its holding and sister companies within the terms of that subsection, subject to any conditions which he may consider appropriate to attach thereto.

The fifth and the last one concerns the underwriting of securities by authorized institutions.

Section 81(6)(i) seeks to provide a proper framework for the control of an authorized institution's risk arising from such activities while shares or debt

securities acquired under an underwriting or subunderwriting contract can be exempted from the limit of 25% of an authorized institution's capital base for a specified period. Such period is to be reduced to seven days from three months as it currently is. The banking industry considered such a cut unrealistic but the Honourable Financial Secretary already addressed this point on 8 May this year when introducing this Bill. I shall therefore not repeat what he said. The banking industry also expressed the view that section 81(6)(i) could mean that the exemption period would run from the moment the commitment to underwrite was signed with the issuer. In response, the Administration has assured the ad hoc group that the seven-day exemption period would be counted from the time when an authorized institution actually acquires the securities. Appropriate amendments will be made to the Bill at the Committee stage to clarify the position.

Sir, lastly, further amendment to the Bill will be made today to clarify the definitions of the terms "associates" and "net debit balance" which the ad hoc group and the Hong Kong Society of Accountants have questioned. I would leave this to my honourable colleague, the Honourable David LI, to elaborate. Sir, with these remarks, I support the Bill.

MR LI: Sir, the Bill before us is the product of close scrutiny by Members of the Financial Constituency.

The Hong Kong Association of Banks, the Hong Kong Deposit-taking Companies Association, and the Legislative Council ad hoc group formed to study the Bill have had many useful exchanges on the subject. As a result of the ongoing dialogue with the Administration, numerous amendments to the Bill have been agreed, and are now being formalized today.

However, a number of items remain to be of concern to the Financial Constituency and must be the subject of continuing discussion.

The amendments to the Banking Ordinance before this Council today institute further supervisions and regulation of the financial industry. In agreeing to these amendments, members of the industry look to the supervisors and the regulators themselves, and most directly to the Office of the Commissioner for complete fairness.

Such fairness should be shown in all dealings, regardless of the place of origin of any institution. All guidelines should be equitably enforced with the widest

degree of understanding and consultation. Most important of all, there should be full and detailed written explanations for the exercise of any discretion by the Commissioner. There is no explicit requirement for the Commissioner to give reasons for the exercise of his discretion under the Guidelines which accompany the Bill. But he has undertaken to give reasons for such exercise, and we welcome such undertaking.

The events of recent days demonstrate clearly both the need for good regulations and for good regulators. They reflect the importance of ensuring both equitable use of authority, and authorities equal to the task of exercising such wide powers responsibly.

Sir, with these remarks, I support the motion.

MR SIT (in Cantonese): I suppose Members will agree with what I shall be saying. It is to serve a three-fold purpose that the Government enacts legislation to monitor the operation of the banking industry. The purpose is: (i) to ensure the proper functioning of banks; (ii) to penalize those who engage in malfeasance in the course of banking activities; and (iii) to protect the interests of depositors. I shall make two points with regard to the proposed amendment before us today. First, clause 4 of the present Bill revises the functions of the Banking Commissioner by deleting "banking supervisory authorities" and substituting "financial services supervisory authorities". In other words, if the amendment Bill is passed today the functions of the Commissioner will be expanded. Why is there a need to expand the functions of the present banking supervisory authorities by revesting them in the financial services supervisory authorities? Is it because some problems have arisen over the present functions of the Banking Commissioner? If yes, who shall be held responsible for these problems?

Clause 27 of the present Bill seeks to amend the limitation on advances by authorized institutions. In other words, is the public to assume that advances by banks to clients and associate banks have been subject to inadequate limitation or supervision? If yes, who shall be held responsible for it?

Having canvassed the above two points, I have a question to ask. Will the approval of the Governor in Council be needed before the Banking Commissioner can order the closure of an operating bank which he has hitherto found to be functioning

properly, financially sound and trouble-free? If no, will it be necessary to amend the relevant provisions of the law in this respect? The BCCI is a case in point. I hope the Government will respond to this as soon as possible to allay the worries of the depositors. Thank you, Sir.

FINANCIAL SECRETARY: Sir, I am grateful to Mr ARCULLI and members of the ad hoc group for their careful scrutiny of and support of the Bill. The discussions have in fact continued over a period of time. In the light of discussions with the ad hoc group and submissions from the banking sector and the accounting profession, we have agreed to make a number of amendments to the Bill. A few technical amendments will also be effected to improve the provisions. I shall explain at the Committee stage the reasons for the amendments that I shall be moving. All the amendments have been agreed with the ad hoc group and some of them will be moved by Mr ARCULLI and some by Mr David LI.

Sir, in answer to Mr ARCULLI, the additional discretions conferred on the Commissioner of Banking for the purpose of regulating risk concentrations are essential for making the banking sector operate within a more flexible regime. I wish to assure Mr ARCULLI and Mr LI however that such discretions will be exercised with the greatest care to ensure the health of our banking system. The guidelines to be issued after the enactment of the Bill are intended to explain how the Commissioner will exercise such discretions. The Commissioner will no doubt ensure that these guidelines are equitably enforced.

Sir, I have noted Mr Kingsley SIT's remarks. I can understand his motivation for making them in the light of recent events. Regulation is a constantly developing area. As I said at the outset of this speech, the discussions leading to this Bill have been taking place over a period of time. It is certainly necessary to examine what happens in the banking sector from time to time so that we can consider what further improvements to our systems are needed, if at all.

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).

FINANCIAL SECRETARY: Sir, I move that Standing Order 11 be suspended to enable me to make a statement.

Question proposed, put and agreed to.

FINANCIAL SECRETARY: Sir, following upon the statement that I made in this Council last week regarding Bank of Credit and Commerce Hong Kong Limited, the Commissioner of Banking this morning made a report to the Governor in Council of the circumstances of the Bank, and its subsidiary deposit-taking company, BCCI Finance International Limited (which I shall refer to hereafter together as "the Institutions"). After considering the report and taking the advice of Members of the Executive Council, the Governor in Council has directed me to petition the High Court for the winding up of the Institutions.

Sir, in all these circumstances surrounding this unhappy affair, and after the most careful consideration it was decided that this was not a suitable case for use of the Exchange Fund to rescue the bank. Furthermore, a decision to open the bank without satisfactory financial support would not have worked. Those depositors first in the queue to get their money out would have benefitted at the cost of the less fortunate who might have got nothing. Only an orderly liquidation would ensure fairness to all.

We are taking this step because we believe it to be in the ultimate interests of depositors. Their interests remain our prime concern. We had hoped that, over the period since the BCCI group's problems first became known, a suitable purchaser would be found. Regrettably, despite considerable efforts over the last week or so, this has not happened. Petitioning for liquidation does not preclude the eventual sale of the institutions, but I do not see any immediate prospect of this.

Clearly liquidation will take some time. However, in order to provide some immediate relief to depositors, I will be approaching the Finance Committee of the Legislative Council on Friday this week for the authority to discuss arrangements with the liquidator to pay off depositors up to 25% of their deposits, subject to a limit. Shortly thereafter we will announce detailed arrangements to implement this

proposal. It is, of course, our intention that relief should be made available in the shortest possible time.

Lastly, Sir, it is a matter of the greatest regret that these institutions, despite perfectly adequate supervision in Hong Kong, should have been put in jeopardy by events outside Hong Kong over which we have no control. Elsewhere, branches and subsidiaries have closed and proceedings have been taken or in contemplation leading to liquidation. Although this provides scant consolation, we are not alone in the problems from which we are suffering.

TRADE DESCRIPTIONS (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 1 May 1991

Question on the Second Reading proposed.

MR TIEN: Sir, before I address this Council on this controversial Bill, may I first of all declare my interest. I am the vice-chairman of the Textile Council whose membership includes the Knitwear Manufacturing Association. I am also the director of a garment manufacturing company but it is not involved in the production of any knitwear.

Sir, the Trade Descriptions (Amendment) Bill 1991, as we understand, is intended to address a problem which has been imposed on Hong Kong since 1985 by the United States unilaterally changing their origin rules for certain categories of piece-knitted knitwear. The change has, in effect, put an additional constraint on Hong Kong knitwear export to the United States by requiring compliance with two different origin rules, that is, it has to be knitted in Hong Kong under the United States rules and linked-and-looped in Hong Kong under the Hong Kong rules. The amendment proposed in the Bill will remove this constraint by allowing the linking-and-looping of certain knitwear to be done outside Hong Kong as a means to reduce the cost of production and keep our knitwear industry internationally competitive.

Since its publication in the Gazette on 26 April 1991, the Bill has attracted much attention from various sectors, notably the manufacturers, the labour unions and the workers concerned. A Legislative Council ad hoc group comprising 12 members has since been set up to examine the Bill. During the past two and a half months,

the group has met on seven occasions, two of which with the Administration and two with various interested parties including representatives of major manufacturers' associations as well as labour union representatives and employees in the trade. Major issues considered and discussed include whether the Bill is justifiable in terms of public interest; whether it would encourage malpractices detrimental to Hong Kong's good trading reputation; how far it would affect our local workforce; and what should be done to protect the interest of the affected workers.

The ad hoc group's view on the Bill, I must say, is divergent. Whilst it is generally accepted that the Bill will directly benefit the knitwear trade, some members feel quite strongly that the benefit may be negligible if we take into account its impact on local employment and the possible abuses and control problems brought by the changes in the law. They also argue that the industry is performing rather well even though it has to comply with two different origin requirements, and there is no indication whatsoever that the industry is losing its competitive edge since the change of United States origin rules in 1985, as reflected in our relatively high quota usage rate throughout these years. This view is not shared by some other members as well as the Administration who have made two related points in response: first, although the net resultant saving in terms of unit cost may not be significant, the aggregated saving is substantial given the total value which amounts to some \$4.8 billion per annum; and second, the Bill is aimed at providing the flexibility of outward processing arrangements. Whether or not the manufacturers would make use of this flexibility is entirely a business decision depending on individual circumstances.

As regards the impact on local employment once the law comes into effect, some Members of the ad hoc group are concerned with the labour unions' estimation that some 9 500 to 25 000 employees would become redundant or under-employed. They are not convinced that the measures proposed by the Administration or the manufacturers could help solve the workers' problems and they share the worry expressed by many workers that they will not be qualified for long service payment or severance payment from their employers in the unfortunate event that they be dismissed or laid-off. Neither would it be easy for such workers to undergo retraining or to change job without suffering from a reduction of take-home pay. On the other hand, some members feel that the size of the problem has been exaggerated. They tend to agree with the Administration's assessment that only around 2 000 workers may be affected. This is based on the fact that of the total 22 million dozens of knitwear exports to Hong Kong's major markets involving the work of 7 500 linking workers, about 20%, that

is, 4.2 million dozens of knitwear or 15 000 workers will be affected by the Bill. Coupled with a general shortfall of workers in the knitwear industry and the Administration's assurance to assist in re-employment and retraining for the affected workers, it is believed that it will not be too difficult for any displaced workers, who are largely in their 20s and early or mid-30s, to change to other employers or to switch to other areas of employment. In any event, members who are in support of the Bill are delighted to note subsequently that two major manufacturers associations have vowed not to retrench any linking workers should the Bill be enacted.

The ad hoc group is also concerned whether the Bill will encourage abuse and malpractice, thus creating control and enforcement difficulties for our trade and customs officials. In this connection, members have been assured by the Administration that a special control scheme has been devised to guard against abuse, and that all necessary efforts will be made to keep the situation under control.

There has been a proposal that the Administration, the manufacturers and the labour unions concerned should join together to continue to lobby the United States Government with a view to reverting to the old origin rules. Having tried many years without success, the Administration is not optimistic that anything could be achieved. Myself and my honourable colleague, Mr Stephen CHEONG, have recently had an opportunity to raise the matter with the United States chief textile negotiator on his visit to Hong Kong a few weeks ago. Again, the message we got was disappointing.

Sir, it is an undeniable fact that our manufacturing industry is facing fierce competition from our neighbouring countries. With the rising production costs in Hong Kong, I think it is vital and necessary for the Administration to do everything possible to remove any obstacle which may lead to a trimming of the competitiveness of our industry. The viability of our industry is not only important in the interest of the manufacturers, but also to the many workers concerned as well as to the community as a whole. My experiences convince me that the labour shortage situation in the textiles industry is not going to diminish quickly as less and less young people are interested in joining the manufacturing sector and because Hong Kong is moving towards a service-oriented economy. With this in mind, I do not believe that the immediate impact of the Bill on our labour force would be as detrimental as some members may advocate. On the contrary, I feel quite optimistic about the future of our skilled workers. The two major manufacturers associations which have formally undertaken not to retrench any linking workers have a strong membership representing

about 80%, and I repeat, 80%, of the total production of knitwears in Hong Kong. This fact should not be taken lightly.

Sir, I would also like to take this opportunity to personally assure all the linking and looping workers in the industry that these rice bowls which were handed to me while I was outside this building will not only be unbroken but will continue to be filled with rice. In the unlikely event that the contrary turns out to be the case, I agree to work closely on behalf of the affected workers to seek reasonable compensation from the two manufacturing associations.

Sir, I have carefully considered the different views expressed by my colleagues in the ad hoc group. For the reasons that I have just explained, and subject to a minor amendment on the effective date to be moved later by the Administration, I support the Bill.

MR CHEONG: Sir, before I address the issues, may I declare interest as the honorary president of two knitwear manufacturers associations and also director of a number of companies that are engaged directly in the manufacture of knitwear. Under those circumstances I will therefore abstain from voting on this particular Bill.

Sir, this particular Bill needs not have been brought to this Council at all, but for the fact that we feel it is only right to do so. Because the net effect of this particular Bill is just one thing: -- the protection of the label of "Made in Hong Kong". Under the current Trade Descriptions Ordinance and origin rules, no garment or sweater that has been made in Hong Kong, that is not looped or linked in Hong Kong can lawfully carry the label of "Made in Hong Kong". But even if we adopt the origin rules of the United States, the garments manufactured out of Hong Kong and knitted in Hong Kong but assembled in China or linked in China can lawfully, under this Ordinance, carry the label of "Knitted in Hong Kong, assembled in China", and that label is also acceptable to the United States customs. Nevertheless, in our view, under the auspices of the Textile Advisory Board, we have done so much to promote the name "Made in Hong Kong", which carries quality product image, that we do not want to really dilute this particular image by not facing up to the issues squarely. So basically, even if this Bill were not to be brought to this Council for amendment today, the manufacturers can still knit the parts in Hong Kong, move their linking operations across China or wherever, and just carry the label of "Knitted in Hong Kong", but assembled either China or Malaysia, and it will be able to go into United

States under the United States origin rules. So their concerns on that score are the same.

Sir, on this particular issue, the Administration and the Textile Advisory Board have acted responsibly for the past six years in trying to negotiate and come to an agreement with the United States Government, who unilaterally -- and I repeat unilaterally -- altered the rules of origin which are quite different from what the rest of the world is adopting. They have unilaterally altered the rules of origin because they have bowed to protectionist pressures from their knitwear manufacturers and because it was erroneously thought that if they required any knitted parts to be knitted in Hong Kong, then the Hong Kong knitwear industry would be finished. But it was not to be. In accordance with the universal practice that confers origin which the EEC and Hong Kong have adopted, the change of shape is in the linking and assembly process. The Americans simply have unilaterally abolished that particular practice and gone for a country of origin requirement that relates to the knitting part. We even went as far as going to the Textile Surveillance Board of the multi-lateral forum of GATT for a ruling as to whether Hong Kong or the United States was right. In the end the ruling said that Hong Kong was right but after that particular ruling and, after repeated negotiations with the United States, they still stuck to their guns. They maintain that as they are the sovereign custom territory they can, through their own customs practices, decide unilaterally on whatever country-of-origin conferring process. This is the situation Hong Kong industry and Hong Kong are facing today and it is after spending six years on this particular subject with no avail that the Textile Advisory Board has advised the Administration that in order to protect the quality image of "Made in Hong Kong" products, the Trade Descriptions Ordinance need to be amended accordingly to enable manufacturers who adopt the United States country of origin rules to sew onto their products "Made in Hong Kong".

I would simply like to emphasize, Sir, again the point that if this Bill is not amended, it will not affect really the survivability of manufacturers because they can be left to do their own things whether they are competitive or not; they have to make their own decision. But why are we doing it? In my view, the main thing is to protect and to enhance the image of the label "Made in Hong Kong".

Sir, I shall abstain from voting.

MR CHAN: Sir, I am opposed to this Bill. I believe it is unnecessary and it will

remove jobs from Hong Kong for no good reason.

At present, linking and looping is carried out in Hong Kong because the "Hong Kong origin" rules recognize linking and looping as the final origin conferring process. The Americans require the knitted panels to be made in Hong Kong but permit linking and looping to be done in China whilst still recognizing the finished garment to be of Hong Kong origin for quota purposes. There is thus no need, for origin or marking reasons, to allow linking and looping to be done in China unless we have no labour to do the job or unless the cost of doing the work in Hong Kong is prohibitive.

Neither is true. The cost advantage of sending the goods to China is very small and perhaps only between 1% and 2% of the cost of the product. We do have labour to do the job. Several thousand workers' jobs are at risk.

It is also the fact that, despite the change in United States origin rules being made in 1985, the knitting trade and industry have been able to export a very high percentage of the knitted goods quota for the United States whilst still doing the linking and looping in Hong Kong. This performance does not suggest that the industry is uncompetitive.

I feel that this legislation is a mistake in that it reduces jobs for Hong Kong workers whilst providing only a small cost advantage to our knitwear industry. Sir, I shall vote against the Bill.

MR MARTIN LEE: Sir, the present Bill has attracted a great deal of controversy and acrimony since its introduction. The strong feelings aroused by the Bill have made it difficult for this Council to get an accurate reading of the economic factors involved. For this reason, several members of the ad hoc group including myself wished to delay the Bill until the new Session of this Council, thereby giving the labour unions, the business sector, and the Administration more time to make their cases clearer and produce firmer evidence to support them. The Administration, however, has refused to do so. In the lack of compelling evidence demonstrating the necessity to pass this Bill today and in the face of the evidence of serious job losses, I must vote against this Bill.

A major reason for the strong reaction to the Bill from the labour sector was the failure of the Administration to consult labour representatives and to give their

opinions the same weight as those of the business sector. Before introducing this Bill, the Administration consulted at length with representatives of the manufacturers affected. Yet, despite the fact that this Bill would have a serious impact on workers, the Administration made absolutely no effort to consult or inform representatives of the labour unions. It seems remarkable that the Administration refused even to consult its own Labour Advisory Board, which was established precisely for the purpose of consultation on issues such as this which have substantial impact on workers. Sir, what is the purpose of having a Labour Advisory Board if the Government is not even willing to solicit its advice on such a matter?

Because of the way in which the Administration ignored them before introducing the Bill, labour unions in Hong Kong quite naturally reacted with suspicion and distrust towards the Bill. If the Bill will bring economic benefits for Hong Kong as a whole, does it not make better sense to deal with the concerns of labour directly during the policy formulation process rather than working behind their back and then springing a finished plan upon them?

As for the content of the Bill, representatives of the manufacturers have argued that the Bill is vital for local manufacturers to remain competitive in the United States market. Clearly, it is the interests of everyone in Hong Kong to ensure that our industries are as competitive as possible internationally. Competitiveness in our industries means not only profits for the industrialists but, just as important, jobs for our workers. I recognize, moreover, that this Bill attempts to respond to a change initiated by the United States Government that demands a different standard in regard to country of origin from that required in Europe.

Throughout the meetings of the ad hoc group, however, the Administration did not present compelling evidence of the need for this Bill. All indications showed that any savings in labour costs from moving the linking and looping jobs across the border would account to only 1% to 2% of total costs. Given more time perhaps the Administration would be able to make a more convincing case of the economic necessity of the Bill.

The labour unions, on the other hand, have stated that many thousands of workers would lose their jobs as a result of the Bill. Estimates of job losses vary widely between 2 000 claimed by manufacturers to over 9 000 claimed by the unions. Unfortunately, we in the ad hoc group were never presented with enough hard evidence to bear out the assertions of either side. Even in the best case scenario, however,

the loss of jobs is quite substantial, and the workers who will lose their jobs will not receive adequate compensation or re-adjustment assistance from the manufacturers under their current proposal.

In order to calm the workers' fear of unemployment, the manufacturers have recently offered to guarantee that no workers will lose their jobs on account of this Bill. While this offer is certainly a positive step, I am afraid that the guarantee in its present form is legally unenforceable, and it is therefore of little comfort to the workers.

For all of these reasons, I urge the Administration to withdraw the Bill. From the beginning, the Administration has appeared to wish to rush through with the Bill against all opposition, even going so far as to set originally a 1 July date for the commencement of this Bill. Rather than pursue such tactics, the Administration should urge the parties involved to work out a solution among themselves, for both the workers and the manufacturers have the same interest in preserving the competitiveness of our industries. If the two parties are unable to reach a compromise, then the Government should undertake a far more detailed analysis of the economic necessity of this Bill and then re-submit it to this Council.

Sir, for these reasons, I oppose this Bill.

MR NGAI (in Cantonese): Sir, the Trade Descriptions (Amendment) Bill 1991 aims at rectifying certain unfair operational requirements faced by the local textile industry. The problem at root may be traced to the rules introduced by the United States in 1985 regarding the place of origin of certain goods. The local textile industry has lost its competitive edge since then as manufacturers are compelled to observe two different sets of rules in their production. The fundamental spirit of this amendment Bill is based on, may I take the liberty to point out here, the consideration that restrictions created by certain provisions in the legislation should not be allowed to become self-imposed fetters that undermine the competitiveness of our textile industry, because in a free market economy, many manufacturers are already making use of the privilege available to them to relocate certain processes in production anywhere they like to enhance their competitiveness.

As we all know, various design and production processes of our garment and textile industries have moved towards value-added products and computerization in face of

protectionist measures from overseas. It is believed that employers and employees share a common wish that our industries should move away as soon as possible from labour-intensive operations. In fact, if the two sets of rules that appear in the Trade Descriptions Ordinance are to be retained, our textile industry will eventually lose its competitive edge. When the market becomes sluggish, the market force may even deal a heavier blow on those labour-intensive processes, so much so that the survival of the textile industry may be threatened. We may end up worse than what we may be under the amendment Bill.

Sir, in view of the above argument, I disagree to any myopic protective measures which may hinder the stride of our industrial development. I support the passage of this amendment Bill. At the same time, employers have already told us that substantive action will be taken to safeguard the interests of affected workers. According to estimates, the total number of workers to be affected by this amendment Bill will be around 2 000 to 3 000 or less. Since the linking-and-looping process still suffers from labour shortage, massive dismissal and unemployment resulted therefrom are unlikely. I believe the employers concerned are in a position to make provision and guarantee for the proper placement of the affected workers.

Sir, with these remarks, I support the amendments.

MR PANG (in Cantonese): Sir, do pardon me for bringing into this Chamber some props which were in fact given to me a while ago by the convener of our ad hoc group. Many Members may have come across bowls of this kind, though some may not. It may even be beyond their imagination that bowls so plain, so rough and so dirty could ever be used as rice bowls. But these are what our workers have been using. They may be strange to some of our Honourable Members who were, if I may say so, born with a silver spoon in their mouth. They may be familiar with golden rice bowls which cannot be broken but not rice bowls which can be smashed to pieces. Just before I entered this building, I was given a hammer, another piece of props. We can hit the bowl with the hammer like this. Well, it does not work; the hammer is fake.

HIS EXCELLENCY THE PRESIDENT: Mr PANG, one moment please. Can I just point out to Members that nobody may bring a weapon into this Chamber. (Laughter) I cannot say that an inflatable hammer is a weapon but could I encourage Members to rely on arguments rather than ingenious or photogenic props? Please go on, Mr PANG.

MR PANG (in Cantonese): Sir, I did not purposely bring this to the Chamber. It was given to me by people outside the Council building.

Sir, although there is a lack of natural resources, Hong Kong has achieved the prosperity and progress it now has today mainly, as we all know, because of its dependence on the diligent and co-operative labouring workers. All along, we have taken pride in seeing products marked with "Made in Hong Kong" label being marketed to Europe, the United States and other countries in the world. The hard-won good reputation it has established in the international trade market has made every citizen of Hong Kong feel honoured. Indeed, this reputation has not been achieved easily. Workers at the grassroot level have sacrificed their youth, toiling and working quietly to cater for the requirements of their employers and Hong Kong's trading partners. They have upgraded the qualities of products continually to meet market demand, ensuring that the exported products have all been completed in Hong Kong before the Government can permit marking of "Made in Hong Kong" label, a sign which has won confidence from importing countries.

Textiles made in Hong Kong, especially knitwears, are well known to the world. The Government and capitalists should treasure the honour and achievement.

We have been complaining that trade protectionism adopted by the European countries and United States has jeopardized the fundamental principle and spirit of free trade. Our labour sector has also explained to its international counterparts from time to time that a whole lot of workers in Hong Kong have depended on processing industries, in the hope that they may understand and sympathize with us. Also, we have often persuaded international union leaders in the same trades that they and their governments should have confidence in the strict provisions under the existing Trade Descriptions Ordinance as far as our products marked with "Made in Hong Kong" label are concerned, and have guaranteed that the products have been made by workers in Hong Kong.

Sir, we are hastily resuming debate upon the Second Reading of the Trade Descriptions (Amendment) Bill today. The major amendment proposed is to empower the Director-General of Trade to issue origin licences in respect of two different processes, thus permitting knitwears made through processes conducted outside Hong Kong to be marked with "Made in Hong Kong" label. In so doing, this may cause confusion in the issuing of origin-conferring licences for local knitwears exported

to the United States and European Common Community. The amendment is so incredible and most unusual. Its motive and purpose have not only shocked the labour sector but also aroused great discontent. Moreover, it will certainly provide importing countries with an excuse to further enhance their trade protectionism. This can actually be described as, to quote Chairman Mao Zedong, "lifting up a rock to let it drop on one's own feet". There will be serious consequences to this and the loss will surely outweigh the gain.

The only reason for supporting the Bill is that by relocating production outside Hong Kong, capitalists may gain additional profits from a saving of 1% to 2% of the total production cost. According to the information provided by the Administration to the ad hoc group, it is also admitted that upon implementation of the amendment, 2 000 to 3 000 out of 7 000 linking-and-looping workers in the trade may face the problem of losing their jobs. Some Members guaranteed that workers would not be displaced. Some said that they had the assurance from the manufacturers that no workers would be retrenched as a result. But are we going to believe it? Which is better and which would we prefer, legislative protection or guarantee by capitalists? As a chain reaction, some 20 000 workers for the production processes subsequent to the linking process may also be affected.

Sir, workers began to stage a hunger strike outside the Legislative Council building last night, and leaders of all trade unions in Hong Kong, including our elected labour consultants and labour representatives, also have a sit-in today. We must realize that workers have their own dignity. They are not begging for mercy, for not breaking their rice bowls, from Members of this Council. What they really want is to safeguard the overall interest of Hong Kong and to look after the interests of the capitalists and the public. They hope that all Members here today can face the facts and be reasonable. May I heartily call upon my colleagues to adopt an attitude of making themselves responsible for the society, and for the sake of their conscience, to consider carefully whether it is worthwhile to support this amendment Bill which serves only the interest of a small group of knitwear manufacturers.

We keep on saying, "We do it for the benefit of our trade, our commerce, our enterprise and our industry." But when production is relocated and moved outside Hong Kong, could we insist on saying that that particular industry is our industry? Are industries in the mainland China, Japan, Malaysia and Taiwan our industries? Yes we do business with them; but their industries are not ours. We will be lying if we say so. Moreover, given that the factories are not in Hong Kong, production is

done and workers are employed outside Hong Kong, in what way will Hong Kong benefit from this industry? Sir, could I urge Members in this Council to think clearly over this amendment. We always complain that protectionism is unreasonable and that importing countries are taking double standard. But will it be another instance of double standard if we amend the Ordinance in this way? Why should we, by way of amending the Ordinance, adopt two different sets of rules regarding the production of knitwear products?

Finally, I earnestly request the Administration to withdraw the proposed amendment Bill. Otherwise, I request Official Members and those Members who have an interest to abstain from voting. Thank you.

MR SZETO (in Cantonese): Sir, the sitting today is the last one of the year. There was a proposal that the passage of the amendment Bill should be postponed. But the idea was vetoed. Why? Maybe they are clear that the amendment Bill is sure to get passed in this last meeting, but it will not be so if passage is left till next Session with directly elected members.

The amendment Bill openly sets its axe to the interests of the labour sector. Yet it is sure to be passed. The case tells us whose interests this Council as a whole represents and takes care of. Friends of the labour sector, as the majority of the populace, are you willing to have the same state of affairs for ever? Are you willing to have Bills that openly do harm to you to get passed one after another without any exception in the new Session? If you want to bring about changes to the existing state of affairs, apart from being united and giving support to the unions, you have to treasure your vote for a directly elected member on 15 September 1991, and make the directly elected members represent your interests. The election on 15 September 1991 is another mode of struggle to vindicate your interests. It is more important than petition, demonstration, hunger strike and so on, and worth our greater support.

Some give the assurance that none of the linking and looping workers will be dismissed as a result of the passage of the Bill. But how to ensure this? Could another piece of legislation be passed for this purpose? What crocodile tears! All breeds of crocodiles are alike in one aspect: they prey. According to official information, relocation of the linking and looping process will only cut production cost by 2%. For this 2%, employers break the rice bowls of 9 500 linking and looping

workers. It means direct harm to the interests of more than 20 000 knitwear workers and the opportunity for them to seek employment will be threatened. Could you be convinced that this kind of employers will honour their words to maintain the workers at the expense of his profits? If one does believe in such promises, he might as well accept that there are cats which do not catch mice. The Clothing Industry Workers General Union stated in a letter to Legislative Council Members, "We knitwear workers are paid on a job basis rather than on a monthly basis. We are only paid when there is work for us. We shall be forced to resign, even if we are not dismissed, in the face of reduced wages or under provision of work. Such being the case, employers may save the severance pay as well. Though it is guaranteed that none will be dismissed as a result of the legislation, what can we do if they dismiss us by other excuses?" Listen to the response of the labour sector to the so-called assurance!

Sir, though I gather that the Bill is sure to get passed today, I still want to register my strong and outright opposition against it. Those of us who oppose the Bill may only comprise a minority, but it is a dignified isolation and we belong to a dignified minority.

Sir, with these remarks, I oppose the motion.

MR TAM (in Cantonese): Sir, I think most of us would not deny that the present prosperity and wealth of Hong Kong are, to a large extent, brought about by our hard-working workers. However, workers in Hong Kong not only cannot enjoy the benefits of economic success, they are also devoid of their entitled job security. In times of economic recession or when unfavourable conditions arise, they are very often the first ones to be sacrificed. The Second Reading of the Trade Descriptions (Amendment) Bill today is a good proof!

According to the Government, the Bill is proposed to save the unpromising knitwear trade. It is hoped that the amendments will lower the cost of production, thus enabling local manufacturers to compete with knitwear traders of South Korea and Taiwan. However, the information published by the Trade Department shows that the quota utilization rate of local knitwear exports to the United States last year was higher than those of Taiwan and South Korea and so on. For example, for item 445/446 sweater, the quota utilization rate was as high as 96.82%, and for item 845(1) blend fabric, the rate even stood at 101.3%, very much higher than those of South Korea and Taiwan. Since Hong Kong can attain such a high quota utilization rate, why then

should the Government insist that the prospect of the knitwear trade is unpromising and break the "rice-bowl" of workers?

More important still, the Bill allows manufacturers to have part of the linking-and-looping process be done outside Hong Kong. This provision will definitely threaten the livelihood of some 9 000 linking-and-looping workers. Since the linking-and-looping process can be relocated to Mainland China, other post production processes can be relocated as well. Hence, the numerous workers engaged in other post-linking-and-looping production processes, such as hand-stitching, cutting-and-sewing, inspecting, mending, laundering-and-pressing and packaging may be affected by the Bill as well. The number of workers affected may well exceed 20 000. Although some traders claim that they would not dismiss one single worker because of this Bill, yet how can the Government stop them if they use other excuses to dismiss the workers? What protections can workers secure? Furthermore, even if workers are not dismissed, manufacturers can render them into a plight of taking the "intravenous drip" (that is, being underemployed). Would workers be more miserable then? It should be noted that many linking-and-looping workers have worked in the trade for 10 to 20 years and are about 30 to 40 years old. It is not easy for them to change a profession. So the Bill will definitely drive them to desperation!

Furthermore, although the relocation of part of the production process can cut the production cost by 3.5%, the actual savings will be about 1% only after offsetting additional expenses on transport, insurance, licensing and administrative cost. Should we be so cruel as to deal a blow against the livelihood of 40 000 workers just to help manufacturers save an iota of money.

Dear colleagues, the labour sector has reacted strongly against this Bill since its introduction into the Legislative Council in late April. Various petitions, demonstrations and gatherings have been organized to reflect their worries and discontent about the Bill. At this moment, there are many infuriate workers gathering outside this building to protest against the Bill. If the Bill is passed today, the disastrous effects resulted can hardly be assessed. The labour relation and social stability will surely be disrupted.

With the economy of Hong Kong being at a low ebb and a surging unemployment rate of 2.4%, should we break the rice bowls of workers for the profits of knitwear manufacturers? We should consider this issue seriously and should not pass this unpopular Bill!

Sir, with these remarks, I strongly oppose the Trade Descriptions (Amendment) Bill 1991.

MR PAUL CHENG: Sir, just to be absolutely sure, I would like to declare an interest as a director of a company which is a buying agent for a wide range of apparel including knitwear.

Sir, forward-looking, competitive advantage, building for the future, meeting the needs for a prosperous Hong Kong. These are important concepts. The Trade Descriptions (Amendment) Bill 1991 provides a unique opportunity to take action that supports these vital concepts. Action that contributes to Hong Kong's strength as an important world community trading centre.

In today's climate, we must be very intentional in how we go about supporting Hong Kong as a vibrant business hub for Asia. The passage of this Trade Descriptions (Amendment) Bill enables us to take positive action. Action that contributes to positive growth for the future.

Passage of this Bill appropriately addresses one of the focuses of the ad hoc group which studies this Bill. Focus was given to the fundamental question of whether or not the Bill is justifiable in the public interest as a whole. It is. By amending the principal Ordinance to allow the Director-General of Trade to specify the place of manufacture or production of certain goods, we are providing for long-term implications that affect both the competitiveness of the industry and the Hong Kong economy.

Although recent years have seen Hong Kong shifting its traditional manufacturing base to a stronger service industry sector, we must also take care of those manufacturing industries which provide for the most viable economic sectors. Our garment industry is just such an economic sector given its halo effect on the service industry from shipping to financial services.

I recognize that concern has been expressed for the possibility of malpractices with the implementation of the proposed amendments. Those who argue against the Bill on this basis have concluded that such malpractices are detrimental to Hong Kong's traditionally good trading reputation.

Let us recognize this for what it is. A possibility -- not a given. The upside of what this legislation offers far outweighs this possible outcome. Given that we are fully cognizant of the possibility of malpractices, we can, and should provide appropriate monitoring through the auspices of our Trade Office.

In fact, I would argue on the other side of those addressing this focus. I believe by being flexible and responsive to a change in rules of origin by only one of our primary trading partners in this industry (the United States), we are stepping up to the challenge of being a credible and effective member of the global economic community. The Honourable Ronald ARCULLI has asked me to indicate that he concurs with these views.

With these remarks, Sir, I support the Bill.

MRS FONG: Sir, the Bill before us is controversial. Its passage could result in the elimination of a number of jobs for Hong Kong workers. On the surface this seems that, but we have to consider this issue more carefully. The fact is that if we do not take this step the jobs will be lost anyway and many more could be lost with them. As legislators it is our duty to consider voices from those being affected and to assess their arguments in the light of the overall interests of the community.

For many years we have seen Hong Kong industries moving to the mainland to secure lower labour and land costs. In fact, many of Hong Kong's exporters have only been able to continue to compete in the international market because of their ability to produce goods at lower cost in the mainland. This relocation of production has in fact been a flight from higher cost just as much as it has been a flight to lower cost. The high cost in turn has been brought about by changes in Hong Kong's economy. It has been the effect of the move of Hong Kong's business sector towards higher added value activities.

Hong Kong's survival depends on its ability to compete internationally. For its manufacturing sector to survive it must be able to export goods at competitive prices. In this regard, we cannot tie the hands of our industries and then expect the prices to be competitive. The Bill is just about such a case of hand-tying. It applies to the origin rules of Hong Kong and the United States and to the fact that the respective rules are out of step with that of Hong Kong, being more restrictive on its exporters

than the United States is on its importers.

If we allow the existing rules to continue our goods will soon not be competitive in the United States market, which is our biggest export market for knitwear. This is a fact and it will not just be the linking jobs that will be lost. There will be a real threat to knitting jobs and to the entire industry.

As legislators it is our duty to look at the whole picture and to support what is best for Hong Kong. In my view, unless there are compelling circumstances, we should not and could not impose tougher requirements on our exporters than the importing countries. I therefore believe that the law must be changed.

Having said this, I fully recognize that we should look after the workers who may be affected or displaced because of changes in the legislation. I understand that the two main manufacturers' associations have committed not to retrench any linking workers because of this change in legislation. Further, if retrenchment happens the affected workers will be fully compensated. I also understand that there should be no lack of alternative jobs because of the shortage of workers in the industry.

Sir, Hong Kong industries are going through a period of change and Hong Kong is moving from a manufacturing based to a financial and service based economy. Everyone in Hong Kong must also adapt and be willing to make changes as a part of this process.

With these remarks, Sir, I support the passage of the Bill.

MR CHOW (in Cantonese): Sir, I am opposed to the amendment Bill. First of all, I do not understand the real motive behind the Government in moving this Bill. Even if this Bill is passed, the production cost would only be reduced by 1% to 2%. Since the wages for linking and looping only account for 3% to 4% of the total production cost, even though the manufacturers relocate this process up northwards, they can only save a quarter to two-thirds of the cost for linking and looping. The benefit is not as great as some people imagine. On the contrary, the 2 000-odd linking and looping workers together with the 20 000 or so workers in the related field such as stitching, darning, laundering, inspecting and packaging will be deeply affected. As they will lose their jobs because of the passage of this amendment Bill, I feel that this amendment Bill will save a little only to lose a lot.

Some Members feel that most of the workers who become redundant are between 20 to 30 years old and can change job easily. In fact, most of the female workers are over 30 years old, and it is difficult for them to change jobs. Besides, linking and looping are special skills. It is really a waste of social resources if they are forced to change jobs.

Concerning the proposed arrangements to be undertaken by the Labour Department, these are only window dressing arrangements. I believe most of the employers will not dismiss linking workers because they do not want to pay the long service payment and severance pay. They will continue operating but underprovide the workers with work. In so doing, they can reduce cost on the one hand, and be exempted from long service payment and severance pay on the other hand. This underprovision of jobs will make workers leave the employment of their own accord.

Meanwhile, this Bill may give rise to fraudulence and malpractices and there will also be difficulties in implementation. This is really a proposal resulting in high cost and low effectiveness. It is learnt that manufacturers have come out with a set of arrangements to address the problems faced by the workers after the passage of the Bill. Under such circumstances, why do the Government not defer the passage of the Bill and let employers and employees sit down to discuss the new arrangements before any decision is made? Is this more constructive in satisfying both sides?

Sir, according to the unemployment figures released by the Census and Statistics Department yesterday, the unemployment rate has risen to 2.4%. In addition, there was a double digit inflation rate, workers from the lower and middle income group are really hard hit. The Government should not hit them further at this stage. It should not chime in with the mentality of the manufacturers to exploit local workers. When this Council debated the motion on Central Provident Fund last Wednesday, workers petitioning outside handed me a piggy bank before I entered the building. Unfortunately this piggy had been sold down the river. Today I was given a rice bowl outside this building. People in the East eat from rice bowls. They are not weapons. But if they are broken, the broken pieces will turn into weapons and they can cut fingers. The blood shed will be the blood of the workers who belong to the lower stratum of our society.

Sir, I am opposed to the Bill.

MISS LEUNG (in Cantonese): Sir, I find it really hard to support the Trade Descriptions (Amendment) Bill 1991 at this point in time. Being almost at the bottom of the pecking order of this Council, so to speak, I must say that many of the views which I would like to put forth have already been covered by other Members before me. Despite this fact, there are a couple of points, mainly about the security of the affected workers, which I would like to raise again.

Firstly, in my view one of the basic principles a legislator must observe is that any draft legislation which may lead to laying off of workers should not be passed into law even if in the end only one person will be affected or displaced. If, upon passage of a Bill, some workers were dismissed or left underemployed, they should first be duly compensated or given retraining or re-employment. The enactment of the Trade Descriptions (Amendment) Bill 1991 will inevitably lead to some production processes in the knitwear industry being relocated outside Hong Kong. As a result, many knitting workers may be displaced or left underemployed and, as a number of Members have pointed out, their livelihood will be affected. Perhaps Members might like to ask at this point what the labour sector is worrying about given the guarantee against undesirable impact on local employment and, in particular, the assurance by the Honourable James TIEN regarding reasonable compensation to the workers in the unlikely event of mass dismissal. As to the guarantee against any undesirable impact of the Bill, the ad hoc group has been given to understand that the Government is going to be one of the two parties which will act as guarantors. The Government has assured the ad hoc group that the following measures will be taken to help the affected workers:

(1) The Labour Department will closely monitor the matter so as to ensure that affected workers will be duly compensated according to the Employment Ordinance;

(2) The Local Employment Service of the Labour Department and the service centre established under the manufacturers associations will provide the necessary employment counselling services;

(3) Retraining programmes will be offered by the Clothing Industry Training Authority and the Vocational Training Council.

These guarantees and measures may, at first sight, appear to be sound and adequate in safeguarding the interest of the workers; but many Members, including myself, doubt

very much if they can be of any substantial help. As the turnover of workers in the knitwear industry is high, the number of workers eligible for long service or severance payment will be small though many may in fact have been dismissed or displaced because of this Bill. Moreover, in the case of some affected workers, the chance of switching to other areas of employment will be slim having regard to age and education constraints.

Turning to the other guarantee, as many Members mentioned in this debate, the manufacturers associations have vowed that the interest of the workers will be taken care of and this commitment was reaffirmed by the Honourable James TIEN in his speech a few moments ago. Nevertheless, I have received a number of representations outside this Council building and, to follow the Honourable SZETO Wah's example, I would like to read out one of these here in this Chamber today. The representation is from the Clothing Industry Workers General Union and a paragraph of it reads as follows:

The manufacturers associations have undertaken not to retrench any linking or looping workers should the Trade Descriptions (Amendment) Bill 1991 be enacted. Such being the case, Councillors may wonder what in fact the union has been worrying about given that guarantee has been offered to guard against layoffs. But Honourable Members might have forgotten that knitting workers do not earn a fixed monthly income. Instead, they are paid on piece-rated basis which means that they will be paid less if sufficient work is not available and they will be left underemployed. In this case, employers will not need to dismiss the workers before insufficient work, which means a decline in pay, will force them to leave the employment. Employers may even spare themselves the severance payment as workers are leaving of their own accord. Moreover, since the assurance is given in such a way that no workers will be displaced because of this Bill, workers will find it hard to bargain if, for some other reasons or excuses held by the employers, they are dismissed unfairly. Furthermore, would Honourable Members agree to accept a guarantee which does not have any legal effect at all?

I share the views of the general union in this respect as, once this Bill passes into law, some manufacturers will certainly move their linking and looping production outside Hong Kong. That is to say, linking and looping workers will most probably not be provided with sufficient jobs because of reduction in local production. Without doubt, as many Members pointed out in this debate, other follow-up production processes including trimming, pressing or hand-ironing, labelling and packaging will go with the linking and looping operations to be relocated outside Hong Kong,

resulting in further displacement of workers in the trade.

Yet we must be aware that the guarantee by the manufacturers associations does not apply to those other workers who may be indirectly affected because of this Bill. So it can be seen that, apart from its soothing effect, the no-retrenchment guarantee serves no other purpose in concrete terms. As it has no binding effect on the employers, the guarantee is legally unenforceable and may, in my view, be only an empty promise.

Sir, I see no justification for any urgent passage of the Bill because of the lack of consultation before the Bill was published in the Gazette and the subsequent failure on the part of the Government to establish a dialogue between the labour and the business sectors. I would therefore like to urge the Government that proper arrangements be made to ensure that a solution acceptable to both parties will be identified so as to protect the interest of the affected workers.

Sir, with these remarks, I oppose the motion.

4.51 pm

HIS EXCELLENCY THE PRESIDENT: I still have the names of five Members who wish to speak in this debate. Time is getting on. I think Members might appreciate a short break before we continue.

5.23 pm

HIS EXCELLENCY THE PRESIDENT: Council will resume.

MR MCGREGOR: Sir, as the convenor and other members of the ad hoc group who studied this Bill are aware, I had difficulty with it from the outset. My worries were threefold. I was concerned that the cost advantage of having linking and looping done in China was hardly worth the effort. The Government provides at an average ex-factory cost proportion of 3.3% for linking and looping in Hong Kong. The transfer of this work to China might therefore save 2% or so of the ex-factory cost of the products. This in turn would translate into an even smaller proportionate saving within the final CIF USA landed price. My second worry was that the government control system used in Hong Kong to ensure that Hong Kong origin products are properly

marked might be put into difficulty when factories were producing knitted goods for the United States market and the European markets at the same time, but with different origin rules. My third concern related of course to the workers engaged in linking and looping in Hong Kong who might lose their jobs. In discussion with the industry I have been assured that the average cost of linking and looping in Hong Kong is much higher than 3.3% of the ex-factory cost. It is said to be nearer 10%. If that is so, then there will be a significant saving in having the work done in China. The Government has assured the ad hoc group that effective control procedures can be put into place to ensure against any origin malpractice. I believe that this can be done. Finally, the trade union representatives inside and outside this Council present a rather confused picture on the number of workers actually engaged in this work in the industry. The government estimates of the job at risk is, I think, about 2 500. The industry estimate is about the same, but the unions provide estimates ranging from 7 000 to 25 000 workers. The knitting industry claims that most displaced workers can easily find other jobs and that the industry will help them to do so. I am aware of course that there is still a labour shortage in most sectors of the economy. In all these circumstances, and although I am frankly uneasy about doing so, I support the Bill.

MR SIT (in Cantonese): This is the final sitting of the Legislative Council and I will be speaking on the Trade Descriptions (Amendment) Bill 1991 on this very special day as after then the Legislative Council will go into summer recess to be followed by its dissolution later on. During the past three years as a legislator, I often had the chance to meet the public at the OMELCO Complaints Division in Swire House. Right opposite to my seat in the reception room, there hangs a plaque presented to the OMELCO from members of the public. On it is the inscription: To make laws to benefit the public. In other words, it is the people's hope that laws passed in this Council will be beneficial to the public. But have we lived up to their expectations? 17 July 1991 will be memorable in the sense that it is the day the Legislative Council held its final sitting and the Government decided to wind up the Bank of Credit and Commerce with more than 40 000 depositors failing to get their money back from the bank; it is also the day the Trade Descriptions (Amendment) Bill 1991.....

HIS EXCELLENCY THE PRESIDENT: Mr SIT, your remarks should be devoted to the subject of the Trade Descriptions (Amendment) Bill, please.

MR SIT (in Cantonese): Yes, I am speaking on the motion. Just a few moments ago, I heard some Members who spoke in this debate assure the labour sector that there was nothing to be worried about as guarantees had been given by the manufacturers associations that no linking or looping workers would be displaced or laid-off because of this Bill. But now we have the closure of a bank despite the Banking Commissioner's guarantee; so I really wonder how many people would still care to believe in such promises and commitments. Some people may say that it is in the interest of our industries for the Bill to be passed into law. Surely I would not attempt to deny this. But as we all know, the benefits brought about by the passage of this Bill will go only to the capitalists and employers. We do hope that the employers can make profits but, at the same time, let us not forget the interests of the workers. Should they also be taken care of; and, if so, how? The Trade Descriptions (Amendment) Bill 1991, if passed, will only provide the capitalists with legal backing so that they can use Hong Kong's quota for export of products manufactured outside the territory. That is to say, manufacturers are allowed to reap profits where profits are not due. In the end, what will the workers get? Perhaps they will not even be able to adequately feed themselves, let alone their families. Of course, the number of workers to be affected may be small. Even if it is going to be 20 000, it will still be a small fraction of our working population. But is it because the number is scant that we can afford to neglect these workers? As far as I know, the Labour Advisory Board has not been consulted on this Bill before its introduction to this Council. Could I ask why a Bill of such importance to both the employers and the employees has not been passed to the Board for advice? Why is it that direct dialogue between the business and the labour sectors has not been established to allow both parties to have a better understanding of the problem about which they are concerned? What are the justifications for passing this Bill into law at this point in time and in such a hurry?

Members of this Council may or may not be aware of the hard lot of our working class. They live from hand to mouth. So, in addition to protecting the interests of the capitalists, I earnestly hope that this Council can take into account the difficulties these affected workers may be facing. What social security benefits will they be entitled to if they lose their jobs, bearing in mind that Hong Kong lacks a system of social security? Although mendicancy, an offence under the law, may not necessarily lead to prosecution, yet are we going to let the unemployed workers become beggars? Perhaps they may apply for public assistance, in which case they should register their names with the Honourable Mrs Elizabeth WONG. I believe that the

present Bill, if passed, will inevitably lead to social unrest. With the recent incident still fresh in memory, the passage of this Bill will further undermine the Government's authority and dampen the expectations the public has of the Legislative Council. In view of the lack of thorough consultation, I am opposed to any urgent passage of the Trade Descriptions (Amendment) Bill 1991. Thank you, Sir.

MRS TU: Sir, during this debate I have been impressed with the fact that the strongest supporters of this Bill are manufacturers while its opponents are not all workers union leaders but mainly professionals and others with no vested interests. Sir, in view of the strong opposition both within and without this Chamber may I suggest that this Bill be delayed for further consultation. At this point in time, I am not sufficiently convinced to support it.

MR ALLEN LEE (in Cantonese): Sir, at first I do not intend to speak on this motion regarding the Trade Descriptions (Amendment) Bill 1991. But after listening to several of my honourable colleagues' speeches, particularly the one by the Honourable SZETO Wah to whom I pay full respect, I feel obliged, as Senior Member of this Council, to openly express my views on this Bill which has in fact been examined by the Legislative Council In-House and the relevant ad hoc group.

Even before this Bill was first introduced to this Council, I knew already that this was going to be a very controversial Bill and anticipated that the bone of contention lay in the conflict of interest among the workers, the employers and the investors. As we all know, export of knitwear products is subject to quota requirements of other importing countries. Hong Kong is not in any position to determine its quota; instead we strive for them. As to the production process, under what conditions will a piece of knitwear be considered as "Made in Hong Kong"? This again is not determined by us but depends solely on the origin rules laid down by other countries. In the case of the United States, basically, a product will be considered to be made in Hong Kong even if the linking and looping process is done outside the territory; but in the case of the European countries the same rule does not apply. Under such circumstances, manufacturers normally would keep their production in Hong Kong. The amendment Bill before us has been thoroughly discussed by the ad hoc group though views expressed have been diverse. This division of views, reflected clearly in the report submitted to this Council by the ad hoc group, was the result of the different interests members of the ad hoc group represented.

Why should I rise to speak then? The Honourable SZETO Wah implied in his speech a while ago that the decision not to defer this Bill seemed to have been made by Members in the In-House meeting. But in view of the controversy arising from this Bill, I am inclined to believe that, instead of further delay, this Bill should be introduced today to allow Members to express their views here in this Council. In fact, the Trade Descriptions (Amendment) Bill 1991 had already been examined and discussed thoroughly before its introduction to this Council. The Honourable SZETO Wah seemed to suggest that some people might worry about the passage of this Bill if it were not put before this Council and passed into law today as the possibility of having the same motion carried in the next Session when the Legislative Council would become more politicized because of the presence of directly elected Members would be remote. Mr SZETO further urged the workers to cast their votes on 15 September to elect those Members who would truly represent their interests. As a matter of fact, I consider myself to be a forerunner among Members of this Council in upholding democracy. In the early Eighties, I told an audience at the University of Hong Kong that we should work towards a democratic government. But democracy and vote-courting are two different things. The people of Hong Kong should elect their representatives to sit on the Legislative Council. The present attempt to politicize the passage of this Bill is regrettable and, I should say, it casts doubt on the integrity of the Honourable SZETO Wah to whom, as I said before, I pay full respect. As a matter of fact, Mr SZETO should have said, "It's Allen LEE, not some people, who insisted in the In-House meeting that this Bill would remain controversial even if it were delayed for another ten years." To put it in this way, I should say, would be more acceptable to me.

Workers contributed much to the prosperity and stability of Hong Kong today. Factory operators, including myself, have been fully aware of their contribution and that accounts for the improvement of living standards of the workers and the people of Hong Kong as a whole. Why should I say so? My 25 years of experience in factory operation tells me that prosperity has been brought about by way of co-operation, communication and mutual understanding between the business and the labour sectors. Without the much needed capital, how are factory operators going to maintain operation to provide jobs for the workers? What will happen if an employer fails to balance his accounts? Capitalists are always depicted as vampires, exploiting workers to the full. In my view, this will only antagonize the workers in such a way as to prevent further co-operation between the employers and the employees and will, strictly speaking, be a contempt to this time-honoured mutual co-operation upon which our

success has so long been hinged. It is for this reason that I consider this Bill a controversial one. Mr LEE Cheuk-yan, a union leader who is particularly concerned about the Trade Descriptions (Amendment) Bill 1991, phoned to discuss with me possible solutions to the present problem. He believed that I, having involved in labour matters for so long, should be in a good position to offer help. Because of his call, I contacted a number of manufacturers and asked them of any possible measures which would prevent displacement or layoffs of workers. The rice bowl the Honourable PANG Chun-hoi showed to this Council is by no means strange to me. Over 20 years ago, I already came across rice bowls more broken than that one. I admit that the well-being and livelihood of workers should be the prime factor for consideration upon passage of this Bill. So, apart from consulting the workers representatives, I also held meetings with manufacturers and more than 200 factory operators and made them offer assurances that no workers would be retrenched upon enactment of this Bill. Many Members asked what if the manufacturers failed to fulfil their promise, bearing in mind that the so-called guarantee, given verbally, would have no legal effect at all. But one must not forget that this Council is here to monitor the matter. Should there be a failure in keeping the promise, this Council can always amend the Ordinance to straighten out the mess arising therefrom. I would say that it would be most tragic for the people of Hong Kong if every matter, social or otherwise, were handled with suspicion and mistrust. It is co-operation, communication and mutual understanding which constitute the working spirit of Hong Kong and which I always advocate. In no way should polarization be encouraged in that the employers and the employees will be divided into two opposing camps. During the last 25 years in Hong Kong, I have never come across any instance of antagonistic working relations between the business and the labour sectors; nor would I like to encounter one in the future. I have seen factory operators wind up business but, with the help and support from the workers, resume operation at a later stage. This should in fact be the essence of today's debate.

I hope Members will consider the call which I gave in the In-House meeting and which I am going to repeat now. Never shall we allow an arbitrary division of employers and employees to widen into two opposing camps; mutual co-operation is what we seek and strive for. In this connection, I support the motion on this Bill, not because I operate factories myself or I am in the knitwear industry, but because I would like to see in this Bill a reaffirmation of the real spirit of Hong Kong. I would request that it be put on record in the Hansard that should any rice bowl be broken, this Council will take action to have it dealt with.

HIS EXCELLENCY THE PRESIDENT: Mr SZETO, are you rising to raise a point which needs elucidating?

MR SZETO (in Cantonese): Yes, Sir.

HIS EXCELLENCY THE PRESIDENT: Mr SZETO, you may speak again, if you want to, in response to something which another Member of the Council has said about your own speech and you wish to correct that point. But you cannot speak again on a substantive or a new point. If you wish to correct some point which you think another Member speaking has misunderstood, please do so.

MR SZETO (in Cantonese): Sir, I should like to ask the Honourable Allen LEE to clarify one point relating to the speech he made a moment ago. As chairman of the In-House meeting on the day in question, could Mr LEE clarify whether the decision to proceed with or defer the present Bill was taken after putting the matter to the vote?

HIS EXCELLENCY THE PRESIDENT: Mr SZETO, I am afraid you would have to rephrase that slightly differently because you are putting Mr LEE in a difficult position: he cannot reply. If you would like to make a comment on that particular point which you think needs clarifying, then you may do so.

MR SZETO (in Cantonese): As far as I can recall, the decision whether to defer the passage of the present Bill was taken without putting it to the vote. Normally, a matter of this kind would call for a vote. But then Mr LEE in taking a decision had this to say: "There is going to be enormous controversy over this one way or the other -- be it deferred or proceeded with. We must get it passed at this meeting."

HIS EXCELLENCY THE PRESIDENT: Mr LEE, you too may correct a point if there has been a misunderstanding. But this must not become a ping pong match between two sides of the Council.

MR ALLEN LEE (in Cantonese): Sir, I cannot see the need for correction. I said earlier that I had taken the decision to have the present Bill laid before the Legislative Council for debate because the members of the ad hoc group were deadlocked over a four to four stalemate.

I stated my stand a moment ago which is that the present Bill be put to the vote before this Council.

HIS EXCELLENCY THE PRESIDENT: Thank you.

FINANCIAL SECRETARY: Sir, I am grateful to Mr James TIEN and members of the ad hoc group for their meticulous consideration of the Bill. I am also grateful for the many views expressed by Members this afternoon. If I would just restate the intention of the Bill. Sir, the Bill is intended, among other things, to enable us to implement a special licensing scheme to remove an unnecessary double requirement on the knitwear industry. That is to say, in respect of certain piece knitted garments for export to the United States, only the panel knitting process as against linking and looping as well, must be done in Hong Kong.

Before I address the concerns raised in the debate this afternoon, I would like to explain the basic principle behind the Bill, namely, that no sector of Hong Kong's economy should be subjected to regulation beyond what is necessary. This principle has been the bedrock of Hong Kong's success because it ensures that our economy is competitive. Most importantly, it has allowed us to maximize the economic benefits and comparative advantages of our geographical location so that we can concentrate our limited resources on whatever we do best in Hong Kong while other activities can move elsewhere.

The arrangements in this Bill fall squarely within this principle. They address a practical problem. Our knitwear industry currently has to meet both the United States requirements for knitting and the Hong Kong requirements for linking and looping in order to export relevant knitwear to the United States with a Hong Kong origin label. Each of these requirements is substantial. Taken together, they constitute an unnecessary regulatory burden on the industry. Our exports must comply with United States rules in order to gain entry into the United States because the

United States can determine origin requirements for goods imported into its territory. We have therefore concluded that it is both unnecessary and unfair to continue to require the industry to meet our rule as well.

Some Members have asked why the change is necessary now, in view of our high rate of utilization of knitwear quota for the United States. Hong Kong faces severe competition from China, South Korea and Taiwan as well as from other emerging suppliers. At a time when the United States market is facing uncertain prospects, average Hong Kong prices of sweaters are 10 to 20% higher than those of our major competitors. Exports to the United States in volume over the last three years declined by more than 10%, although it must be recognized that half of that decline may be attributable to the adverse effects of United States anti-dumping duties on man-made fibre sweaters. Taking all these factors into account, the Administration has concluded that we should act now to maintain Hong Kong's competitiveness.

Sir, let me emphasize that in reaching this conclusion we have taken careful account of the possible impact of these proposals on local employment. It is difficult to estimate precisely the numbers involved but our best estimate is that about 2 500 linkers may be affected. That is why we have emphasized in our discussions with representatives of the industry the importance of dealing fairly with any problems which might arise from the new arrangements. We have asked them to consider re-deployment and special arrangements to ensure that any problems including allegations of unfair treatment can be dealt with. I believe the industry is fully apprised of the need to deal reasonably with these issues and, in particular, with any hardship cases that may arise. I understand that the two main knitwear associations have undertaken to Members not to retrench any linking workers if the Bill is passed. I also understand that the associations have also decided to set up a service centre to help resolve any labour problems. The Clothing Industry Training Authority will help meet any training demands and we will also contact the Vocational Training Council for assistance if the need arises. The Labour Department too stands ready to render assistance to workers.

Sir, some Members have expressed concern that workers who are engaged in manufacturing processes that come after linking and looping may also be affected by the proposed changes. Such manufacturing processes can of course already be performed elsewhere and some manufacturers are already following this option. It is difficult to estimate with accuracy how many additional jobs might now be affected as manufacturers move the linking and looping process elsewhere. Our best

information on 1989 data is that the workforce at the operative level engaged in manufacturing processes that follow linking and looping is some 13 000. The knitwear affected by the proposed changes comprises some 18% of Hong Kong's knitwear access to restrained markets. On this basis, the number of additional workers who might be affected by the change should not exceed some 2 000 or 2 500 but because of the nature of the work we believe that most will be able to find a new job without much difficulty, given that there are some 14 000 reported vacancies in the clothing industry.

Members have also asked whether we should press the United States to change their rules. I am afraid that this is not a practicable proposition. In fact, we have endeavoured on many occasions since 1985 to persuade the United States to revert to the old rules. We have even taken up the issue with the Textile Surveillance Board in Geneva which ruled in our favour. Mr James TIEN and Mr Stephen CHEONG raised this question again with the United States chief textile negotiator on his trip to Hong Kong a few weeks ago. We did the same in Washington earlier this month but we have been unable to persuade them to revert to the old rules. In the end, we have to turn to the present proposals to address the problem once and for all.

Sir, a number of Members have expressed concern about the integrity of our export control scheme. This is an important question. Hong Kong has always taken seriously our obligations to enforce our textiles agreement. To this end we have put in place a textile export control scheme which is widely recognized by our trading partners as one of the most effective in the world. This control system is backed up by vigorous enforcement by the Customs and Excise Department. The Administration recognizes that the changes introduced by the Bill will require special control arrangements to maintain the integrity of our control system. We intend to introduce a special licensing and control scheme designed to enforce different requirements relating to different markets. The new scheme will be modelled on existing arrangements. The Trade Department and Customs and Excise Department will closely monitor this special control scheme and introduce improvements as necessary.

Some Members have expressed concern at the apparent lack of consultation with the labour side, I regard this as an important point. The Bill is primarily concerned with trade arrangements; thus labour consultation was not made prior to the introduction of the Bill. Nevertheless, since the Bill was gazetted on 26 April 1991 we have received and noted comments from many quarters including views in no small measure from the labour side. If the Bill is passed, we trust that the labour side

will feel able to work with the industry, and I am sure they will be able to work with the industry to help to identify any problems which may arise and any measures to address those problems. Certainly, Sir, the Administration will do everything it can to facilitate this process.

Lastly, Sir, our overseas knitwear market is an extremely competitive one. The knitwear industry like any other sector in Hong Kong should be allowed and required to adjust to market forces. Otherwise it will lose out for want of maintaining its competitive edge. In the long run, that could only lead to damage to the industry and consequential damage to its workforce and loss of jobs. The Bill before us will ensure that the industry is not unduly fettered as it competes in the United States market.

Sir, I beg to move.

Question on the Second Reading of the Bill put.

Voice votes taken.

The President stated that he thought that the Ayes had it.

MR MARTIN LEE: May I have a division please?

HIS EXCELLENCY THE PRESIDENT: I am prepared to give a division. The Clerk will read out the names of Members of the Council. Members should say "aye" if they support the motion, "no" if they oppose the motion or they may abstain from voting.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Miss Maria TAM, Mrs Rita FAN, Mr CHENG Hon-kwan, the Secretary for Home Affairs, Mr CHUNG Pui-lam, Mr HO Sai-chu, the Secretary for Planning, Environment and Lands, Mr NGAI Shiu-kit, the Secretary for Transport, Prof. POON Chung-kwong, the Secretary for Security, Mrs Rosanna TAM, Dr Daniel TSE, Mr Andrew WONG, the Secretary for Economic Services, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW, Mr Paul CHENG, the Secretary for Health and Welfare, Mr David CHEUNG, Mrs Nellie FONG, Mrs Peggy LAM, Mrs Miriam LAU, the Secretary for Education and Manpower, Mr W.S. LAU,

Mr J.D. MCGREGOR, Mrs SO CHAU Yim-ping, Mr James TIEN and Mr Peter WONG voted for the motion.

Mr CHAN Ying-lun, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr TAI Chin-wah, Mr TAM Yiu-chung, Mr Ronald CHOW, Mr Daniel LAM, Dr C.H. LEONG, Miss LEUNG Wai-tung, Mr Kingsley SIT and Mrs Elsie TU voted against the motion.

Mr David LI abstained.

The President announced that there were 35 votes for the motion, 12 votes against it and one abstention. He declared that the motion on the Second Reading of the Bill was carried.

Bill read the Second time.

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

SUPPLEMENTARY APPROPRIATION (1990-91) BILL 1991

Resumption of debate on Second Reading which was moved on 3 July 1991

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

Bill read the Second time.

OFFICIAL SOLICITOR BILL 1991

Resumption of debate on Second Reading which was moved on 24 April 1991

Question on the Second Reading proposed.

MR PETER WONG: Sir, the Official Solicitor Bill 1991 is thankfully a less controversial Bill and was introduced into the Legislative Council on 24 April 1991. The purpose of the Bill is to create a statutory post of "Official Solicitor", to appoint the Director of Legal Aid as the first incumbent of the post and to provide for his powers and duties.

In view of the legal profession's concern, an Legislative Council ad hoc group was formed to study the Bill. The ad hoc group has held a total of five meetings, including two meetings with the Hong Kong Bar Association and one meeting with the Administration.

The ad hoc group welcomes the creation of the Official Solicitor because at present there is no single public officer whose duty is to protect the interests in litigation of people under legal disability. The present arrangement that the duties associated with the Official Solicitor are performed by several public officers such as the Registrar General, the Registrar, Supreme Court, the Crown Solicitor and so on is obviously unsatisfactory. Hence, the creation of the statutory post of Official Solicitor is a big improvement over present arrangements.

However, while studying the Bill, the ad hoc group is concerned about two main issues. The first one is the possible conflict of interests between the office of the Director of Legal Aid and that of the Official Solicitor which in fact are occupied by the same person. The second issue is the use of and in the Chinese text of the Bill for "barrister" and "solicitor" respectively.

6.00 pm

HIS EXCELLENCY THE PRESIDENT: Mr WONG, I must interrupt you. It is now six o'clock and under Standing Order 8(2) the Council should adjourn.

CHIEF SECRETARY: Sir, with your consent, I move that Standing Order 8(2) should be suspended so as to allow the Council's business this afternoon to be concluded.

Question proposed, put and agreed to.

HIS EXCELLENCY THE PRESIDENT: Mr WONG, please continue.

MR PETER WONG: Thank you, Sir. Here, I am pleased to say that through the co-operation of the Administration, these two issues have been satisfactorily resolved.

On the first issue, it was acknowledged that it would have been preferred if the office of the Official Solicitor was totally separate and independent. However, this was not practical because of the small amount of work expected. The Director of Legal Aid has assured the ad hoc group that special arrangements will be made to separate the activities of the Office of Official Solicitor from that of the Director of Legal Aid. Only officers assisting the Director in his capacity as Official Solicitor would have access to the Official Solicitor's case files. Similarly, departmental files of other parties to the same proceedings would not be available to officers assisting the Director as Official Solicitor. In addition, a report on the operation of the Official Solicitor Office with special reference to the issue of conflict of interest will be prepared on an annual basis for the information of Members of this Council. Furthermore, a review on the scheme will be conducted in three years' time to assess whether a separate office should be established.

As regards the second issue, the Hong Kong Bar Association strongly objected to the adoption of the term in the Chinese text as an equivalent for "barrister". As all the other issues concerning the Bill have been resolved and in order not to hold up the passage of the Bill, the Administration has agreed that a more neutral term that is "legal practitioner" should be used to replace the two terms "barrister" and "solicitor". By so doing, the conflict over the choice of Chinese terminology for the two terms in question is thereby avoided.

Finally, I would like to thank my colleagues for their contribution, particularly their expert advice, during the scrutiny of the Bill. I said "expert", because all the members of the ad hoc group are either solicitors or barristers and I am the only layman in the group. My special thanks also go to the Administration for their understanding.

Sir, with these remarks, I support the Bill.

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).

Resumption of debate on Second Reading which was moved on 25 May 1991

Question on the Second Reading proposed.

MR CHENG HON-KWAN: Sir, since the Engineers Registration Bill 1989 and the Architects Registration Bill 1989 passed this Council in May last year, there has been a need for similar Bills for the registration of surveyors and planners to be drafted and introduced into this Council. I am very pleased that the debate on the Second Reading of the Surveyors Registration Bill 1991 and the Planners Registration Bill 1991 is now resumed. There is no doubt that a general statutory registration system for the professional surveyors and planners in Hong Kong is required. It is also accepted that the concept of registration is designed to confer on suitable applicants a title which demonstrates to fellow professionals and to the public a high standard of professional training, current competence to practise and relevant background for working in Hong Kong. It does not restrict unregistered persons from practising in Hong Kong.

After the Second Reading of the two Bills, the Hong Kong Institute of Surveyors and the Hong Kong Institute of Planners considered that there was a merit to propose the introduction of an additional clause similar to one in the Engineers Registration Ordinance to restrain any unregistered person from using the title or initials of registered professionals and from carrying on the professional practice in such manner as may reasonably cause any other person to believe that he has been registered.

This proposal has subsequently been agreed by the Administration as well as the ad hoc group to study the Bills. I shall therefore move the amendments to the Bills later during the Committee stage.

With the enactment of these two Bills, the four professions within my functional constituency will have completed the establishment of their registration legislative framework. It is therefore anticipated the registration system will provide a qualification which may in due course be applicable to statutory functions as a full or part requirement. This is a move in the direction towards the long-term aim of achieving more self-regulation by professional bodies.

Sir, with these remarks I support the motion.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, may I thank Mr CHENG for his speech and also Mr Stephen CHEONG, the convener of the ad hoc group to study the two Bills, the Surveyors Registration Bill and the Planners Registration Bill, for their support of the Bill and attention that they have given to it. The initiative for the proposed amendment to this Bill and similarly for the Planners Registration Bill 1991, which I understand will be moved by Mr CHENG later today, came from the Hong Kong Institute of Surveyors and the Hong Kong Institute of Planners who felt the status of the registered professional would be enhanced if the potential to restrain individuals misusing the registered professional title was also extended to firms and companies misusing a title and also to persons who in any way mislead their clients or the public into believing that they are registered professionals when they actually are not.

The amendment, though restricting persons from using a title of registered professional if they are not so entitled, in no way breaches one of the fundamental principles behind the Bills that there should be no closed shop because of registration. Any person, provided they do not claim to be a registered professional surveyor when they are not, can still practise in Hong Kong without hindrance and the register is open to all appropriately qualified, experienced, practising professionals whether or not they are members of the local professional institute.

Registration of those qualified will not be compulsory but there will be obvious benefits accruing from the use of the title Registered Professional Surveyor or Registered Professional Planner.

The Surveyors Registration Bill requires of clause 29 that a Registered Professional Surveyor should specify the discipline in which he or she is qualified so that there is no doubt as to the actual field of expertise of the individual concerned.

In conclusion, I would point out that this amendment which will be proposed as worded, is supported by the Hong Kong Institute of Surveyors and the Hong Kong Institute of Planners respectively. Other minor amendments in relation to clause 2 and 22 are also required to make proper reference to the Legal Practitioners Ordinance.

I support it.

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).

PLANNERS REGISTRATION BILL 1991

Resumption of debate on Second Reading which was moved on 22 May 1991

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).

TOWN PLANNING (AMENDMENT) (NO. 2) BILL 1991

Resumption of debate on Second Reading which was moved on 8 May 1991

Question on the Second Reading proposed.

MRS FAN: Sir, when I spoke on the first Town Planning (Amendment) Bill earlier in this year, I spoke at some length on the need to set up an independent appeal channel to hear appeals against the Town Planning Board's decisions. I also spoke of the Administration's commitment to set up an appeal body to deal with one type of appeal ahead of the comprehensive review of the Ordinance. It is gratifying to know that the Administration has promptly acted on its promise. It has introduced this Bill which seeks to provide for an independent Appeal Board to hear appeals against the Town Planning Board's decisions not to grant planning permission or to grant permission subject to unacceptable conditions.

The ad hoc group set up to study this Bill received three written representations and met representatives of the Hong Kong Institute of Architects, the Law Society of Hong Kong, the Hong Kong Institute of Surveyors and the Royal Institution of Chartered Surveyors (Hong Kong Branch). The points raised were carefully considered

and discussed with the Administration.

Whilst the concerned organizations support in principle the proposal to set up an Appeal Board, they are worried that it will not have the same powers as the Governor in Council. They would also like to see the appeal system to be independent from the government administration and the Town Planning Board. The ad hoc group has therefore concentrated its study in these areas.

The concerned organizations have pointed out that the Governor in Council usually takes a wider perspective in decision making and matters relating to injustice caused by zoning plans could also be brought to it when appeals on planning applications are considered. Moreover, the Governor in Council can also order resumption of land following a rejection of an appeal. They would therefore like to see that the Appeal Board has similar powers as the Governor in Council.

The Administration has assured the ad hoc group that the Appeal Board will have identical powers as those of the Governor in Council for dealing with appeals under the existing section 17(7) of the Town Planning Ordinance. Any arguments which an appellant can at present bring to the attention of the Governor in Council can similarly be considered by the Appeals Board. Moreover, the appellant may appear or be represented at the hearing of the Appeal Board. The group accepts that there is therefore no question of the rights of appeal being eroded.

The Administration also explained that the practice to order resumption is based on an administrative policy and not on a statutory provision in the Town Planning Ordinance. This practice is not applied in all rejection cases and is only applied in cases where the land has been zoned for public purpose on the subject statutory plan and where the prolonged freezing of private development on the land is considered to be causing undue hardship. A major change to the Ordinance would be required if the Appeal Board is to be empowered to make a recommendation to the Governor in Council for resumption. Moreover, there is nothing in the law to prevent the Appeal Board from administratively making a suggestion to the Government for resumption when considered necessary. The group therefore agrees with the Administration that the matter should best be considered in the comprehensive review of the Town Planning Ordinance.

On the independence of the Appeal Board, the ad hoc group has received suggestions that it should be set up under a separate Ordinance and that its chairman should

preferably be a District Court judge, and that no government official or any one who has a vested interest in a case should be appointed to hear it. An alternative suggestion was to channel planning appeals to the Lands Tribunal for determination.

The ad hoc group carefully considered these suggestions. Even though the Lands Tribunal can determine appeals submitted to it under named Ordinances, the group feels that it will not be appropriate to channel planning appeals to that Tribunal for determination as the Tribunal's primary task is to determine compensation claims. The group also feels that as long as the independence of the Appeals Board can be ensured, there is no need for its establishment under a separate Ordinance. On the composition of the Appeals Board, the group agrees that government officials or members of the Town Planning Board should not sit on the Appeals Board and an amendment to this effect will be introduced in the Committee stage. The Administration has agreed to this and has also undertaken to ensure that no members of the Appeals Board panel who has an interest in a case will be appointed to hear that case.

The subject of whether the Appeal Board should be chaired by a judge was deliberated at length. The Administration does not think that in principle, the Appeals Board should necessarily be chaired by a District Court judge. It pointed out that the Appeal Board is an administrative appeals board and does not come under the judiciary system. Appointment of a District Court judge may convey a misleading impression. Moreover the suggestion is not practicable due to a shortage of judges. The Administration's intention is to appoint senior lawyers who are qualified for appointment as judges for that job.

The group sees merit in the proposal to appoint a judge to chair the Appeal Board and feels that a judge is not inappropriate for the type of appeal in question. Although senior lawyers can do the work, a judge is preferred as some of the projects involved can have wide implications and the Appeal Board can also be seen to have an impartial standing. After further discussion and taking into account the Administration's difficulty in appointing a judge for the work, the group agrees to accept a senior lawyer as the chairman and will keep the situation under review. I look forward to the Secretary for Planning, Environment and Land's confirmation of the Administration's position on this matter in his speech.

The Administration has also agreed to some other amendments to the Bill which are made to clarify the intention of the Bill. My honourable colleague, Mr Edward HO, will be moving the amendment in the Committee stage.

Sir, the proposed appeal system may fall short of the expectation of some people but it is one which, in my view, is adequate for the purpose intended, that is to deal with appeals relating to planning applications.

Through the work of this ad hoc group and the one on the previous Town Planning (Amendment) Bill, many representations and views were received. Some of them are more applicable to the comprehensive review which started last week. I am certain that these views will be expressed during the five-month public consultation exercise. Hopefully, many others will also participate by giving their views so that we may eventually have an improved Town Planning Ordinance which can respond to the need of Hong Kong more effectively.

Sir, I support the Bill subject to the Committee stage amendments.

MR TAI: Sir, I rise to speak in support of the Town Planning (Amendment) (No. 2) Bill 1991 which is a consequential amendment to the Town Planning Ordinance as a result of the various suggestions put forward during the consultation stage of the Town Planning (Amendment) Bill passed earlier this year by this Council. The amendment Bill is timely and is made in response to the criticisms made by various sectors arising from the last Town Planning (Amendment) Bill.

About a week ago the consultative document was issued to consult the community on further amendments to the Town Planning Ordinance in matters relating to the implementation and preparation of town plans and the more controversial issues such as the question of compensation for those affected by town plans.

The present Bill largely deals with two aspects. Firstly, it concerns the establishment of an appeal board to deal with appeals under section 17 of the Town Planning Ordinance and the procedure relating thereto. And secondly, it provides for registration of enforcement notice to give prospective purchasers actual notice of the enforcement notice served under section 23 of the Town Planning Ordinance.

Arising out of this Bill, Sir, I detect that the independence and impartiality of the judicial system has been firmly entrenched in the mind of our community and there has been a strong call for the appointment of a member of our judiciary as the chairman of the appeal board. It is however unfortunate, in view of the volume of

work in the judiciary and the shortage of judges, that this reasonable request cannot be complied with.

Sir, the above views are shared by my colleagues in this Council, the Honourable LAU Wong-fat and the Honourable Daniel LAM.

MR EDWARD HO: Sir, as my honourable colleague, Mrs Rita FAN, convener of the ad hoc group to study the Town Planning (Amendment) (No. 2) Bill 1991, has said, the present Bill is in response to the wishes of members of interested professional bodies expressed during the consultation period of the Town Planning (Amendment) Bill 1990 that there should be an independent appeal channel to hear appeal against the Town Planning Board's decisions.

This independent appeal channel was to replace the existing system of appealing to the Governor in Council. Under the existing Town Planning Ordinance, the Town Planning Board makes two kinds of decision against which there may be objections or appeals. The first is the overruling of objections made under section 6 to the draft outline zoning plans published by the Town Planning Board, for which there is no appeal procedure other than submitting the substance of the objections to the Governor in Council for consideration when the draft plan is considered.

The creation of an independent appeal channel for section 6 objections was also discussed by the ad hoc group to study the Town Planning (Amendment) Bill 1990 and it was finally accepted that, as this procedure involved the very core of the plan-making approval procedure by the Governor in Council, the matter will be further pursued during the overall review of the Town Planning Ordinance. Consultation exercise on this review has just started, and I shall defer discussion on that to a later date.

The Appeal Board to be established under the present Bill will hear appeals against the second type of decision made by the Town Planning Board, that is refusals of planning permission under section 16. It will hear the case afresh and decide whether or not the Town Planning Board's decision should be upheld, reversed or varied.

Town planning decisions have enormous financial and social impacts on those affected by them. Contrary to what some may think, those decisions not only affect

the property owners, they also affect people who may be living or working within the properties or in the neighbourhood.

Thus, it is of utmost importance that the Appeal Board would be properly set up so that it is totally impartial, professional and its members devoid of vested interests. Also, it should not be seen as a downgrading of the current appeal system under the Governor in Council: its powers and terms of reference should be such that it is equal to those vested with the Governor in Council. I believe that the Administration will give an assurance to the above to Members of this Council.

My honourable colleague, Mrs Rita FAN, has ably summed up the different points raised by the ad hoc group as a result of representations received from the professional bodies. I shall not repeat those points, but shall simply address the more important changes to the Bill that my colleagues and I have suggested to the Administration, and which amendments I shall move during the Committee stage.

Section 17A of the Bill is proposed to be deleted and the amended section 17A will contain the changes which will have the following effects:

-- Firstly, neither a Town Planning Board member nor a public officer will be appointed as a member of the Appeal Board;

-- Secondly, the Chairman, or the Deputy Chairman of the Appeal Board panel shall not sit on the Appeal Board if he has a direct or indirect interest in the appeal.

-- Thirdly, although the Appeal Board is composed of five members including a Chairman or a Deputy Chairman, and the quorum for hearing and determination of an appeal is only three, a member shall not take part in the determination of an appeal unless he has been present at all the Appeal Board meetings.

Also, the right of the Appeal Board to gain entry into land and premises without serving a notice on the owner/occupant under the proposed section 17B subsections 6(e) and (f) has been deleted. Section 23 has been further amended to answer a point raised by the Law Society on the need for a provision for the enforcement notice to be vacated upon the unauthorized development being discontinued or becoming authorized. This also provides for the serving of a further notice stating such and for the notice also to be registered in the Land Office.

Finally, Sir, there is the question of the chairmanship of the Appeal Board. I

support the views of the professional bodies that the Chairman of the Appeal Board should be from the judiciary, as he would both be experienced and be seen to be totally impartial. I do accept however that the Appeal Board should carry out very much the same functions as the Town Planning Board in the determination of an appeal, and should not be seen as a judicial body. The Administration has advised that there is genuine difficulty of shortage of judges, and I would therefore accept the appointment of a senior lawyer who is qualified for appointment as judges to be the Chairman, provided that the situation will be kept under review.

Sir, the present Bill is but one more step in amending the Town Planning Ordinance, the overall review of which is being carried out. I urge all interested parties to avail themselves of this opportunity and forward their useful comments before the end of the consultation period on 30 November 1991. With these remarks, and subject to the amendments at the Committee stage, Sir, I support the Bill.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I would like to thank the Legislative Council ad hoc group and in particular Mrs FAN for their help in processing the Bill. Mrs FAN's and Mr HO's clear exposition has covered the main issues of concern in the Bill. All that remains for me is to confirm that the Administration will seek to appoint a senior member of the legal profession to act as the Chairman of the Appeal Board Panel, and that the situation will be kept under review. As has been explained to the ad hoc group, the Administration did consider carefully the group's proposal for the appointment of a judge as Chairman of the Appeal Board Panel and also consulted the Registrar of the Supreme Court on the matter. The advice was that because of the very considerable pressure on the courts relating to judicial work, it was not possible for the request to be met. I also am happy to give the assurance sought by Mr HO that the Appeal Board will have the same powers and terms of reference as those of the Governor in Council under the existing section 17(7) of the Town Planning Ordinance.

Sir, I confirm that the amendments to be introduced by Mr HO today at Committee stage have the agreement of the Administration.

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).

TELEVISION (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 24 April 1991

Question on the Second Reading proposed.

MR ARCULLI: Sir, the purpose of the Bill is in the main threefold. First, to amend the Television Ordinance to permit nominee shareholders in television licensee companies; at present such nominee shareholders are prohibited. Secondly, to require an unqualified shareholder to have the approval of the Broadcasting Authority before increasing his shareholding by 2% or more in the voting share of a licensee company with a maximum permitted total holding of 10% of such shares, called the 2% and 10% rules. And thirdly, to provide for general meetings of licensee companies so that the voting of unqualified shareholders at or represented by proxy at such meetings can never exceed 49% of the total exercised at the meeting. And this is called the 49% rule.

The ad hoc group set up to examine this Bill has held six meetings and considered representations received from Television Broadcast Limited (TVB) and Asia Television Limited (ATV). The representation on behalf of ATV was made by my law firm through one of my partners and I therefore declare my interest in this regard.

After careful consideration of the arguments in the representations and the explanations given by the Administration, the group has recommended that the Bill be supported subject to the amendments to be moved by the Secretary for Home Affairs at the Committee stage.

Sir, I would like now to briefly highlight the five major points considered by the group. The first involves unit trust managers. The Administration has explained to the group that a trustee or manager accumulating voting control for television licensee shares could be potentially in breach of both the code on unit trust and mutual funds and his fiduciary obligations. A breach of the code could result in the de-authorization of the fund and hence, the removal of the qualifying characteristic in the proposed sections 17A, subsection 1B(1) of the Bill. The group is satisfied with the explanation provided by the Administration.

The second point concerns voting control exercisable by unqualified voting controllers. The new section 17D restricts the voting control of unqualified voting controllers to 49% and gives a formula for scaling down of such control, if necessary, so that the potential to control a television licensee company at general meetings will normally be in the hands of qualified voting controllers. The group is in support of the proposed new section as amended by the proposed Committee stage amendments.

The third is in respect of restrictions on voting control held by unqualified voting controllers under sections 17E and F. In 1988 this Council, on the passing of the Television (Amendment) Bill 1988, restricted individual unqualified persons to the ownership of no more than 10% of a licensee. And the prior permission of the Broadcasting Authority was required for them to take their shareholding to thresholds of 2%, 4%, 6% and 8%. The Administration believes that these percentages are still valid and they have been retained in the Bill except that in line with other restrictions in the Bill a 49% limit now applies for the voting control of a licensee rather than ownership of shares in the licensee. The group is satisfied that such restrictions on the unqualified voting controllers are necessary.

The fourth is about holding 2% or more in aggregate by an unqualified voting controller under Section 17H. ATV feels that section 17H shall be without prejudice to previous approvals given by the Authority. It is noted that a 5% interest of ATV is held by Societe de Turismo e Diversoes de Macau (STDM), the holding of which was approved by the Authority on 18 September 1989. The Administration considers that this section should not be amended. Nonetheless, they are willing to give an undertaking that the Administration will make a strong and unconditional recommendation to the Authority that any application by STDM under the new section 17F(1) for the exercise of voting control of the voting rights attached to the shares they already owned should be approved. The ad hoc group considers the alternative arrangements by the Administration acceptable.

The last, Sir, deals with the relaxation and removal of restrictions under section 17M and 17N subsection 1A. TVB is of the view that section 17N subsection 1A should be amended to validate retrospectively transfers that would otherwise be void. In reply, the Administration points out that the present wording of the section follows section 44 subsection 1 of the Securities Disclosures of Interest Ordinance (Cap. 396). The group was initially of the view that Cap. 396 might well be similarly

defective and that there was no reason to repeat the mistake. However, TVB states that it does not wish any of their suggested amendments to delay the passage of this Bill. Moreover, the Administration has agreed to bring the concerns of the ad hoc group to the attention of the Secretary for Monetary Affairs who is responsible for Cap. 396.

Sir, with these remarks, I support the Bill.

SECRETARY FOR HOME AFFAIRS: Sir, I move that the Television (Amendment) Bill 1991 be read the Second time.

I am grateful to the ad hoc group comprising Mr Ronald ARCULLI, Mrs Selina CHOW, Mr Andrew WONG and Mrs Nellie FONG for their support and for the very detailed consideration they have given to this complex Bill. They have given the Administration helpful comments and suggestions.

The intention of this Amendment Bill is, broadly speaking, to permit shares in television licensee companies to be transferred to, and held in the names of, nominees whilst at the same time ensure that individuals ordinarily resident in Hong Kong over a period of seven years, and companies ordinarily resident in Hong Kong, retain the potential to control these licensees.

The principal means of ensuring this potential for control is the mechanism, in the proposed section 17D under clause 7 of the Bill, for scaling-down the voting rights of unqualified voting controllers. I shall be moving an amendment at Committee stage to clarify the actual effect of applying the formula used in the scaling-down mechanism.

When imposing restrictions on overseas control we need an effective regulatory mechanism. In the Bill we seek to do this by conferring powers on the Broadcasting Authority to investigate voting control and to make directions where necessary. In investigating suspected breaches of the restrictions on unqualified voting controllers the Authority may, in the proposed section 17G, take into account control by associates and, if necessary, direct such associated voting controllers to terminate their control. We therefore propose to empower the Broadcasting Authority to make such a direction to any voting controller, whether qualified or unqualified, and I shall be moving a Committee stage amendment to this effect. Directions may

also be made under the proposed section 17R and these will have legal effect in the same way as the Broadcasting Authority directions to licensees under section 34 of the Television Ordinance.

Sir, I am aware of the ad hoc group's concern that the powers given to the Broadcasting Authority to place restrictions on shares, effectively to "freeze" such shares, should not cause innocent third parties to be prejudiced. The Administration understands these concerns and has explored various ways of increasing the protection offered to investors in television licensee companies. In view of the possible increased potential for abuse by unscrupulous investors, we have concluded that any further modification to the Bill would be inadvisable, with the exception of a minor amendment to the proposed section 170 which I shall be moving at Committee stage.

Finally, Sir, it has been suggested to the Administration that certain technical amendments would enhance clarity and remove ambiguities. I shall, therefore, be proposing amendments at Committee stage. These amendments would not affect the substance of the Bill.

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).

Committee stage of Bills

Council went into Committee.

BANKING (AMENDMENT) (NO. 2) BILL 1991

Clauses 1, 3 to 10, 14, 15, 17, 19 to 24, 26, 28 to 30, 32 to 39 and 42 to 54 were agreed to.

Clause 2 and 18

MR DAVID LI: Sir, I move that clauses 2 and 18 be amended as set out under my name in the paper circulated to Members.

The original definition of "associate" proposed by the Administration was far too wide and would have caught many innocent people. The proposed amendment to the definition of "associate" makes it clear that a person will be caught only if he has entered into some sort of agreement or arrangement with another person in dealing with the shares of a company or in exercising the voting power in relation to that company.

I further move that clause 18 be amended. The reason for the amendment to the proposed section 70B has already been elaborated earlier by my honourable colleague, Mr Ronald ARCULLI, who spoke on the ad hoc group's concern about the proposed restrictions on and the sale of shares which I need say no more about.

Regarding the proposed section 70D(2) in the Bill as it presently stands, there is a concern that every director and every manager of an authorized institution will be liable under this subsection irrespective of knowledge or reasonable excuse. The proposed amendment to this section will clarify the position by clearly restricting the liability to those directors and managers who have knowingly or wilfully participated in the issue of shares or made improper payment in contravention of a restriction order under section 70B(3).

Sir, I beg to move.

Proposed amendments

Clause 2

That clause 2 be amended, in paragraph (a), by deleting the definition of "associate" and substituting -

""associate", in relation to a person entitled to exercise, or control the exercise of, voting power in relation to, or holding shares in, a company, means any other person in respect of whom that first-mentioned person has an agreement or arrangement, whether oral or in writing, express or implied, with respect to the acquisition, holding or disposal of shares or other interests in that company or under which they act together in exercising their voting power in relation to it;".

Clause 18

That clause 18 be amended --

(a) In the proposed section 70B, by deleting subsection (6) and substituting -

"(5A) Where shares are subject to any restrictions under subsection (3), any person affected by any of those restrictions may request the Commissioner to make an application referred to in subsection (6) (a) in respect of those shares and, where such a request is made, the Commissioner shall, not later than 1 month after that request has been made -

(a) if, by virtue of subsection (8), the Commissioner is prohibited from making such an application, serve a notice in writing on that person stating that he is so prohibited;

(b) in any other case -

(i) comply with that request; or

(ii) serve a notice in writing on that person stating that he does not propose to comply with that request.

(6) Subject to subsection (8), the High Court may -

(a) on the application of the Commissioner, order the sale of any specified shares to which this section applies and, if they are for the time being subject to any restrictions under subsection (3), that they shall cease to be subject to those restrictions;

(b) on the application of a person who has made a request under subsection (5A) where -

(i) paragraph (b) of that subsection applies in respect of that request; and

(ii) he has been served with a notice in writing under paragraph (b)(ii) of that subsection in respect of that request; or

(iii) the period specified in that subsection has expired and neither of the events referred to in paragraph (b) of that subsection has occurred in respect of that request,

order the sale of any shares to which that request relates and that they shall cease to be subject to any restrictions under subsection (3)."

(b) In the proposed section 70B(8), by deleting "subsection (6)" and substituting "subsection (6)(a)".

(c) In the proposed section 70D(2), by adding after ", as the case may be," -

"who knowingly and wilfully permits such an issue of shares or the making of such a payment, as the case may be,".

Question on the amendments proposed, put and agreed to.

FINANCIAL SECRETARY: Sir, I move that clauses 2 and 18 be further amended as set out under my name in the paper circulated to Members.

In the light of comments received from the Hong Kong Society of Accountants, we have reviewed the definition of "net debit balance". The amendment to the definition under clause 2 will reflect more clearly our intention to allow deductions to be made of any accumulated losses over profits and reserves in authorized institutions. I have also included a number of other minor technical amendments to clause 2.

The amendments to the proposed sections 70 and section 70B(7)(b)(i) are to ensure the consistent application of section 70(17). The amendments will enable the Commissioner to extend the period in which he can consider an application by the length of time that a person who has become a controller without the Commissioner's consent takes to respond to his request for further information and to make further representation to the Commissioner.

The proposed new section 70B(13) introduces a provision for the Chief Justice to make rules relating to applications for orders from the High Court for the sale of shares made under section 70B. This is an enabling power which may be useful in

the event that operation of the section reveals practical problems.

Sir, I beg to move.

Proposed amendments

Clause 2

That clause 2 be further amended --

(a) By adding after paragraph (c) -

"(ca) by adding after the definition of "document" -

"exercise", in relation to a function, includes perform and discharge;";".

(b) In paragraph (g), by adding ", but not more than 50%," after "10% or more".

(c) In paragraph (h), by deleting the definition of "net debit balance" and substituting -

"net debit balance", in relation to a company, means the aggregate of the excess of accumulated losses over accumulated profits disclosed in the profit and loss account, and other reserves separately disclosed in the balance sheet, of the most recent audited accounts of the company;".

Clause 18

That clause 18 be further amended --

(a) In the proposed section 70(3)(b)(i), by adding "subject to subsection (17)," before "the Commissioner".

(b) In the proposed section 70(9)(b), by adding "subject to subsection (17)," before "after".

(c) In the proposed section 70(16) -

(i) by deleting "under subsection (3)(a)" and substituting "in writing under subsection (3)(a) or (5)"; and

(ii) by adding "or (9)(b), as the case may be" after "subsection (3)(b)".

(d) In the proposed section 70(17), by adding "or (9)(b)" after "subsection (3)(b)".

(e) In the proposed section 70B(7)(b)(i), by deleting "3 months after the service of that first-mentioned notice" and substituting "the period in respect of which section 70(9)(b) permits such a notice of objection to be so served".

(f) In the proposed section 70B, by adding after subsection (12) -

"(13) The Chief Justice may make rules regulating the practice and procedure in connection with applications (including any class of applications) made under subsection (6).".

Question on the amendments proposed, put and agreed to.

Question on clauses 2 and 18, as amended, proposed, put and agreed to.

Clauses 11 to 13, 16, 31, 40 and 41

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

Under the existing section 63(3)(ii), auditors are only required to confirm in terms of the section that they are not aware of any contraventions. Clause 16 amends this section by requiring an auditor to certify to his satisfaction that an authorized institution has in fact maintained adequate provision in submitting returns to the Commissioner of Banking. This has inadvertently imposed an affirmative obligation on the auditor to make a qualitative judgement concerning an institution's level of provision. This is a departure from the existing approach and is rectified by the amendment to clause 16.

Other amendments to clauses 11, 12 and 13 are mainly technical in nature and seek to improve the drafting of the provisions to take account of the comments of the Hong

Kong Society of Accountants.

As regards clause 31, it deals with large financial exposures acquired under underwriting or subunderwriting contracts under section 87 of the Ordinance.

The new section 81(6)(i) provides that an authorized institution's exposure will be exempted from the 25% large exposure limit for a period of seven days. During consultation some institutions expressed concern that the provisions were not clear as to when the exemption period will start to run.

The amendments to clause 31 and also clause 27 make it clear that the seven day period will only come from a time when shares or equities are actually acquired by the institution rather than at the time of commitment.

It has been our stated intention to harmonize, where appropriate, the secrecy provisions under the various financial services legislation. The proposed amendments to clauses 40 and 41 are modelled on the provisions under the Securities and futures Commission (Amendment) Ordinance 1991 which was enacted on 26 June 1991.

Sir, I beg to move.

Proposed amendments

Clause 11

That clause 11 be amended --

In paragraph (b)(ii), by deleting the proposed sub-paragraph (iii) and substituting

-

"(iii) has failed to maintain adequate provision for depreciation or diminution in the value of its assets (including provision for bad and doubtful debts), for liabilities which will or may fall to be discharged by it and for losses which it will or may incur; or".

Clause 12

That clause 12 be amended --

In paragraph (a), by deleting the proposed paragraph (ba) and substituting -

"(ba) he is satisfied that the company has failed to maintain adequate provision for depreciation or diminution in the value of its assets (including provision for bad and doubtful debts), for liabilities which will or may fall to be discharged by it and for losses which it will or may incur;".

Clause 13

That clause 13 be amended --

In paragraph (a), by deleting the proposed paragraph (ba) and substituting -

"(ba) he is satisfied that the restricted licence bank has failed to maintain adequate provision for depreciation or diminution in the value of its assets (including provision for bad and doubtful debts), for liabilities which will or may fall to be discharged by it and for losses which it will or may incur;".

Clause 16

That clause 16 be amended, in paragraph (b)(ii) -

(a) by adding "it appears to" after "relates,";

(b) by deleting everything after "auditors" and substituting -

"that the institution has failed to maintain adequate provision for depreciation or diminution in the value of its assets (including provision for bad and doubtful debts), for liabilities which will or may fall to be discharged by it and for losses which it will or may incur, and, if it so appears, the reasons or evidence therefor;".

Clause 31

That clause 31 be amended --

(a) By deleting paragraph (b)(i) and substituting -

"(i) in paragraph (a) -

(A) by repealing "3 months, or such further period as the Commissioner approves in writing" and substituting "7 working days, or such further period as the Commissioner approves in writing, and subject to such conditions as he may think proper to attach thereto,"; and

(B) by repealing "or" at the end thereof;".

(b) In paragraph (b)(ii), by deleting "services." and substituting "services; or".

(c) By adding after paragraph (b)(ii) -

"(iii) by adding after paragraph (b) -

"(c) to any holding, approved in writing by the Commissioner, of share capital which is deducted in determining the capital base of the authorized institution."; and".

Clause 40

That clause 40 be amended --

(a) In paragraph (a)(i), in the proposed paragraph (f) -

(i) by adding "an inspector appointed by the Financial Secretary to investigate the affairs of a company," after "the Secretary for Monetary Affairs,";

(ii) by deleting all that appears after "the Commissioner" where it secondly appears and substituting -

"-

(i) it is desirable or expedient that information should be so disclosed in the interests of depositors or potential depositors or the public interest; or

(ii) such disclosure will enable or assist the recipient of the information to exercise his functions and it is not contrary to the interests of depositors or potential depositors or the public interest that the information should be so disclosed;".

(b) In paragraph (a)(ii), by deleting "the full stop and substituting "; or"; and
" and substituting -

"all words after and including "Ordinance," and substituting "Ordinance;"; and".

(c) In paragraph (a)(iii) -

(i) in the proposed paragraph (h), by deleting "relates." and substituting
"relates; or"; and

(ii) by adding after the proposed paragraph (h) -

"(i) to the disclosure of information which has been made available to the
public by virtue of being disclosed in any circumstances in which, or for any purpose
for which, disclosure is not precluded by this section or section 121."

(d) In paragraph (b), in the proposed subsection (5C) by adding after "subsection
(5)" -

"(b), (c), (d), (e) or (f), and shall attach a condition to any disclosure of
information made pursuant to subsection (5) (g),".

Clause 41

That clause 41 be amended, in paragraph (a), by deleting the proposed subsection (1)
and substituting -

"(1) Subject to subsection (3), and notwithstanding section 120, the
Commissioner may disclose information to an authority in a place outside Hong Kong
where -

(a) that authority exercises functions in that place corresponding to the
functions of -

(i) the Commissioner; or

(ii) an authorized statutory office within the meaning of section 120 (5A);
and

(b) in the opinion of the Commissioner -

(i) that authority is subject to adequate secrecy provisions in that place; and

(ii) it is desirable or expedient that information should be so disclosed in the interests of depositors or potential depositors or the public interest; or

(iii) such disclosure will enable or assist the recipient of the information to exercise his functions and it is not contrary to the interests of depositors or potential depositors or the public interest that the information should be so disclosed."

Question on the amendments proposed, put and agreed to.

Question on clauses 11 to 13, 16, 31, 40 and 41, as amended, proposed, put and agreed to.

Clause 25

MR ARCULLI: Sir, I move that clause 25 be amended as set out under my name in the paper circulated to Members.

This amendment is considered necessary for the reasons I explained earlier on.

Sir, I beg to move.

Proposed amendment

Clause 25

That clause 25 be amended, in the proposed section 79A, by adding after subsection (2) -

"(3) No duty which a subsidiary of an authorized institution may be subject to shall be regarded as contravened by reason of the submission of information by the subsidiary to the institution for the purpose of enabling or assisting the

institution to comply with a notice under subsection (1) to the institution."

Question on the amendment proposed, put and agreed to.

Question on clause 25, as amended, proposed, put and agreed to.

Clause 27

MR ARCULLI: Sir, I move that clause 27 be amended as set out under my name in the paper circulated to Members.

Again, the reason for this amendment to the proposed section 81(4) has been explained by me when I spoke on the Bill earlier on. I shall not repeat it here.

Proposed amendment

Clause 27

That clause 27 be amended by deleting the proposed section 81(4) and substituting -

"(4) Where -

(a) the person referred to in subsection (1)(a) is a subsidiary or holding company of an authorized institution or a subsidiary of such holding company;

(b) the holding company referred to in subsection (1)(b)(i) is an authorized institution or the holding company of an authorized institution; or

(c) the holding company referred to in subsection(1)(c) is a holding company of an authorized institution,

the Commissioner may, by notice in writing to the institution, and subject to such conditions as he may think proper to attach thereto in any particular case, specify that subsection (1)(a), (b)(i) or (c), as the case may be, shall not apply for the purpose of determining the financial exposure of that institution and, accordingly, subsection (1)(a), (b)(i) or (c), as the case may be, shall not apply."

Question on the amendment proposed, put and agreed to.

FINANCIAL SECRETARY: Sir, I move that clause 27 be further amended as set out under my name in the paper circulated to Members.

The reason for amending clause 27 has already been explained when I moved the amendments to clause 31.

Sir, I beg to move.

Proposed amendment

Clause 27

That clause 27 be further amended, in the proposed section 81(6) --

(i) in paragraph (b), by deleting "are" and substituting "is"; and

(ii) by deleting paragraph (i) and substituting -

"(i) any financial exposure acquired under an underwriting or subunderwriting contract -

(A) where such financial exposure would, but for this subsection, be financial exposure under subsection (2)(b);

(B) for a period not exceeding 7 working days, or such further period as the Commissioner approves in writing, and subject to such conditions as he may think proper to attach thereto in any particular case;

(ia) any financial exposure acquired under an underwriting or subunderwriting contract where such financial exposure would, but for this subsection, be financial exposure under subsection (2)(c);".

Question on the amendment proposed, put and agreed to.

Question on clause 27, as amended, proposed, put and agreed to.

Schedule was agreed to.

TRADE DESCRIPTIONS (AMENDMENT) BILL 1991

Clause 1

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

The Trade Descriptions (Amendment) Bill 1991 seeks to permit the Director-General of Trade to specify the place of manufacture or production of certain goods, subject to a special licensing scheme. Under the Bill, the Director-General will have the power to specify, by notice in the Gazette, the kind of goods to be covered under such a scheme.

The original target operative date of 1 July 1991 for the Bill has passed. As early implementation of the scheme would enable manufacturers to make more timely commercial decisions, I beg to move Committee stage amendments to the Trade Descriptions (Amendment) Bill 1991 to delete the reference to 1 July 1991, thus permitting the Bill to be operative with immediate effect when published in the Gazette.

On present planning, the Director-General of Trade plans to issue the requisite Gazette notice on 26 July 1991 and begin to implement the scheme as from 1 August 1991.

Sir, I beg to move.

Proposed amendment

Clause 1

That clause 1 be amended --

(a) in subclause (1), by deleting "(1)".

(b) by deleting subclause (2).

Question on the amendment proposed, put and agreed to.

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

Clause 2 was agreed to.

OFFICIAL SOLICITOR BILL 1991

Clauses 1, 4, 5, 8 to 10 were agreed to.

Clauses 2 and 3

ATTORNEY GENERAL: Sir, I move that clauses 2 and 3 be amended as set out under my name in the paper circulated to Members.

Clause 2 is amended by deleting the references to "barrister" and "solicitor" and substituting "legal practitioner". The reasons for this amendment have already been given by Mr WONG.

Clause 3 requires the Official Solicitor to keep proper accounts and to submit a statement of accounts to the Director of Audit every year for auditing and certification. The proposed amendment to clause 3 is to follow the general practice that an auditor's certification is subject to any report (or views) that he may have on the audited statement of accounts.

Sir, I beg to move.

Proposed amendments

Clause 2

That clause 2 be amended --

(a) in subclause (2) by deleting "solicitor or barrister" and substituting "legal practitioner";

(b) in subclause (3) by deleting "barrister and of a solicitor duly admitted under the Legal Practitioners Ordinance (Cap. 159)" and substituting "person admitted as a legal practitioner in Hong Kong".

Clause 3

That clause 2 be amended, in subclause (5), by deleting "together with" and substituting "subject to".

Question on the amendments proposed, put and agreed to.

Question on clause 2 and 3, as amended, proposed, put and agreed to.

Clauses 6 and 7

MRS LAU (in Cantonese): Sir, I move that clauses 6 and 7 be amended as set out under my name in the paper circulated to Members.

The term "magistrate" in clause 6(1) of the Bill is given as in the Chinese text. According to the Interpretation and General Clauses Ordinance (Chapter 1 of the Laws of Hong Kong), courts refer only to the High Court and the District Court. "Magistrate" or "Magistracy" is not and therefore it should not be called so as not to cause confusion. "Magistrate" here refers to a judicial officer sitting in a magistracy. It would be more appropriate to translate it as .

The purpose of amending clause 7(3) of the Bill is to rephrase the Chinese to enable it to convey precisely the connotations of the corresponding clause in English.

Sir, with these remarks, I beg to move.

Proposed amendments

Clause 6(1)

That clause 6(1) be amended by deleting " " and substituting " ".

Clause 7(3)

That clause 7(3) be amended by adding " " after " " :

Question on the amendments proposed, put and agreed to.

ATTORNEY GENERAL: Sir, I move that clauses 6 and 7 be further amended as set out under my name in the paper circulated to Members.

As with clause 2 and for reasons already given by Mr WONG, clause 7 is amended by deleting the references to "barrister" and "solicitor" and substituting "legal practitioner".

The proposed amendment to clause 6 is related to the proposed amendments to clauses 2 and 7. Clause 6 empowers the Official Solicitor to charge for his services and to recover costs which may be assessed by the Court in a process known as taxation. With the proposed amendments to clauses 2 and 7, it would be meaningless to retain clause 6(2) inasmuch as the reference to Her Majesty's Counsel is concerned. Hence the proposed deletion of clause 6(2) has the legal effect of reinstating the taxation of the Official Solicitor's entitlement to costs on the normal basis.

Sir, I beg to move.

Proposed amendments

Clause 6

That clause 6 be further amended by deleting subclause (2).

Clause 7

That clause 7 be further amended, in subclause (3), by deleting "barrister or solicitor duly admitted under the Legal Practitioners Ordinance (Cap. 159)" and substituting "person admitted as a legal practitioner in Hong Kong".

Question on the amendments proposed, put and agreed to.

Question on clause 6 and 7, as amended, proposed, put and agreed to.

Schedules 1 to 3 were agreed to.

SURVEYORS REGISTRATION BILL 1991

Clauses 1, 3 to 21, 23 to 28, 30 and 31 were agreed to.

Clauses 2, 22 and 29

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

Clause 2 is amended to delete the definition of "legal practitioner" as it refers to "a solicitor" and "a barrister" which may be simplified by adding in clause 22 "admitted under section 3, 27 or 27A of the Legal Practitioners Ordinance who holds a valid current practising certificate" after "legal practitioner". In so doing there will be no need for an appropriate translation of "a solicitor" and "a barrister" in the Chinese Bill at this time.

Clause 29 is amended by adding a subclause to the effect of restraining any person, including a firm or company, from using the description of "registered professional surveyor" or the initials "R.P.S." if the person has not complied with subsection (4); or restraining any person whose name is not entered in the register from carrying on a professional surveying practice in such manner as may reasonably cause any other person to believe that he is a registered professional surveyor. This amendment in no way breaches one of the fundamental principles behind the Bill that there should be no closed shop because of registration. Any person, provided he does not claim to be a "registered professional surveyor" when he is not, can still practise in Hong Kong without hindrance; and the register is open to all appropriately qualified, experienced, practising professionals, whether or not they are members of the Hong Kong Institute of Surveyors.

Sir, I beg to move.

Proposed amendments

Clause 2

That clause 2 be amended by deleting the definition of "legal practitioner".

Clause 22

That clause 22 be amended by adding "admitted under section 3, 27 or 27A of the Legal Practitioners Ordinance (Cap. 159) who holds a valid current practising certificate" after "legal practitioner".

Clause 29

That clause 29 be amended by adding after subclause (4) --

"(5) The Board may apply to a judge for an order -

(a) restraining any person, including a firm or company, from using the description of "registered professional surveyors" or the initials "R.P.S." if the person has not complied with subsection (4); or

(b) restraining any person whose name is not entered in the register from carrying on a professional surveying practice in such manner as may reasonably cause any other person to believe that he is a registered professional surveyor."

Question on the amendments proposed, put and agreed to.

Question on clauses 2, 22 and 29, as amended, proposed, put and agreed to.

PLANNERS REGISTRATION BILL 1991

Clauses 1, 3 to 21, 23 to 28, 30 and 31 were agreed to.

Clauses 2, 22 and 29

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

The reasons for the amendments are similar and identical to what I stated earlier

in moving the amendments to the Surveyors Registration Bill 1991.

Sir, I beg to move.

Proposed amendments

Clause 2

That clause 2 be amended by deleting the definition of "legal practitioner".

Clause 22

That clause 22 be amended by adding "admitted under section 3, 27 or 27A of the Legal Practitioners Ordinance (Cap. 159) who holds a valid current practising certificate" after "legal practitioner".

Clause 29

That clause 29 be amended by adding after subclause (3) -

"(4) The Board may apply to a judge for an order -

(a) restraining any person, including a firm or company, from using the description of "registered professional planners" or the initials "R.P.P." if the person has not complied with subsection (3); or

(b) restraining any person whose name is not entered in the register from carrying on a professional planning practice in such manner as may reasonably cause any other person to believe that he is a registered professional planner.".

Question on the amendments proposed, put and agreed to.

Question on clauses 2, 22 and 29, as amended, proposed, put and agreed to.

TOWN PLANNING (AMENDMENT) (NO. 2) BILL 1991

Clauses 1 to 3 were agreed to.

Clauses 4 and 5

MR EDWARD HO: Sir, I move that clauses 4 and 5 be amended as set out in the paper circulated to Members.

The reasons for such amendments have already been covered when I spoke on the Bill.

Sir, I beg to move.

Proposed amendments

Clause 4

That clause 4 be amended --

(a) By deleting proposed section 17A and substituting -

"17A. Constitution of Appeal Board

(1) The Governor may appoint a panel of persons ("the Appeal Board panel") whom he considers suitable to sit as members of an Appeal Board to hear an appeal under section 17B.

(2) The Governor shall not appoint a member of the Board or a public officer to the Appeal Board panel.

(3) The Governor may appoint a member of the Appeal board panel as Chairman of the panel and may appoint another such member as Deputy Chairman of the panel as he thinks fit.

(4) The Governor may appoint a public officer to be the secretary to the Appeal Board panel.

(5) On receipt of a notice of appeal, the secretary to the Appeal Board panel shall notify the Chairman of the panel who, subject to subsections (6), (7), (11) and (16) shall nominate an Appeal Board.

(6) The Chairman of the Appeal Board panel shall not nominate an Appeal Board to hear an appeal or act as its Chairman if he has a direct or indirect interest in the appeal.

(7) The Deputy Chairman of the Appeal Board panel shall, in the absence of the Chairman of the panel, or if the Chairman of the panel has a direct or indirect interest in an appeal, nominate an Appeal Board to hear the appeal.

(8) Subsection (6) shall apply to the Deputy Chairman of the Appeal Board panel as it applies to the Chairman of the panel.

(9) Subject to subsections (6), (8), (11) and (16), the Chairman or Deputy Chairman and 4 other members of the Appeal Board panel shall constitute an Appeal Board to hear an appeal.

(10) Subject to subsections (6), (8), (11) and (16), the Chairman or Deputy Chairman of the Appeal Board panel shall act as Chairman of an Appeal Board.

(11) If the Chairman and Deputy Chairman of the Appeal Board panel have a direct or indirect interest in an appeal, the Governor may appoint another member of the panel, who does not have a direct or indirect interest in the appeal, to nominate an Appeal Board to hear the appeal and to act as Chairman of the Appeal Board.

(12) At least 3 members, one of whom must be the Chairman of the Appeal Board, shall be present to hear and determine an appeal.

(13) The Appeal Board shall hear the appeal and a majority of the members hearing the appeal shall determine questions before it.

(14) Where there is an equality of votes in respect of any question to be determined in an appeal the Chairman of the Appeal Board shall have a casting vote in addition to his original vote.

(15) A member shall not take part in determining the questions before the Appeal Board unless he has been present at all the Appeal Board meetings held in respect of the appeal concerned.

(16) If the Chairman and Deputy Chairman of the Appeal Board panel are

precluded by illness or absence from Hong Kong from exercising their functions, the Governor may appoint another member of the panel as Acting Chairman of the panel."

(b) In the proposed section 17B(6) by deleting paragraphs (e) and (f).

(c) By deleting proposed section 17B(8)(c) and substituting -

"(c) award to a party such costs legal or otherwise as it considers reasonably incidental to the preparation and presentation of an appeal."

(d) In the proposed section 17C -

(i) by adding "or" at the end of paragraph (a)(ii);

(ii) by deleting "; or" at the end of paragraph (b) and substituting a comma;

(iii) by deleting paragraph (c).

Clause 5

By deleting clause 5 and substituting -

"5. Enforcement on land within a development
permission area

Section 23 is amended -

(a) in subsection (1) by repealing "posted in a prominent position on or near the land or on any premises or structure on the land or";

(b) in subsection (2) -

(i) by repealing "posted or";

(ii) by adding "served" after "further notice";

(c) by adding after subsection (4) -

"(4A) Where the Authority is satisfied -

(a) in the case of a notice served under subsection (1) that -

(i) the unauthorized development has been discontinued; or

(ii) permission for the development has been obtained under section 16;

(b) in the case of a further notice served under subsection (2) that -

(i) the unauthorized development has been discontinued;

(ii) the steps have been taken as required by the notice;

(c) in the case of a notice served under subsection (3) that the land has been reinstated as required by the notice,

he shall serve a further notice stating that -

(i) the unauthorized development has been discontinued;

(ii) permission for the development has been obtained under section 16; or

(iii) the steps have been taken as required by the notice,

as the case may be, and shall as soon as reasonably practicable register such further notice in the Land Office.

(4B) A notice served under subsection (1), (2), (3) or (4A) shall be deemed to be an instrument affecting land or premises and shall be registrable in the manner required by or under the Land Registration Ordinance (Cap. 128).";

(d) in subsection (10) by adding at the end -

"or posting it in a prominent position -

(a) on or near the land; or

(b) on any premises or structure on the land,

affected by the notice".

Question on the amendments proposed, put and agreed to.

Question on clauses 4 and 5, as amended, proposed, put and agreed to.

TELEVISION (AMENDMENT) BILL 1991

Clauses 1, 3 to 6 and 8 were agreed to.

Clauses 2 and 7

SECRETARY FOR HOME AFFAIRS: Sir, I move that clauses 2 and 7 be amended as set out in the paper circulated to Members.

The amendment (a) to clause 2 is to delete from the definition of "licensees register" that part which will become redundant if the Bill is enacted.

The amendment (b) to clause 2 corrects a cross reference in section 2 subsection (2)(a).

Under clause 7, the amendment to section 17D subsection (1)(b) is proposed so that this subsection will better reflect the intention and effect of the application of the formula in section 17D subsection (1)(c).

The amendment to section 17G subsection (1) is to make it clear that the Broadcasting Authority can issue directions to any voting controller who, it has reason to believe, has acquired control with the purpose of circumventing any restrictions on unqualified voting controllers. Consequential amendments are required to section 17G subsections (2) and (5).

The amendment to section 17I subsection (1)(d) is proposed to improve the wording of the section.

The amendments to section 17J subsection (2)(b) and section 17L subsection (3)(b) are consequential to the amendments to section 17G.

The amendment to section 170 subsection (2) allows the High Court to take into account beneficial interests which have priority over one another when apportioning the proceeds of the sale of shares. The original draft did not provide clearly for this.

The amendment to section 17P subsection (5) is to correct the wording of this section as originally drafted which would, on the face of it, have prevented the Broadcasting Authority from disclosing information for the purpose of criminal proceedings or in connection with any civil proceedings to which the Broadcasting Authority is a party.

The amendment to section 17S subsection (4) is consequential to the amendments to section 17G.

Finally, Sir, the amendment to section 17S subsection (8) corrects an error in the original draft of this section. The offence in 17S subsection (8) is applicable only to 17M subsection (3)(b) and I therefore have proposed the amendment to make this clear.

Sir, I beg to move.

Proposed amendments

Clause 2

That clause 2 be amended by deleting clause 2 and substituting -

"2. Interpretation

Section 2 of the Television Ordinance (Cap. 52) is amended -

(a) in subsection (1) -

(i) by adding after the definition "Code of Practice" -

"corporation" means a company or other body corporate;"

(ii) by repealing the definition "licensee's register" and substituting -

"licensee's register" means the register which a licensee is required to keep by virtue of section 95 of the Companies Ordinance (Cap. 32);";

(b) in subsection (2)(a), by repealing "17D(1)(a)" and substituting "17A(1)(a)(i)".

Clause 7

That clause 7 be amended --

(a) In new section 17D(1), by deleting paragraph (b) and substituting -

"(b) where the total voting control exercised by unqualified voting controllers would otherwise exceed, in aggregate, 49% of the total voting control exercised on the poll by both qualified and unqualified voting the purposes of determining the question or matter, be reduced by multiplying those votes by the percentage determined by the formula in paragraph (c);".

(b) In new section 17G -

(i) by deleting subsections (1) and (2) and substituting -

"(1) Where any person being -

(a) a qualified voting controller; or

(b) an unqualified voting controller,

holds or acquires voting control of the voting shares of a licensee as an associate of an unqualified voting controller and it appears to the Broadcasting Authority that a purpose of any such holding or acquisition is to avoid any restriction imposed on unqualified voting controllers under this Part, the Broadcasting Authority may, by notice in writing, give to any voting controller whom it believes to be a party to that holding or acquisition such directions as appear to it to be required to -

(i) effect a cesser of such holding or acquisition;

(ii) ensure compliance with any restriction so imposed.

(2) A notice under subsection (1) shall -

(a) be served by post upon the voting controller to whom it relates;

(b) specify -

(i) in the case of directions given to effect a cesser of the holding or acquisition, the directions as appear to the Broadcasting Authority to be required to effect such cesser;

(ii) in the case of directions given to ensure compliance with any restriction imposed on unqualified voting controllers under this Part, the restriction that is to be complied with and the directions as appear to the Broadcasting Authority to be required to ensure such compliance;

(iii) in the case of any directions given, a period within which the directions shall be complied with.";

(ii) in subsection (5), in the definition "associate" by deleting "an unqualified voting controller of the description of the first-mentioned unqualified voting controller in subsection (1)" and substituting "a voting controller of the description mentioned in subsection (1)(a) or (b)".

(c) In new section 17I(1)(d), by deleting "latter" and substituting "whole".

(d) In new section 17J(2)(b), by deleting "unqualified voting controller" and substituting "person being a party to any holding or acquisition".

(e) In new section 17L(3)(b), by deleting "unqualified voting controller" and substituting "person being a party to any holding or acquisition".

(f) In new section 17O(2), by deleting "such proportion of those proceeds and interest as is equal to the proportion which the value of the applicant's interest in the voting shares bears to the total value of the votings shares." and substituting "the High Court shall apportion those proceeds and interest between the applicant and such other person as is consistent with their respective beneficial interests and shall order

payment accordingly."

(g) In new section 17P, by deleting subsection (5) and substituting -

"(5) Subsection (4) shall not be construed as prohibiting the disclosure of information -

(a) with a view to the institution of or otherwise for the purpose of any criminal proceedings or any investigation in connection therewith, whether under this Ordinance or otherwise, in Hong Kong;

(b) by the licensee -

(i) to the Broadcasting Authority;

(ii) to the Secretary for Recreation and Culture;

(iii) in connection with civil proceedings to which the licensee is a party;

(c) by the Broadcasting Authority -

(i) to the Secretary for Recreation and Culture; or

(ii) in connection with civil proceedings to which the Broadcasting Authority is a party."

(h) In new section 17S -

(i) subsection (4), by deleting "unqualified";

(ii) in subsection (8), by deleting "any of the restrictions of section 17M(3)" and substituting "the restriction mentioned in section 17M(3)(b)".

Question on the amendments proposed, put and agreed to.

Question on clauses 2 and 7, as amended, proposed, put and agreed to.

New clause 9. Consequential Amendment
Functions and powers of the Authority

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 9

That the Bill be amended by adding after clause 8 -

"Consequential Amendment

9. Functions and powers of the Authority

Section 9(1)(a)(vi) of the Broadcasting Authority Ordinance (Cap. 391) is amended by repealing "section 34" and substituting "sections 17R and 34".

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

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

BANKING (AMENDMENT) (NO. 2) BILL 1991

TRADE DESCRIPTIONS (AMENDMENT) BILL 1991

OFFICIAL SOLICITOR BILL 1991

SURVEYORS REGISTRATION BILL 1991

PLANNERS REGISTRATION BILL 1991

TOWN PLANNING (AMENDMENT) (NO. 2) BILL 1991

TELEVISION (AMENDMENT) BILL 1991

had passed through Committee with amendments, and the

SUPPLEMENTARY APPROPRIATION (1990-91) BILL 1991

had been read the Second time and was not subject to Committee stage proceedings in accordance with Standing Order 59. He moved the Third Reading of the Bills.

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

Bills read the Third time and passed.

Private Member's Bill

Second Reading of Bill

ELECTORAL PROVISIONS (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 16 January 1991

Question on Second Reading proposed.

MR ANDREW WONG (in Cantonese): Sir, the Electoral Provisions (Amendment) Bill 1991 (Private Members' Bill) was introduced into the Legislative Council on 16 January 1991 by the Honourable Martin LEE. The objective of the Bill was to set out the legislative criteria for the drawing up of electoral constituencies for all levels of elections. An ad hoc group which had been formed to study the subsidiary legislation relating to elections was tasked to examine this Bill. First of all, may I report on the work of the ad hoc group in the capacity as the convener.

Four meetings of the ad hoc group was devoted to the discussion on the Bill. The

last meeting was held on 11 July. As the convener of the ad hoc group, I would like to report on the work and deliberation of the ad hoc group.

The Honourable Martin LEE explained that the basic principle of the Bill was "one person one vote". Equal weighting should be given to each voter in all the electoral constituencies as far as possible in order to achieve such an objective. The neighbouring constituencies should only be allowed to differ in population by up to 10%. No constituency should differ by more than 10% from the relevant electoral quota. The Bill would provide the necessary guidelines for the future Boundary Commission or Electoral Commission to operate.

Because of the principle of equality, most members of the ad hoc group were inclined to support the spirit of the Bill, that is, that due consideration should be given to population equality. However, it was thought that the Bill should best be considered in a wider context and in conjunction with the overall review of electoral system of Hong Kong. Reservation was expressed by most of the members regarding the proposed timing of passing the Bill before the holding of the first Legislative Council direct elections and the setting up of an independent Electoral/Boundary Commission. It was thought that the Bill should form an integral part of a future Bill to be introduced into the Legislative Council for the setting up of the Electoral/Boundary Commission. There were also worries among some members that if the Bill was to be passed by the Legislative Council in July 1991, the public would be quite confused as to how the constituencies were drawn up in the first place. Since the existing Legislative Council constituencies were not drawn up according to the criteria proposed in the Bill, it might give a wrong impression to the public that the boundaries adopted for the 1991 election were questionable and the results of the elections would be put in doubt.

The Administration's response was that the combination of new section 3A(2)(a) and (c) requiring no two contiguous constituencies to differ in population by more than 10% and no constituency to differ in population more than 10% from the relevant electoral quota respectively would restrict the flexibility of demarcating the electoral boundaries and would inevitably necessitate the disruption of the existing district boards' and municipal councils' administrative boundaries. Although new section 3A(1)(b) of the Bill stipulated that due consideration should be given to factors such as the existing community boundaries and constituencies, the physical features, the geographical and contiguity of the constituency and so on, new section 3A(2) proposed by the Honourable Martin LEE would render such provisions ineffective

as the latter was to have an overriding effect on the former.

In response to the arguments by the Administration, the Honourable Martin LEE, most ready to accept good advice, was prepared to bring in some amendments to his Bill to make the Bill more acceptable. The major amendments were as follows and I am sure the Honourable Martin LEE will elaborate further when he delivers his speech later:

(a) the commencement date of the Bill was to be set at 1 January 1992;

(b) the requirement on population equality as contained in the original new section 3A(1)(a) was deleted and replaced by "rough equality" in new section 3A(1)(d);

(c) the factors of "administrative boundaries" and "planned development" were reflected in the amended new section 3A(1)(a) and 3A(1)(b) respectively;

(d) the requirement for two contiguous constituencies to differ in population by no more than 10% is deleted; and

(e) deviations of more than 15% are allowed in exceptional cases.

Members of the ad hoc group have discussed the Honourable Martin LEE's proposed Committee stage amendments but was unable to reach a consensus on whether his Bill should be supported. As such the ad hoc group presents all the arguments and facts in a written report for consideration by Members as to whether the Bill as amended is acceptable.

Sir, may I voice some personal opinions. The views that I raised on 28 November 1990 when the Council resumed the debate on the six Bills relating to elections remain unchanged. Many factors have to be taken into serious consideration with regard to the demarcation of electoral boundaries. For example, firstly, should the Executive Council retain the power to demarcate electoral boundaries or should an independent body say, an electoral commission or a boundary commission, be set up to handle this work? If so, what is the role, function and power of this body? Secondly, should the constituencies from which 18 seats would be returned by direct election be single-seat, double-seat or multi-seat? The number of seats in single-seat and double-seat constituencies will naturally be equal, but should a fixed number of seats say, three, four or five, be introduced in multi-seat constituencies or should

flexibility be allowed? This implies more seats for densely populated constituencies and less for sparsely populated ones. The Bill put forward by the Honourable Martin LEE, even if amended, will not allow the more flexible multi-seat system to be included in the review. Thirdly, how should the criteria for the demarcation of electoral constituencies be set? How can population and geographical factors strike a balance? This is very important as it involves the principle of equality. What are the effects on the existing district board and administrative boundaries? All these questions must be carefully considered. I consider it inappropriate to enact a legislation that merely deals with the question of demarcation of electoral boundaries. A better approach is to firstly conduct an overall review on the electoral system of Hong Kong so as to identify areas that require legislation back-up and improvements. This measure can help Hong Kong move towards a democratic society.

Sir, I understand that the Honourable Mrs Selina CHOW is going to propose in her speech the setting up of a select committee in the next Session to examine our electoral system. I support her proposal in advance.

Sir, with these remarks, I oppose the motion on the Second Reading of the Bill put forward by the Honourable Martin LEE.

MRS CHOW: Sir, with much regret, I rise to oppose the Electoral Provisions (Amendment) Bill 1991 Private Member's Bill.

Since Mr Martin LEE first proposed the Bill, I have always held the view that many suggestions he put forward in the Bill are worth careful consideration. But the timing is inopportune, as it aims to set in concrete by way of legislation certain criteria which are to bind future elections without having benefitted from either the experience to be gained in our first round of direct elections in the coming September, or the collective wisdom of this Council or our community through extensive consultation and debate. Further, to pass this Bill at this juncture and in this form will result in a half-baked conclusion drawn without detailed and comprehensive consideration of the many important issues outlined by the Honourable Andrew WONG earlier. The undoubtedly better way is to conduct a most thorough review as soon after September as is practicably possible in as open a forum as possible. I would therefore like to suggest to this Council and to the Administration to consider the setting up of a select committee of this Council to conduct the review through

extensive consultation to deliberate and draw conclusions as to criteria and arrangements for future elections of the Legislative Council and, if necessary, to put forward recommendations for legislation to this Council. This is obviously a matter beyond the ambit of this Council with its present membership. However, I hope that with the support and endorsement of this Council, this approach will be considered worthy of adoption by the newly constituted Legislative Council in October.

I have in fact put my proposal to set up such a select committee to test and of the non-government Members of this Council that I have been able to contact the following have lent their support to my proposal and wished me to identify them. They are: Mr Stephen CHEONG, Miss Maria TAM, Dr Henrietta IP, Mr CHAN Ying-lun, Mrs Rita FAN, Mr Peter POON, Mr H K CHENG, Mr CHUNG Pui-lam, Mr NGAI Shiu-kit, Mr PANG Chun-hoi, Prof. POON Chung-kwong, Mr TAI Chin-wah, Mrs Rosanna TAM, Mr TAM Yiu-chung, Dr Daniel TSE, Mr Andrew WONG, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW, Mr Paul CHENG, Mr David CHEUNG, Mrs Peggy LAM, Mr Daniel LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Dr C H LEONG, Mr Jimmy McGREGOR, Mr Kingsley SIT, Mrs SO CHAU Yim-ping, Mr James TIEN and Mrs Elsie TU. I thank them for their support and I shall of course welcome any other Member's support, including government Members, for my proposal.

MR CHOW (in Cantonese): Sir, I support the Electoral Provisions (Amendment) Bill 1991 introduced by the Honourable Martin LEE and his Committee stage amendments.

While I do not intend to repeat the rationale behind Mr LEE's Bill, I would like, however, to respond to the Government's comments on his Bill.

The Government considers that the limits proposed in the Bill on constituency demarcation has been made in "indecent haste". Action is, however, now in hand to review the electoral regulations related to the Bill. Moreover, the Government considers that once the Bill is enacted, it will have an effect on the direct election to the Legislative Council in September this year.

The Government's explanation is indeed unconvincing. If Honourable Members are not forgetful, they may remember that when the Government reviewed the development of representative government in Hong Kong in 1988, it was established that there would be direct election to the Legislative Council in 1991. It has almost been three years and the Government has yet to develop a clear and fair concept on constituency

demarcation. There, it even views Mr LEE's Bill as a proposal introduced in "indecent haste". Has the Government asked itself who is to blame for such "haste"? If the Government took the initiative to propose clear and fair arrangement three years ago, would there be the need to put it forth at the present stage in the form of a private Member's Bill? Furthermore, since the Government is aware of the inadequacy in the existing arrangement for boundary demarcation proposed by the Honourable Martin LEE, why does it not make any improvement at an early stage instead of reviewing this only after the 1991 direct election? The Government has sophisticated its argument. In other countries, the result of an election has a close connection with the fairness of boundary demarcation. Thus, the reduction in discrepancies between the sizes of constituencies has a bearing on the election result. As the saying goes, "It is never too late to mend the fold after some sheep have been lost." I therefore support the Electoral Provisions (Amendment) Bill 1991 introduced by the Honourable Martin LEE and his Committee stage amendments.

DR LEONG: Sir, the delimitation of electoral constituencies has always been a controversial object as it has a tremendous impact on election outcome. Hong Kong in this year will witness one of its most important elections in its history and it is for this reason that the Hong Kong Democratic Foundation has commissioned in January the United Kingdom-based Electoral Reform Society to come over and conduct a very thorough review on our electoral system.

In May, this society came up with 51 recommendations to improve Hong Kong's electoral system. I will not spend time to dwell into the details of these recommendations but the contentious issue on constituency boundaries stands out distinctively amongst these recommendations and I would like to quote:

"It is essential that an independent process be set up for the establishment of constituencies and for their regular review."

The society recommended that an independent boundary commission should be established and operated under the United Kingdom Boundary Commission's rules and procedures, amended where necessary to accommodate the unique situation of Hong Kong.

I agree to such need and support the recommendations. And I am strongly of the view that the sooner the mammoth task of administration of elections is separated from Government, the better.

Sir, public confidence in democracy rests on both the form of balloting adopted and on the formal administration of the electoral process. These processes must not only be fair but must also be clearly seen to be fair. Even the most perfect electoral system will be ineffective if the electors believe that it will not be administered fairly.

Having said that, Sir, I do not imply Government has failed its job in administering electoral affairs, but given the special circumstances of Hong Kong, we could adopt the Northern Irish model by having an independent electoral commission which is accountable to the court and to the legislature rather than the administration. Since, Sir, so much depends on the success of direct elections, particularly to the Legislative Council, and as the public are always suspicious of the government, we should avoid Government involvement as it will not help but flaw the electoral process. Its involvement would only give rise to unnecessary complaints from individuals or organizations.

But as time will be needed to have these independent authorities established to look after the overall electoral administration and constituency demarcation process, I think this Council can, for the time being, identify and endorse a set of fair and accountable legislative criteria that must be followed in future demarcation of electoral constituencies.

Sir, the Bill is in the right direction to achieve this. Therefore, I support the passage of the Bill in its present form without amendment today and not after the September elections.

MR MCGREGOR: Sir, I agree with Mr LEE's Bill and the purpose on which it is based. It is clearly necessary to have electoral districts and electoral rules which are fair and equitable and which can be defended with confidence. I do not, however, accept his underlying criticism of the Government for failing to take steps to standardize the size of electoral district. This issue has only really been under detailed discussion for about one year. During this time, many, many other electoral issues have been addressed and most of them have been resolved. The need for a boundary commission has been recognized, I think, by the ad hoc group. The work it will do will include the delineation of new electoral districts which are more standard in population size. In my view, the Government has not shown any serious reluctance to deal with this issue as a matter for discussion. I can understand the problem

for the Government in setting about changing the constituency boundaries with all the resistance and annoyance that would entail among the people in the areas concerned. We clearly cannot now proceed with new delineation of electoral constituencies before September this year. I agree that the Bill should be reconsidered by this Council after September by way of a select committee.

MRS TU: Sir, I do not disagree with the proposals in Mr LEE's Bill and I appreciate Mr LEE spent a lot of time and effort in drafting and amending the Bill to try to make it acceptable to the Administration. However, we have been promised a comprehensive review of our electoral system and the establishment of a boundary commission. We are all familiar with bureaucratic delays that we had in the past, so I would like to see the promised review take place immediately after the 1991 elections, rather than immediately before the 1995 elections.

To this purpose, I support Mrs Selina CHOW's proposal to set up a select committee to review the electoral system during the next Session as Mrs CHOW has already indicated.

MR PETER WONG: Sir, I am against Mr Martin LEE's Private Member's Bill for the reasons put forward by Mr Andrew WONG, but my name was not included in Mrs Selina CHOW's proposal to have a select committee. The reason is that I have not thought out the consequences of having next Session's incumbents deciding on the rules of their own re-election.

MISS LEUNG: Sir, I am afraid I cannot support the Honourable Martin LEE's Bill for reasons as presented by the Honourable Andrew WONG even though like most members of the ad hoc group I am inclined to support the spirit of the Bill, that is, due consideration be given to population equality in the drawing up of electoral constituencies. I would also like to put it on record that I am in support of the setting up of a select committee as suggested by the Honourable Mrs Selina CHOW. I also urge that the Government should conduct a comprehensive review of the whole electoral system immediately after the September elections.

CHIEF SECRETARY: Sir, it is clear to the Administration that the majority of Members

of this Council would prefer longer time to consider these very important issues, that there should be an element in any review of independence of the Government, that it should not be carried out by the Government alone and that any review should be comprehensive in terms of the electoral arrangements rather than looking at one of these aspects only.

For these reasons, Sir, the Administration does not support passage of Mr LEE's Bill.

MR MARTIN LEE: Sir, the Electoral Provisions (Amendment) Bill before the Council today marks the first time in the history of Hong Kong, I believe, that this Council has had a Second Reading debate on a Bill of a public nature that was introduced by an individual legislator. Yet rather than welcome this Bill as a necessary and inevitable step towards greater democracy, the Administration has done its utmost to prevent the passage of the Bill for dubious reasons.

I find it rather remarkable that the Administration has, through the Chief Secretary, only made a two-line speech in opposition to my Bill, not really giving the reasons for his opposition but simply in support of the Honourable Mrs Selina CHOW's suggestion of having a Select Committee to look into these various things. I wonder whether this Council has ever witnessed a situation where all Government Members plan to vote against the Bill and yet not one even deigns to explain the views of the Administration for opposing it. Can it be that the Administration is so embarrassed by its own narrow, petty reasons that it does not wish to state them publicly? I am afraid that is the only conclusion that I am able to draw from their thundering silence.

As for those Honourable Members who spoke against my Bill, their arguments are not entirely without merit but they could be taken care of by making the requisite amendments. But one must ask whether they would have maintained the same attitude if the Administration had supported my Bill or had actually moved it.

The Secretary for Constitutional Affairs wrote to me last week to say that the Administration has no problem with the content of my Bill and the Administration only opposes the timing of the Bill. The Secretary in fact goes so far as to condemn the proposed passage of the Bill as an "act of indecent haste". I would like to take a minute, however, to review the history behind this Bill. I believe this history

makes it only too clear that rather than this Bill being pushed through with indecent haste, the actions of the Administration in its short-sighted opposition to the development of a body of democratic election law reveal a pattern of irresponsibility, and indeed obscene sloth in the words of my learned friend Mr Basher of the South China Morning Post in today's issue.

The democratic election for 18 seats in the Legislative Council in September of this year could not possibly come as a shocking surprise for the Administration; nor could it claim that it has not enough time to prepare for it. Hong Kong had its first elections to the district boards nine years ago in 1982, at which time the Administration already was forced to examine the issue of how to devise a series of impartial and efficient election laws. Then in 1984, with the introduction of the Green Paper on the Development of Representative Government, and with the signing of the Joint Declaration, the Administration knew that democratic elections would soon be introduced for the Legislative Council. That was seven years ago.

After the fraudulent consultation exercise on the 1987 Green Paper the Government announced in February of 1988 that there would be democratic elections for the Legislative Council only in 1991. That announcement was three and a half years ago; what then, one might ask, has the Colonial Administration been doing in the nine years since the introduction of elections for district boards -- and that is not to mention the Urban Council -- or even in the three and a half years since we have known that there would be democratic elections for the Legislative Council in 1991? How is it possible, Sir, that the Administration has three and a half years and yet has done absolutely nothing to introduce a body of election laws that everyone recognizes is sorely needed here?

Sir, even the Secretary for Constitutional Affairs recognizes the inadequacy of our outdated colonial electoral laws. In a letter to me last week he states:

"I am very clear in my own mind that an entirely new electoral law will have to be enacted to encompass the present unsatisfactory arrangement embodied in different but closely related Ordinances."

If even the Administration admits to the unsatisfactory nature of the current electoral laws, why was nothing done during the three and a half years since the 1988 White Paper to change those unsatisfactory laws? Why should everything wait until after the 1991 elections when the Administration already has had such a long time

to do what taxpayers pay their civil servants to do?

As for the Honourable Jimmy McGREGOR and the Honourable Mrs TU, I can only say that we should remember that normally, for legislation of this kind, it is fairly and squarely the duty of the Administration to prepare such legislation and to present it to us, so any delay cannot be on the part of individual legislators. Yet if it is not for a lack of time then, Sir, what is the cause of failure of the Administration to propose laws governing the demarcation of electoral constituencies and preventing gerrymandering? Certainly, it is not for a lack of precedents elsewhere, for Great Britain, the United States, Canada and Australia all have clear laws governing the division of constituencies. While many of the election laws of the United Kingdom have been incorporated here, the anti-gerrymandering laws have been omitted.

Nor certainly, is it for lack of notice; the Members of this Council have been interested in this issue. Indeed, if one reviews the minutes of meeting of the Constitutional Development Panel on 1 June 1990, over a year ago, one finds that the Panel was already expressing its concern about the way constituency boundaries were to be drawn for the 1991 elections. During the deliberations of the ad hoc group on the Electoral Provisions (Amendment) Bill 1990 the ad hoc group also expressed its concern about this issue, as did at least one political group in Hong Kong.

As for the present Bill, it has now been before this Council for over seven months. Then, Sir, what possible motive will members of the public attribute to the opposition of the Administration to this Bill? I am afraid the only possible explanation is that the Administration is motivated by self-serving political considerations. Clearly, the Government has been determined to hold on to its unregulated discretion in this vital area and it does not wish to see laws passed that will force it to correct its abuses.

The most obvious example of gerrymandering for the Legislative Council elections this year is in the New Territories North which has a population of only 388 000. This means that the three other constituencies in the New Territories, NT East, NT South and NT West, all have a population of at least 65% larger than that of New Territories North. When one looks at the number of registered voters the discrepancy becomes even wider, for example, New Territories South has over twice as many registered voters as New Territories North; and worst of all, if one compares New Territories North with the largest constituency in the Territory, that is Kowloon Central, one sees that the number of registered voters in Kowloon Central is over

two and a quarter times as great as that of New Territories North. The wide discrepancies in population and registered voters between New Territories North and other neighbouring constituencies inevitably create the impression in Hong Kong and internationally that the Administration has gerrymandered the New Territories North Constituency. Of course the Administration has repeatedly and vehemently denied gerrymandering but they have never explained why such discrepancies have been allowed to continue for so long without doing anything about them.

Such a politically motivated decision is consistent with other politically motivated steps taken by the Government on election law matters, particularly the prohibition of political fund-raising in public places, the refusal to lower the voting age to correspond with the age of majority, and the prohibition against printing political affiliations on the ballot paper. This series of decisions calls into question the integrity of the Administration and its commitment to providing a level playing field for all the candidates in the electoral process.

The situation in Hong Kong and the history of gerrymandering abuses in other democratic countries makes clear the need for the Bill before you today. The Bill seeks to preserve the most basic principle of democracy: one person, one vote; that means one equal vote as far as possible. This is the fundamental principle that underlies constituency demarcation laws in all democratic countries. We cannot have a situation where the votes of certain citizens have over twice the weight of other citizens. In order to ensure that such violations of the principle of one person, one vote, do not occur, British Law states that:

"The electorate of any constituency shall be as near the electoral quota as is practicable."

Canadian Law requires that:

"The population of each electoral district shall as close as reasonably possible correspond to the electoral quota."

And Australian Law mandates that:

"The quota of electors shall be the basis of the distribution."

Why is it that we in Hong Kong should not be protected by similar guarantees?

At the same time, the Bill commands the authority responsible for constituency demarcation, which in the future should be an independent boundary commission rather than the Administration, to respect a series of other factors. I explained these factors at length when I opened the First Reading of the Bill over seven months ago and I shall not repeat them here, except to say they follow closely the criteria that have been accepted internationally. I would like, however, to take a moment to discuss the changes I am willing to make to my Bill during the Committee stage if this Council approves the Bill during the Second Reading. I am prepared to make the series of changes in order to meet all the concerns voiced by the Administration about the content of my Bill. The proposed amendments make clear that the Bill would not commence until January 1992 and therefore it would not interfere at this late stage with the boundaries already set for the Legislative Council elections in September. In addition, I am prepared to add clauses requiring the demarcation authority to take into account administrative boundaries and planned development, as the Administration requested. Most significantly, I am willing to compromise and expand to 15% the percentage that a constituency is allowed to differ from the electoral quota. I should note, however, that such a limit exceeds the 10% permissible in Australia and the United States. The small size of Hong Kong makes such a 10% limit even easier to accommodate in practice, than in the larger countries that have this rule. And in a further concession which I have made with the greatest of reluctance, I am willing to insert a clause that would allow for deviations from the electoral quota of even more than 15% in exceptional circumstances. I would have thought then that would deal with all the worries of the Administration.

Throughout the ad hoc group's process the Administration led us to believe that it was precisely these changes it was seeking in the Bill, even though throughout the whole process the Administration was unwilling to offer any amendments of its own. Now that I am prepared to make all these changes -- which have upset the Honourable Dr LEONG -- the Administration says it will still object to the Bill because of its timing. If the position of the Administration all along was that no matter how good the Bill was the Administration would still oppose it, then why was this not made clear earlier?

Sir, what was the use of us spending all our time and staff time discussing the details of the Bill, if the Administration intended throughout to veto it? In this regard I believe the Administration to have behaved irresponsibly and I am distressed by the lack of trust and candour the Administration has exhibited throughout the whole

process.

The reason proffered by the Administration for opposing the Bill, namely that we should wait until we have a comprehensive review of electoral laws, does not stand up to scrutiny. In particular, the Administration has said that we should not enact legislative criteria before we establish an independent boundary commission. Notwithstanding the fact that an independent boundary commission should have been created long ago, the Administration is nevertheless putting the cart before the horse in this case. It is important to emphasize that no matter whether a boundary commission is established or not, or no matter what form any boundary commission eventually takes, this Council will still need to enact a set of criteria to control the division of constituencies. For example, if a boundary commission is not created, this Council needs to establish criteria to prevent future gerrymandering by the Administration. Alternatively, if an independent boundary commission is established, then that commission will have to operate according to criteria that this Council enacts, just as boundary commissions in other democratic countries must act pursuant to their legislative criteria.

From experience overseas one thing is clear, namely, these criteria are never made by the boundary commission but by the legislature, for the rationale for creating a boundary commission is to allow a politically independent body to make difficult line-drawing decisions according to laws laid down by the legislature. For this reason the legislative criteria in this Bill will need to be enacted even before any boundary commission is established. Why then, should this Council not enact these legislative criteria now? I am afraid the Government has not answered this question with any convincing reasons.

I would like Members, moreover, to think for a moment about how they would react if this Bill had been initiated by the Administration. Certain Members have said they thought the Bill was a good one but it should wait until a boundary commission was established, or be deferred after the election in September. Would Members in that case say: Despite the fact that I fully support the contents of the Bill, I will not vote in favour of it until a whole series of Bills on other matters are introduced? No, of course not! Members would say: Let us take this important first step now, on the understanding that more Bills will be presented to this Council in the next Session.

The Honourable Mrs CHOW, in speaking against this Bill, suggested the setting

up of a select committee soon after the elections in September. I thank her for her suggestion -- because it would be better than nothing if my Bill were to be defeated today. But I wonder how many of those who had pledged support to her suggestion would still be here after September?

In any event, Sir, my Bill could be supported first. Let us then by all means and the new Members, by all means, have a review done by a select committee. The two things are not mutually exclusive.

For these reasons I call upon Honourable Members to approve this Bill during the Second Reading and allow me to make my amendments during the Committee stage. The Administration and Members all agree that this Bill is necessary for Hong Kong, and the contents of the Bill are good.

On the one remaining question of timing, the Administration has utterly failed to show why this Council should not give its approval to the Bill today, and then address the other matters later. We have a good Bill in front of us; I urge my Honourable Members to give it their support today.

Question on the Second Reading of the Bill put and negatived.

7.43 pm

HIS EXCELLENCY THE PRESIDENT: As the motion for the Second Reading of the Bill has now been negatived, we will not be taking any further proceedings on the Bill.

We have before us still a Member's motion to be debated and we have two debates on the adjournment. Before we embark on all of those, Members might like to have a short break.

8.25 pm

HIS EXCELLENCY THE PRESIDENT: Council will now resume.

Member's motion

CHILD CARE

MR MARTIN LEE moved the following motion:

"In light of the tragedy earlier this year in Ho Man Tin and the inadequacy of the current child-care system in Hong Kong, this Council urges the Government to take immediate steps to improve the quality and widen the availability of child-care services throughout the territory."

MR MARTIN LEE (in Cantonese): Sir, the traditional family structure has undergone changes due to the rapid socio-economic development in the Hong Kong society. With small nuclear families as the mainstream, working mothers and families in which both spouses are working are ever rising in number, which has led to a much greater need for child care service. Many academics and social organizations have pointed out that the Government's child care policy is falling behind and has not been able to cater for the needs of society. I urge the Government to conduct an overall review of the present policy, to accept the views of the various organizations and to adopt, with a readiness for innovation, effective measures to improve and raise the quality of child care service.

The Government has all along regarded child care service as an integral part in the whole spectrum of family welfare services. The overall objective of family service policy is "to help individuals and family members prevent individual and family problems from arising and to help them handle the problems which have already emerged. The ultimate goal is to maintain and strengthen the unit of family, and to satisfy needs which have not been met by the family." The formulation of this family service policy, which was based on the traditional two-parent family concept, has not been able to take care of the single-parent families, the number of which has been rising in recent years. In order to attain the objective of strengthening the family, Government must provide adequate family support services. However as the Government allocates only 5% of the Budget for social welfare expenditure, and of which 60% is spent on social security, and the other 40% on services for the elderly, rehabilitation, youth and family, the allocation for child care is limited indeed. Consequently the objective of the Government's present child care service is only to maintain minimum participation, and to minimize the number of beneficiaries. This has resulted in too narrow a scope for service targets, and a lack of far-sighted leadership.

At present, the targets for child care service under the Social Welfare Department

are only limited to a small number of families in extreme economic difficulties, such as those dependent only on public assistance, or families whose total income does not exceed 133% of the amount of public assistance, and unfortunate families with special needs such as single-parent families, families in which the father or the mother is a mental patient, or suffering from chronic diseases, or being jailed. The Government has failed to respond to the urgent needs of Hong Kong's middle and lower strata, and also ignored the rights of children to welfare, and the right of women to a free choice of whether to work.

According to information available, Hong Kong's child care service is seriously deficient. Of the 561 000 children under six in Hong Kong, half of them attend kindergarten, and only 7.3% can have whole-day nursery service. Since we have no complete child care service system, families in which both spouses have to work or with low income are facing tremendous pressure. Without supporting services, the child's welfare is often neglected. Family tragedies due to a child being left alone or to neglect are frequent happenings. In recent years all sorts of unusual features and practices have emerged, such as sending a child to attend both morning and afternoon sessions in a kindergarten, that is to say, after the morning session, the child also attends the afternoon session, or sending it back to the Mainland to be cared for by relatives, or entrusting it to private care services where there is low quality guarantee or no quality guarantee at all. All these are detrimental to the mental and physical development of children.

Childhood is the key period of character forming. Pre-school children are entitled to adequate care and guidance. From the point of social commitment, Government has the responsibility to make greater commitments. Under the present child policy in Hong Kong, Government is only prepared to take up very little responsibility. Most of this service is provided by voluntary agencies and Government only provides token subsidies. Basically the sponsoring institutions have to fend for themselves. Consequently if the service quality is to be raised, it will certainly lead to large increases in fees. Fees for such service are rising higher and higher which have become a heavy burden to the middle and lower income groups. Considering this from the principle of social equity, Government has the duty to make greater participation and commitment, so that children of the lower social strata may enjoy the same opportunity of pre-school education development as children from other strata. Children are a social resource; the responsibility rests squarely on the Government.

Also the two presumptions behind Government's child policy are also unfair to Hong Kong's women. First, the Social Welfare Department's papers have pointed out that children below the age of two are most suitable to be cared for by the mother at home. Another related presumption is "married women should be full-time mothers and personally perform the role of raising children." Based on these two presumptions, Government would not provide nursery service for infants according to "needs", so as not to encourage mothers to work outside. Here I have no intention to be embroiled in debates on the academic subject of what the relationship between mother and child should be. However I think these two presumptions have overlooked women's right to a free choice of whether to work. Surveys conducted by many organizations show that because of the lack of child care service, many women have no choice but to give up working. This is extremely unfair to women. In a modern and equitable society, women's right to work and personal development should be affirmed and upheld.

In fact, there is no need for Government to worry too much about excessive financial commitments. In respect of sources of income, Government may take reference from the method of Singapore by encouraging employers to establish nurseries for their employees, or to buy places in privately run institutions. According to experiences abroad, not only the cost of production has not risen appreciably, but also many employers have saved much extra administrative expenditure in re-engaging new staff and in re-training due to the loss or absenteeism of employees. Employers have also benefited from a rise in productivity.

Finally, I wish to raise one point and that is if the Hong Kong Government is going to effect an overall improvement in child care service, it must not stick to the old idea of basing its strategy on the traditional two-parent family structure in formulating future child policy. Government must consider comprehensive policy programmes from various angles such as children's right to welfare, the needs of women, education and social equity principles and so on. Problems relating to child care are not only problems of health and welfare, but are also within the purview of different departments such as Legal, Education and Housing. Also since child care service is closely related to women's rights and welfare, looking at it from the angle of policy, I propose that Government may adopt the view of the Hong Kong Women's Social Welfare Centre to set up a statutory consultative body to be known as Women's Affairs Committee. Membership may include different professionals, lawyers, employers, medical practitioners, representatives of local bodies and women's representatives, as well as government officials. It will, from the multi-departmental angle, seek

to formulate policy measures which are long-term, efficient and yet take care of and balance the interests of various parties, in order to meet the ever-changing family service needs of society.

Question on the motion proposed.

MRS CHOW: Sir, I have previously spoken in this Council in support of the setting up of child care centres to facilitate young mothers with the choice of combining motherhood with a job outside the home. I am given to understand that there is now an experimental project undertaken by Government to set up occasional child care services for this purpose. However, they are extremely underutilized in that on average only one place in seven is taken up. I hope this rather dismal usage rate is not to be used to establish the case that such service is not needed, for I am told that failure to attract users so far is due largely to the ill chosen locations of these centres and the lack of publicity of this scheme. It falls on the Social Welfare Department to identify all reasons which may number more than the two given above for the underutilization and wastage when we know only too well that the need exists. I urge the Administration to upgrade the promotion and accessibility of this service with a view to striving for success of the pilot scheme. Such action and its results should be reported back to the OMELCO Welfare Panel and periodic progress reports should be made to assist with effective monitoring of the scheme.

DR LEONG: Sir, I am grateful for your permission and Member's indulgence in letting me jump the queue. Sir, in the Declaration of the Rights of Children 1959, it is stated that children shall enjoy special protection, shall be given opportunities and facilities, by law and by other means, to enable them to develop physically, mentally, morally, spiritually and socially in a healthy and natural manner and in conditions of freedom and dignity.

On 20 November 1989, the Convention on the Rights of the Child was adopted by the United Nations' General Assembly. It set out the society's precise obligations towards its children that children should have the fundamental political, civil, economic, social and cultural rights and that they should be protected from any harm, torture and arbitrary imprisonment, have freedom of expression and association, and the right to participation. "The best interests of the child" should be the primary consideration in the approach to any issue involving a child.

So, Sir, set the scene of the international vision of what child care should be.

There is a culture amongst the Chinese and I think it is quite generally practised in Hong Kong and that is -- "it is quite alright for an adult to go without food for one or two days, but if a child is sick, the parents would spend every cent to get him well as soon as possible". In other words, the child's interests is valued very high in the family. In the last two decades, with the changing social and economic aspects of Hong Kong, less number of children are being raised in each family. The importance of a child in the family is even more obvious and parents as a whole aspire to provide the best for their children.

During the same period, Hong Kong's child health statistics have improved by leaps and bounds. Infant mortality rate dropped off drastically from 61/1000 livebirths in 1956 to 7.4/1000 in 1988. Yet ironically, more and more physical, mental and educational problems seem to be emerging from the child which have not been properly recognized. Are we then doing enough for our next generation? If we have, would the incident at Ho Man Tin that claimed the lives of four children earlier this year have occurred?

Sir, for the rest of my deliberation, I would attempt to elaborate to you and Members of the Council the flaws that still exist in the system of child care today.

As my honourable colleagues who have spoken so far have dwelled on other areas of child care, I would like to zero in on the medical aspect of the services. These deliberations would represent my views, that of the medical and dental profession in general and the paediatricians in Hong Kong in particular.

Sir, let me say from the onset that no more time should be wasted for penchant for prevarication. No more children should be allowed to suffer any more because of the deficiency of our present system which has a long way to go before it can turn into one which Hong Kong can be proud of.

Sir, a doctor can make his diagnosis only after studying the patient's symptoms. Allow me, therefore, to examine the various problematic areas -- one by one, following the growth path of a child from infancy to adulthood.

Proper co-ordination and integration of child service is urgently needed

The present available services are fragmented and poorly co-ordinated. The available services such as the Maternal and Child Care Centres, the Child Assessment Service and the Genetic Service, and so on, are not properly integrated to provide the best of efficiency and effectiveness. Take the Maternal and Child Health Centres (MCHCs) as an example. Currently, there are some 50 MCHCs throughout the territory. Historically, the forerunners of these centres were maternity homes built back in the 1940s when the birth rate was high. These homes served as a screening for pregnant women and provide ante-natal and post-natal care until the children are five years old.

All these years, these centres have served their purposes well, helping to identify abnormalities before birth and following through the development of the child and relieving the workload of hospitals.

However, as society progresses, these centres can hardly meet the expectation of the parents and society at large. The spectrum of service provision have plenty of rooms for improvement. Also, the staff have no career prospect and they need pediatrics and community health training.

Nowadays, parents are no longer contented with the care they received from MCHCs. They demand more advice from trained paediatricians and more personalized care. They are no more contented with routine check-ups that provide them with little knowledge about what is best for their babies and their growth.

Furthermore, there exist at present no proper communication channel between MCHCs and hospital paediatricians. Many a time I have heard complaints from staff about insufficient information about the pregnant women and child and the unsatisfactory situation of separating the treatment of children into different segments with no continuity in between.

Sir, we should not arbitrarily slash the development of a child into different stages. A continuous service should be provided from infant up to 18 years old.

Psychiatric problems

Hong Kong is moving fast into a modern city with dramatic social and economic development. With less number of children being raised by each family, parents as

a whole has greater aspiration in providing the best for their children. Demands on health care services is ever increasing and more attention is directed to a comprehensive approach in bringing up our younger generation.

Ten or 20 years ago, we might be contented with a child that is physically fit and parents and children alike will be happy as long as their children are physically healthy.

Today, we no longer face malnutrition, we no longer worry too much about infectious diseases. However, our children are faced with more complicated health problems that stem from unhealthy family backgrounds, inadequate or sometimes excessive parental controls or other behavioural problems. Now, it takes more effort to keep a child happy and healthy.

According to a survey conducted by the Prince of Wales Hospital earlier this year, one in six primary school students suffers from psychiatric problems. The results indicated that 16.3% of Hong Kong's Primary II and IV students are suffering from emotional, behavioural or physical symptoms of a disturbed mind.

The trend is that we must go for a multi-disciplinary approach involving medical, health, social and educational specialists to provide for total child health care. It is not enough to keep a child physically fit, it is just as important to keep him mentally healthy.

We should devise proper ways to identify "at-risk families" (that is broken families) in order that proper assistance can be provided when needed.

Adolescent child care

Official figures had shown that in mid-1990s, the total number of adolescents aged between 10 and 19 will account for some 15% of the total population of Hong Kong (or some 870 000 in number).

Adolescence, the stage of evolution from childhood to adulthood, is the most formative years of development and habit forming. It was a well established sub-specialty in many developed countries. Ironically, in Hong Kong, there is only one half-day session of adolescent clinic per week available in Pamela Youde Clinic.

Sir, the very sensitive nature of adolescents necessitates a very warm, homely clinic and ward environment which must also ensure adequate privacy. Currently, there is no separate wards that cater for adolescent patients and teenage patients are all mixed together, regardless of sex. We may see them as small kids, but to the adolescents they may regard themselves to be old enough to be entitled to some privacy. Mixing them, regardless of sex, in a ward may seem to be alright to us, but certainly not to many of them.

Sir, adolescent child care should merit early attention in the forthcoming years. As in other affluent countries, there is increasing incidence of psycho-social disorders such as suicide, drug abuse, conduct disorders and truancy in the adolescent.

The magnitude of these problems in Hong Kong has not been fully examined but these seemed to be on an increasing trend. Adolescent clinical services must be put into consideration when reviewing the student health programmes. Child psychiatrists, hospital paediatricians and student counsellors should all be involved.

Adolescents have special needs, concerns and problems that are different from those faced by young children or adults. Unfortunately, our society has yet to learn to provide its adolescents with a structure of normal care. The medical profession would like to see more emphasis on developing adolescent health as a special field in the future.

Inadequacy in the neonatal care

On the other end of the scale, we need to look at the availability of prenatal and neonatal services. As science developed and modern technology advances, it is now very much a possibility to maintain and promote maturity of premature babies which in the past were considered to be impossible. Similarly, many neonatal problems are salvageable. There is a dire need to look at development of neonatal intensive care in special care units. To this end, the creation of neonatal consultants and the setting up of a neonatal audit system will see Hong Kong developing in the right direction.

Childhood injury in Hong Kong

Another alarming fact concerning our children's health condition is the rising

number of injuries among children. In the last decade, accidents had surpassed diseases as the leading cause of childhood mortality disability and it is also a leading cause of childhood morbidity.

The total number of children under nine accounts for 14.1 % (or 863 700 in number) of the total population.

In 1988, injury and poisoning causes about 2% of the deaths among children aged under one year, 24% of the deaths among children aged one to four and 31% of all deaths of children aged four to 14 years.

Details of the nature of accidents in children per se is not available, but preliminary data in a prospective study indicated that accident falls account for 44% (10.6% of which are falls from beds or furniture). From 1985 to 1989, eight children were suffocated to death after trapping in folding tables.

With increasing number of working parents and insufficient supply of day care facilities, very often children are left unattended at home. It has been reported that from 1986 to 1988, 15 children under the age of 10 died after falling out of windows. In 1988 to 1989, just in the course of one year, 51 children under the age of nine died while unattended at home. Also, there were several incidents of fire resulting in several deaths while children were left unattended and locked from outside.

Sir, injury surveillance and prevention programmes in Hong Kong are almost non-existent. Commitment of concerned professionals, public and Government is very much needed to direct resources to injury prevention research and programming and to reinvigorate regulations of product safety so as to tackle this problem.

Such a team of these representatives should serve as a scientific advisory and co-ordinating body to report on specific issues that aim to influence policy or legislation and to provide education to public and to people involved with child care. If a council on AIDS prevention could be set up so efficiently, there are stronger grounds to put in place a Child Accident Prevention Council with no further delay.

Health research

Sir, it is recommended by the Commission on Health Research for Development in

1990 that countries should invest at least 2% of national health expenditure to support essential national health researches so as to ensure resources available for the health sector to achieve maximum results.

But here in Hong Kong, there is no separate budget on health research. Due to the lack of integration of services, many information concerning child health are scattered around various reports from different departments and are very difficult to extract. For examples, results of combined screening programme performed by the Education Department, prevalence of emotional problems in children or social parameters, incidence of some specific diseases are not readily available; and morbidity figures in primary medical care are completely lacking.

Sir, Government does not even have an epidemiologist to plan, organize, analyze or evaluate the whole surveillance system so as to keep it efficient, effective and more sensitive to the need of the society. The availability of good quality and quantity of data is vital in the planning, implementing and evaluating public health interventions and programmes.

Very few data has been available to the public, and many are not available even to the Medical Development Advisory Committee -- the de facto think-tank to the policy branch on health and welfare. It is therefore essential to have such a body to perform the needed function like the system currently established in Australia, or the centre of disease control in the United States of America.

School dental Service

Sir, a nice set of teeth is part of the prerequisite of a healthy child. It is most important that Government should examine the cost-effectiveness of the existing school dental service.

Too much emphasis is being made on the role of dental therapists and adequate and indepth studies are not available from the skeleton staff of dental officers. The concept of dental therapists arose at the time when dental care is comparatively expensive and Hong Kong as whole was short of dentists.

But the situation has now changed. We have an over abundance of dentists. Should our future pillars deserve better assessment of their oral hygiene? Having said that, I am in no way undermining the efforts of some 250 dental therapists

currently working in government school dental care service centres and dental clinics. They have done a most commendable job, but I believe the school children today should have a more comprehensive dental care.

Whilst detection of dental problems of children takes place in the School Dental Service, no provision are currently available for active treatment of any but perhaps the most basic and emergency problem. It is well to say that once a defect is detected, they would be advised to seek private dental service. But what about the very high percentage that cannot afford private dental care? Should it not be the time that the concept of "nobody should be devoid of care because of lack of means" be applied also to the care of the set of teeth?

The autistic child

Sir, the need for improvement of paediatric services is far from exhaustive. One specific area that needs to be considered is the management of the autistic child. Such children have developmental disorder, characterized by impairment of verbal and non-verbal communication; impairment in reciprocal social interaction and markedly restricted repertoire of activities and interests. Recent studies show that such conditions are not that uncommon and it is estimated that some degree of autism do occur in about 15-20 per 10 000 children. Early detection and treatment is absolutely essential to prevent the handicap and other associated behavioral problems from becoming irremediably entrenched.

What should be our way ahead for total child care in Hong Kong

Sir, with all the problems facing the care of the child, there is a need for policy making and planning for the development of total child care in Hong Kong.

Government must at the outset be committed to set out a comprehensive child care policy that addresses the total needs of the child.

Furthermore, to ensure that importance of health in all children to become a reality will require the political will of the Administration.

The first ever world summit for children in which all leaders of the world met in September 1990 in New York had put children high and firmly on the agenda, giving them priority in the world resources in good times and bad times, war and peace, for

the essentials and the best of child survival, protection and development.

Hong Kong should become a signatory of the 1989 Convention on the Rights of the Child adopted by the United Nations' General Assembly and the "best interests of the child" should be the primary consideration in the approach to any issues involving a child.

A comprehensive child care policy that addresses the total needs of all children should be ironed out and a child council should be set up to carry out the job, filling in the gap left behind by the Youth Council.

Whilst societies and the world will focus on child related issues, we in Hong Kong should rise and be ready to face the challenge and responsibilities on behalf of our children.

What we need is one integrated approach, one set of policy, not fragmented approaches and fragmented sets of policies.

To end, Sir, I would like to quote from the lyric of the song Greatest Love of All:

I believe the children are our future
Teach them well, and
Let them lead the way
Show them all the beauty they possess inside
Give them a sense of pride.....

Sir, with these remarks, I support the motion.

HIS EXCELLENCY THE PRESIDENT: This is, I suppose, the last occasion on which Members will not suffer the discipline of the new Standing Orders about the length of speeches. Since there are some 14 or 15 Members who still wish to speak, might I nevertheless suggest to Members that they might get into training now for the discipline in the new Session and try to speak briefly.

MR POON CHI -FAI (in Cantonese): Sir, I do not intend to dwell at any appreciable length on the motion that is before us because the subject so raised has been canvassed numerous times before this Council in diverse ways and manners ranging from questions

to full-blown debates. However, I would like to highlight here the predicaments of families on the middle and lower strata of society. Their hardships are not readily describable in a few cursory sentences, either written or spoken. Yet I will try to reflect their hardship as best as I can.

Sir, recent accidents suffered by young children who were left unattended at home have aroused enormous concern from the public. These accidents sometimes resulted in the death of young children. Yet no attempt has been made to put a stop to such tragedies, which keep recurring. People have not as yet awoken to the danger. We should pause and think a while. Children are the future pillars of our society. Parents who have to go out to work and are thus unable to look after their children have no alternative but to leave their children behind at home. Some would say that the responsibility wholly rests with the parents. Some even say that laws should be enacted to restrain parents from leaving their young children unattended at home. This might sound reasonable to a casual listener. But we know only too well that it is hard to make a living in Hong Kong what with inflation running at an all time high. Most families have both spouses going out to work to earn an income in order to make both ends meet. They have no spare time to look after their young children. Most Members of this Council are parents themselves. They would do well to ask themselves who among parents would fancy leaving their young children unattended at home. If full blame is to go to the negligent parents and laws are to be enacted to restrain them, it would be absolutely unfair to them, particularly those living in public housing estates who are of limited means and cannot stay at home to look after their children.

As a matter of fact, there are only two ways to solve this problem: first, to increase the income of the general public, which will be a difficult thing to achieve; and second, to have child care centres set up by the Government in the vicinity of public housing estates and industrial areas to cater to the needs of low-income working parents. The latter would seem to be the only viable option. There have all along been all too few child care centres and the charges are not readily affordable by the general working public. This, coupled with the failure of the Government to have in place a comprehensive child care programme, has led to some young children being left alone at home which sometimes results in tragedies. Take Kwun Tong as an example. Most of the poor working people living there in small and shabby public housing units do not have the means to employ maids to look after young children at home. To them, the provision of child care services is a pressing necessity.

The tragedy in Ho Man Tin early this year occurred because of the Government's failure to provide timely help to parents in the area of child care services. This in fact reflects the existence of a very serious problem and that is that there is inadequate provision of child care services and a failure on the part of the authorities concerned to take on this responsibility of provision. It is precisely because of the persistent shortage of labour that the authorities concerned have been encouraging women to go out to work to ease the labour shortage. If women could help ease the tight supply of labour, why cannot the Government take up the responsibility of providing child care services?

I recall that on 28 May 1985 I raised a question before this Council to ask the Administration how it would assist those families who, because of straitened circumstances, were unable to take due care of their young children. Then again on 25 January 1989 I raised another question to ask of how long it would take to wait before a child could be admitted to a creche or child care centre. If the authorities concerned had there and then responded and taken action in a positive manner and adverted to the serious nature of the matter, I believe the likes of the Ho Man Tin incident would not have happened. The present provision of child care services is indeed not up to expectations. This is especially more so in respect of occasional child care services where the Government has failed to effect improvements or formulate a long-term implementation strategy, particularly with regard to some districts such as Kwun Tong where such services are in good demand. It is hoped that the authorities concerned will step up the publicity and promotion effort in respect of occasional child care services so that those families who need it will benefit and that the incident at Ho Man Tin where four young children met their tragic death will not recur. Finally, the authorities concerned should improve as soon as possible the provision of child care services and ensure its long-term implementation for the benefit of the next generation.

Sir, with these remarks, I support the motion.

MR CHAN: Sir, no one can tell right at this moment how many children under the age of 10 are being left behind at home as their parents have to go out to work or to do other things. It could be hundreds or even thousands. This is a reality of life in Hong Kong.

If nothing happens, alright. But anything could happen to the vulnerable kids. Look at the Fire Services Department figures, you will be alarmed. During the period from 1 January 1990 to 6 February 1991, that is just over some 13 months' time, the Department had responded to 166 emergency calls involving 211 children being left unattended in locked units, of whom there were six injuries and six fatalities.

This is a serious problem. But I do not favour legislating against leaving children alone at home because the alternative of leaving them to wander around outside is more dangerous. We should not lay the responsibility on parents alone given the realities of life in Hong Kong. We must provide sufficient child care facilities and community support services to help the parents to overcome this problem.

At present there is a shortfall of 7 837 aided day nursery places. I urge the Government to redress this shortfall to cater for the needs of lower income families. Government must also plan ahead to relocate the nurseries to meet new demands particularly in newly developed areas.

As the Council will debate on the socio-economic status of women in Hong Kong later today, which I fully support but would not be speaking due to the limited time, I would like to encourage more women to seek gainful employment or participate in meaningful community activities so as to make further contribution to society especially when the labour market is tight. However, this would not be possible unless there is sufficient provision of child care facilities.

I welcome the Government's pilot project of Occasional Child Care Service which provides for short-term child care. This is a useful extension of the existing child care service and should be made more readily available and widely known to parents.

Also, we must not neglect that there were more accidents happening to children who were not left behind in locked units. During the last three years there were 131 deaths from accidents when children were alone or left unattended. Last year alone there were 37 deaths, many times more than the six deaths which happened to children who were left unattended in locked units. These tragedies occurred when children were away from home by themselves or when their parents were around but not attending to them.

Besides child care centres, there should be services to cater for those children

who attend half-day schools and then being left to wander around on their own after school. The present experimental After School Care Service covering five agencies and 60 places is a good start but definitely not adequate to cater for the need in the long run. Moreover, more publicity must be arranged to make people aware of the service.

Parents have the basic responsibility role to play in looking after their children. Nevertheless, apart from encouraging mutual help such as between neighbours and relatives, more efforts should be made by Government to provide a safe environment for children if such is not available at home.

Sir, with these remarks, I support the motion.

MRS TAM (in Cantonese): Sir, a motion on child care will range over a vast spectrum of subjects. Therefore my speech today will cover no more than those areas which have recently aroused public concern. These will include the proposed drafting of legislation to restrain parents or guardians from leaving their children or wards unattended at home as well as some aspects of child care services which apparently have run into hitches of one sort or another.

Early this year a tragic incident in Ho Man Tin led once again to public discussion of whether legislation should be introduced to prohibit the leaving of children unattended at home. The Social Welfare Advisory Committee passed a resolution day before yesterday to hold consultation with the public and organizations concerned about this matter. As chairman of the advisory committee, I understand, from numerous in-depth discussions, that such legislation will have far-reaching effects which will therefore call for a careful and cautious approach. The authorities concerned had suggested shelving the proposal to legislate to restrain negligent parents because of the perceived difficulty of enforcement and the doubt surrounding its deterrent effect. But after an exhaustive study by the advisory committee, it has come to the conclusion that public opinion must be respected and therefore it has agreed to consult public opinion by way of an open consultative document before making a decision on whether to favour legislation. To my knowledge, a survey conducted in July to September 1989 found that there were 594 700 families in Hong Kong who had children under 13 years of age. Of this number, 42 000 families, that is to say about 7%, had, during the week before the survey, left their children unattended at home once or many times. Based on this finding, the authorities

concerned have extrapolated that there are about 66 000 children left unattended at home by their parents or guardians. This figure represents 6.5% of the children population under the age of 13. The survey also found that the principal reason over half of the parents or guardians gave for leaving the children alone at home was that they had to go out to work. Some gave the reason that the person charged with the care of the children had to go out on some business of his/her own. A small number gave as reason that they left the children behind to go out to have recreation of one sort or another. Furthermore, according to information available from the coroner's court and the police, in the past three years there were 80 cases where a coroner's jury returned a verdict of death by misadventure to a child under 10 years of age as a result of being left unattended. Police records also showed 61 similar cases of death to children under the age of 10.

Sir, in the course of discussing relevant legislation, the Social Welfare Advisory Committee took reference from the experience of a number of countries and regions, such as the United Kingdom, the United States, Canada, Australia and New Zealand. But owing to different social backgrounds, Hong Kong's provision of services in this respect substantially differs from other countries which have been encountering difficulties in the area of enforcement of the relevant legislation, with some countries failing to have one single successful prosecution. The advisory committee took due note of this and deliberated on the factors leading to it. Legislation to prohibit leaving children alone at home will on the one hand serve to deter, to educate and to safeguard young children from neglect, while on the other hand it will give rise to enforcement problems. For example, the legislation will need to confer powers on the authorities concerned to enter premises or to make it an obligation on the part of the public to report neglect or breaches. Therefore legislation to address parents' neglect of their children should, from the correct conceptual point of view, not be the only approach to the question. Even with the relevant legislation in place, it will not guarantee that parents will care for their children with a keener sense of responsibility and make them aware of the danger of leaving their children alone at home. A more important and positive approach should be to step up education of the public to put parents on higher alert.

Sir, there are some crucial questions with regard to enactment of legislation which will call for deliberation by the public. First, will legislation provide the best and the most effective protection of the children's interests? As far as practical enforcement is concerned, what will its viability be? Second, does Hong Kong have the objective conditions to make pre-enactment preparations; with demand

for child care services exceeding supply, will it be reasonable and fair to parents or guardians if legislation is enacted to punish them for neglect of their children? Third, section 27 of the existing Offences Against the Person Ordinance can be invoked by the police in prosecuting parents who wilfully neglect to take care of their children; will it be worthwhile to extend application of this section of the Ordinance to circumstances where parents leave their children alone at home and thus the need to enact fresh legislation will not arise? I believe that after the consultative document is published by the Government, members of the public will have the opportunity to discuss in detail all the above questions.

Sir, to take care of their children is an unshirkable duty of the parents and yet not every parent is capable of fully discharging this duty. Besides legislation, there is an enormous amount of education and improvement work to be done. First, on the publicity front, apart from emphasizing domestic safety, parent's responsibility and the provision of family counselling and child care services, the Government should step up promotion of the message of neighbourly help, particularly among public housing residents who should be encouraged to take care by turns their neighbours' children in need of temporary care. Moreover, to take care of children is the common responsibility of the adult community. Apart from the Government and parents, private organizations should also be encouraged to help their employees take care of their children. In view of the increasing number of nuclear families, the growing number of women going out to work and the rising demand for child care services during daytime, apart from increased allocation of funds by the Government to improve services concerned, it would also be a viable alternative if private organizations are to be encouraged to provide services. The Hong Kong and Shanghai Banking Corporation Limited is subventing certain organizations in similar schemes or programmes so that employees of these organizations are provided with child care services. I hope that this development mode will in the future enjoy more practical encouragement from the authorities concerned and more response from other quarters.

Sir, with these remarks, I support the motion.

DR TSE (in Cantonese): Sir, four small children being locked inside their home were burnt to death in a fire on 11 January this year. As this tragedy took place in Kowloon City District which I represent, I would like to take the opportunity of this debate to reiterate the appeals and demands the Kowloon City District Board members and myself have made to the Administration following the incident.

On the night of the tragedy, two district board members from Ho Man Tin held a special meeting with the mutual-aid committees in the district to hear their views on the matter. In the ensuing district board meeting, they further requested representatives from the Fire Services Department (FSD) and Social Welfare Department (SWD) to answer queries and give explanation concerning the incident.

We learnt upon enquiry that it was not uncommon for adults to leave their small children unattended at home. In 1990 alone, 137 cases of small children being locked in, and FSD assistance sought were recorded, involving a total of 167 children. Regrettably, when these cases were referred through the police to the SWD, the follow-up action taken by the SWD were only confined to investigating the cause of the children being locked in, and offering public assistance and so on to the families concerned if necessary. Obviously, to handle these cases in such a routine manner cannot help solve the problem. According to the FSD report, the four little victims in the Ho Man Tin fire had been caught playing with fire in the house before, and were rescued by their neighbours in a few very dangerous situations. It is most saddening that misfortune has finally befallen them. This incident has, however, alerted us to a serious social problem. From the information the SWD has provided to the Kowloon City District Board, we understand that the SWD is not taking a totally passive attitude in this area. For instance, in September 1989, the SWD launched an occasional child care service pilot scheme and provided child care service in a community centre in our district. However, due to inadequate publicity and stringent eligible criteria, and the fact that the community centre is situated far away from the populace housing estates, the pilot scheme has only met with lukewarm response.

Based on the above, the Kowloon City District Board members have put forth to the SWD the following suggestions:

(1) Child care service should be provided or strengthened in housing estates and densely populated residential areas.

(2) When these services have reached an acceptable standard, Government should consider making it an offence for parents to leave children unattended at home.

(3) Promote family safety education to teach parents to take good care of their children and not to put their children's lives at risk, including leaving children unattended at home.

In order to make the best use of our social resources, the Chairman of the Kowloon City District Board also suggested that Government should consider introducing occasional child care service at a minimum charge and without any eligible criteria, and recruit housewives and the retired but physically fit old people to work as voluntary or semi-voluntary child-care workers under the supervision of experienced personnel. This can help reduce operation costs and foster neighbourliness.

Sir, yesterday evening, I chanced to meet a Canadian child education expert in an international conference. From our conversation, I learn that the problems we debate today do also exist in advanced countries. This expert told me that Canadian Government would address the problems by means of a three-pronged approach, that is: "improve child care service, legislate against leaving children below 10 years old unattended at home, and promote parents education". They are now introducing in Canada a children "warm line" service manned by voluntary agencies and voluntary workers. Its objective is to provide immediate assistance to children in danger. This expert has promised to send me some latest information on the subject. I hope the Social Welfare Department will be prepared to research the experience of other countries in looking after the children and learn from their good examples.

As far as I know, the occasional child care service pilot scheme was to be reviewed after 18 months of trial run, that is, in April this year. It is already mid-July now and I wonder if the review has already completed and what the conclusions are. After this debate, I hope the Social Welfare Department will give us a definite reply as to how this problem perturbing our community can be resolved as early as possible.

Sir, with these remarks, I support the Honourable Martin LEE's motion.

MR PAUL CHENG: Sir, child care is not a problem for young married couples or women to solve alone. Child care is a community issue. Although we have already heard from a number of our colleagues who have expertise in social services and I defer to their greater knowledge on the subject, I decided to speak, because I came across an innovative programme that is worth noting.

There is a pioneer programme in the United States that has brought children together with senior citizens. This innovative programme in Cambridge, Massachusetts has brought together retired workers and aged in old people's home with nursery school

aged youngsters who require day care. It brings together children in age from 18 months to five years with seniors who are defined as anyone older than 60.

What a beautiful way to express what "community" is all about. The children give elders a "lift" with their youthful freshness and wonder of what the world is all about. The elders give these youth companionship and share their many years of experience and knowledge.

The American corporation which established the project characterizes the idea as a "common care facility". The children and elders have a lot to offer one another.

I personally saw senior citizens read story books and play with the children in this day care centre. This synergy will enable us to optimize the limited resource of professional supervisors and social workers and help keep expansion costs down because the old people in effect act as assistants to the professionals. This is a "win, win, win situation" all the way around. I will be happy to share the materials I have on this idea and, if need be, obtain more details from the United States.

I cite this example in today's motion debate; because too often, as legislators, we look to assigning more money for enlarged staffs from government coffers. It is time we more conscientiously recognize Government as one part of the community. Community is more than a group of people living in one place. It is people participating in common.

We can address the needs of our community from innovative and synergistic ideas and strategies that give us even bigger dividends from the resources we use. I urge Government to look into this possibility, and to find ways of encouraging subvented organizations and the private sector to join in.

With these remarks, Sir, I support the motion.

MR DAVID CHEUNG: Sir, recent tragedies on young children have prompted today's debate. Life is precious. Young children have long and bright future ahead of them and should be taken care of properly.

I concur that Government should do what she can to provide better and more child care facilities. I also concur with the views expressed by many of my honourable

friends. However I tend to look at the issue from a slightly different angle. I think we must realize that to bring a child to this world is not simply an act of nature, it is a life-long commitment and responsibilities. The duty to take care of children primarily falls on the shoulder of parents -- not institutes and not government, though everyone should help. I do not want to see the day when our children become children of institutes rather than their parents.

It is easy to lay the blame on someone or something. The suicide of young school children results in the education system and teachers being severely ridiculed. I wonder if justice is served by such action.

There are vacancies in day care centres. Why are they not fully occupied? They are too far from homes as claimed. But given the circumstances in Hong Kong, while I support the increase of the number of day care centres, it may be extremely difficult to decide how many are adequate.

It is high time that we realized that child care is basically a parental responsibility. Failing that, I am afraid more tragedies might happen. Parental care and concern are irreplaceable.

It is understandable that some parents have to make a living. But it is no excuse for leaving young children alone at home unsupervised. If parents do not want to put their children in day care centres, other ways and means must be sought, such as to solicit the help of grandparents, relatives, friends and particularly, neighbours. In view of the close proximity of living quarters here in Hong Kong, neighbourly relationship must be closely cultivated. It is indeed unforgivable to let young children stay at home by themselves and let things take their natural course. It is totally uncaring and irresponsible.

About children suicide, it bewilders me to see young children who should be naively happy with life, should contemplate such a fatal act. Again, while it is easy to blame the school or the teachers, who may not altogether be blameless, parents must shoulder the bulk of the responsibilities. It is perfectly normal for teachers to discipline children at school although I never condone excessive punishment. It threatens teachers psychologically and mentally if the sole blame rests on the teachers. Should unruly behaviour at school be left unpunished because of suicide precedents? Can teachers keep students at school to finish their unfinished homework? Should teachers inform parents of the children's misbehaviour through the school

handbook? Or, do we expect our teachers to take a do-nothing attitude? We must ask why our young children are so brittle and so prone to suicidal acts.

Many parents either spoil or neglect their children or are unnecessarily harsh towards them. Children can be awfully manipulative and parents vulnerable. Children who are spoiled behave as if the world owes them everything; children who are neglected look for actions which are attention seeking or may become moody and sullen. Children who are harshly treated tend to be overly tough. I am afraid many of our children today fall in one of these categories. To take care of children and to enable them to develop well, parents should neither spoil them nor neglect them nor be harsh towards them. Children who are well taken care of, brought up well show a marked difference in behaviour at school. If parents fail, it is difficult, if not impossible, for schools and other institutions and other people concerned to work miracles.

Sir, may I take this opportunity to appeal to all parents to devote more time, energy, resources to take better care of their own children to avoid repetition of tragedies.

While I agree with the Honourable Martin LEE's motion in spirit and I encourage Government to do all she can to enhance the quality of child care, I cannot vote for it because it implies that the availability of child care services throughout the territory will solve the problem. It will not. I really believe that everyone should play his part with parents taking the lion's share of the responsibility. I shall therefore abstain from voting.

MR CHOW (in Cantonese): Sir, there is a famous saying of the poet of the Sung Dynasty, Xin Qi-ji (辛棄疾), that "The young do not really know what it means by sadness. They try hard to express sadness just for the sake of composing poetries." Whether the children and youngsters of Hong Kong are being well taken care of, or they fail to realize their state of well-being is a subject worthy of an in-depth study. Nevertheless, it can be certain that what most of the children of Hong Kong want is not "sucking needs", but proper care and attention, as well as a suitable environment under which they can develop physically and intellectually to become responsible and healthy members of society.

In January this year, four children were burnt to death in a fire in Ho Man Tin.

There have also been cases of suicides by school children and earlier, there was the case of Kwok Ah Nu (). All these incidents reveal that many children in Hong Kong are not properly taken care of.

Firstly, in terms of administrative structure, services catering for children are in fact provided by many government departments, including the Department of Health, Education Department and Social Welfare Department. However, due to the many departments involved, difficulties are bound to rise in co-ordination. It turns out that these services are operated on a piecemeal basis, with each of them going its own way. For example, day nurseries under the Social Welfare Department can as well assume a certain role in pre-school education. But regrettably the Government has not played its such role to the full. As regards co-ordination, government attention is only focused on youth affairs, while the conception of a systematic development and arrangement for children services have never been heard of. Since a Youth Commission has already been set up, why does the Government not consider the establishment of a Children Commission to co-ordinate and consult the public on children services? Obviously, the Government has not done enough in this respect.

Truly speaking, children should be taken care of by families. However, in the face of the ever increasing number of divorce cases, and the fact that more and more women have to go out to work out of financial needs, the onus is on the Government to render assistance to those families, the children of which are left unattended when both parents work. The best way is to change the existing fee and subsidy policy on nurseries. At present, the Government only subsidizes 5% of the total expenditure of non-profit making nurseries. Moreover, the Government always emphasizes that nursery service should be subject to charge. As the running cost of such service is on the increase, the charge could easily amount to as high as \$1,000 or more per month, which many families cannot afford. Since the Government has decided to expand gradually the number of nursery places from 21 249 this year to 31 683 by the year 2000, the actual subsidy for every nursery should be increased. Only when the Government can ensure that the general public can get the service they want and that the charge is generally affordable will its intention of expanding the nursery service be fulfilled.

Furthermore, the existing subsidy criteria of 100 day nursery places for a population of 20 000 is not flexible enough because every district has its own needs, especially in those newly developed ones. For example, the demand for day nursery service in the New Territories North and the New Territories South is naturally

greater than that of the urban area. Therefore, I think the subsidy level should be set according to the unique needs of each district.

As regards occasional child care service which is still at the trial stage, I think it is worthy of support because it does help those parents in need. But in actual practice, there are still a lot of deficiencies in the scheme which call for improvement, namely, the location and amount of the service provided, the application procedure and the fee level. The Government always fears that the relaxation of the application criteria would lead to abuse of the service. This is in fact over worry as no parent would want to leave their children without care. Thus, while the occasional child care service is being expanded, the existing application procedure should also be simplified lest the majority of those in need be denied access to the service.

When it comes to child care service, it is only natural to talk about pre-school education. Pre-school education is crucial to the formative years of children. Proper handling in this respect will facilitate the development of children in future. Regrettably, the Government has so far not been fully committed to such education, nor does it recognize its importance. The development of such education is left on its own under difficult circumstances.

In Hong Kong, pre-school education mainly focuses on kindergarten. However, as kindergartens are not directly subsidized by the Government, they vary widely in the form and size of operation, as well as the standard of teachers. Due to the lack of monitoring by the Education Department, great disparity in standards among kindergartens is inevitable. The remuneration of kindergarten teachers and the quality of teaching are even more worrying. As the remuneration offered is on the lower side, many kindergartens would compromise the quality of education and employ inexperienced teachers. The great disparity in standard among kindergartens, the pay level of kindergarten teachers and the lack of government subsidies are all inter-related. The education sector has been striving to enhance the quality of kindergarten education for many years, but the Government would only shirk its responsibility. Should it be the attitude of a responsible government to let parents and primary school teachers bear the consequence of its own negligence towards pre-school education? I can remember that when the United Nations declared 1979 as the International Year of Children, many people who were concerned about children affairs urged the Governments to fully subsidize pre-school education. After 12 years, the Government's attitude remains unchanged, and this is indeed disappointing.

I hope the Government will start to review its role and place in pre-school education and examine the possibility of placing kindergartens under the jurisdiction of the Education Department in order to ensure up-to-standard pre-school education.

Besides, according to a recent survey, of the 1 000 primary school students interviewed, half of them indicated that they wanted to commit suicide, and those who have contemplated suicide but have not committed it amount to 40%. This shows that many children are feeling suicidal and depressed. I believe that when Members read newspaper recently, they often find student suicide and mass suicide cases. This is really a horrifying tendency.

Why did a ten years old child choose to end his own life? This cannot be explained in a few words. Because of change of moral concepts, divorce is now a matter not as serious as in the past. Nowadays, the attitude of people towards marriage is "live together if two person can get along well and separate if otherwise". Many problematic children actually come from broken families. Children and youths generally have no sense of responsibility. Forced-fed education and harsh examination system are major factors that bring pressure to bear on the students, and lack of parental guidance is one of the reasons why students are hurt psychologically. Cantonese have the saying, "It is better to admonish parents to hit his own children than to admonish a man to divorce his wife." From this we can see that teaching children by means of corporal punishment is still common in Chinese society.

In order to give our children a proper psychological and mental development, school education and parental guidance are very important. But do parents have proper guidance in teaching their children? Is the stress for examination driving our parents to put too much expectation pressure on their children? After all, it is not easy to bring up children. Our materialistic society does not offer any spiritual solids to them, so the Government must increase its family support service. As far as schools are concerned, I think that school social workers and students should be set at a better ratio. Good communication among parents, teachers and social workers is also essential. The above work can be examined and co-ordinated by the Children Commission. The setting up of hot line service and counsel centre are feasible options.

Another part that cannot be dispensed with is the provision of service so that children can grow in a good psychological and physical environment. Looking round

the world, primary health care services are usually provided by the Government. According to the Report of the Working Party on Primary Health Care, Government is thinking of abolishing the School Medical Service which provides low-cost medical service to students from Primary I to Form III, and replace it with Student Health Service. That means only preventive and promotive services will be offered to students. When a student has fallen sick, he can receive treatment from general out-patient clinics or private doctors. The working party recommends in its report that in order to offer a cheap choice for student to get medical attention apart from visiting private doctors, children from the age of 0-5 should be provided with service at the general out-patient clinics at half-price. The report further recommends that this service be extended to whole day school students under the age of 18.

On the surface, the reasons for abolishing the School Medical Service are that the scheme is considered outmoded and that the resources devoted to this service are not being used efficiently. Furthermore, there is little justification, in present-day circumstances, for a low-cost service which lead to a low standard service. The report attributes the students' poor participation in the School Medical Service to the low standard of the service. But has the Government think of the reason why the School Dental Service scheme is so successful? Why is the response to these two schemes a complete contrast? Is it because the Government failed in controlling the quality of service? Although it is promised in the report that the target group will be provided subsidized out-patient clinic services at half fee, the management of the out-patient clinic is in the hand of private doctors. The out-patient clinics thus become organizations jointly operated by public and private sectors. Medical fees will be linked up with cost. It is in fact a price increase in disguised form. The medical expenses of children will become a heavier burden on the parents. Apart from this, if medical charges of the out-patient clinics are linked up with cost, families with children from 0 to 5 years old will naturally be affected as children of the above age group are most in need of out-patient clinic service.

It is the responsibility of every government to promote healthy development of children and it is children's natural rights to enjoy healthy development. The Government should try to offer cheap health care services to children. However, the Government did not endeavour to improve the scheme concerned. It even tries to operate the out-patient clinics with private sector and increase charges in disguised form. It cannot ensure better quality of service. At the same time, heavier burden will be placed on parents. This is a great retrogressive step on the part of the Government.

Recently, there was suggestion that the Government should legislate to prevent parents from letting their children live in neglect, abusing their children and leaving them alone in a house. These suggestions are commendable. The Protection of Children Division under the Social Welfare Department has responsibility to hasten the legislative process. Relevant cases should be handed to the "Family Incident Tribunal" which has specific responsibility in family incidences, so that the families concerned can receive professional guidance and the cases can be handled more professionally, efficiently and systematically, such tribunals can expand the services to cover divorce, abuse and negligence cases.

As for the proposal to legislate to prevent parents from leaving their children alone at home, I have reservation. This is because the Government has not offered adequate nursery and child care services at present. As we all know, parents leave their children alone in their homes in the absence of a better alternative. If the Government really legislates to prevent parents from so doing, it must enhance the day nursery and child care services. Only by so doing will the Government be fair to the parents. Otherwise, the Government will be criticized as going too far and it is as bad as not going far enough. Worse still, many unjust verdict will be resulted from such legislation. Therefore, I do not support the proposal to legislate to prohibit parents from leaving their children alone at home.

Sir, we often use the saying "he is intelligent in his childhood" to describe a child who is clever and sensible. However, it is followed by another saying which is "He may not be so bright when he grows up". Thus it can be seen that in order to foster our children, inborn factor is of course very important, but we have to create a conducive environment for the child to develop properly. Therefore, Government's responsibility to provide services for the youth is as important as the influence of a family over the child.

Sir, with these remarks, I support the motion.

MRS LAM (in Cantonese): Sir, every year, there are cases in which fatal accidents occurred when children are left alone at home. Twenty-seven children died in such accidents in the year before last, while the toll stood at 19 last year. Though there is a drop in comparison, yet fatal tragedies involving children due to negligence on the part of adults are indeed worrying.

In January this year, a fire which broke out in a unit in Ho Man Tin Estate killed four kids because their parents locked up the door before they went out. Not only that the parents are grief-stricken, other people would also be saddened at the news. As the coroner pointed out, lesson should be learnt from this tragedy, and it is never too late to make remedies.

I have the following views in this respect:

(1) To step up publicity and promote education among the public that children should not be left alone at home. To enhance public awareness and self-discipline as regards the above accident-prone situation. All parents love their children and will be remorseful for the rest of their life should any accidents occur.

(2) To expand substantially the provision of occasional care service. Although the number of places has already been increased to 150, yet it is indeed out of all proportion when compared with the total population of children under 10, which exceeds 500 000. Moreover, the demand far outstrips the current supply of 20 000-odd places in day nurseries.

(3) To widely publicize such child services, whether day nurseries or occasional care, to make known where such services are available. Never should similar instances be allowed to occur in which the parents of the four children claimed that they had not heard of such services. The publicity should be launched through mass media and targetted at owners incorporations and mutual aid committees as well. It should not be a once-and-for-all exercise but one which is constant and impressive.

(4) To focus attention on the safety of children. Legislation should be enacted to prohibit children from being left alone at home to avoid accidents. Although legislation may have deterrent effect, immediate enactment may give rise to serious problems unless new measures are in place to provide adequate occasional care or day nursery services. It should be noted that about 47% women are working and account for 37% of the total work force. Even the parents are aware of the danger, they have to take the risk as they need to make a living or cannot afford to send their children to private nurseries.

(5) To encourage factories and large organizations to allocate space for the provision of day care service for their employees in order to prevent further labour shortage.

(6) Dangerous articles should not be placed in such a way that can be easily reached or played by children to avoid tragedies. It is hoped that the Social Welfare Department can reinforce the child's knowledge on home safety.

Sir, children are the future masters of our society. In no way should we allow unnecessary harm, detrimental sometimes, to be done to them. Parents of course should be responsible for the welfare of their children. But it is also the responsibility of the Government to identify more effective measures to educate parents on proper child care and to offer help if necessary. We hope that the present tragic incident and the debate that we are having today can help make parents realize the importance of child care. We also hope that the Government can learn from this lesson and review its policy on child care services.

Sir, with these remarks, I support the motion.

MRS LAU: Sir, in the debate on welfare of children in Hong Kong in this Council in June 1989, I expressed my concern in regard to the insufficiency of child care services in Hong Kong. Since then, very little has actually been done by Government, except the usual family life education programmes and the introduction of occasional child care services on a limited scale. In the meantime, many more young children have plummeted from heights or sustained fatal injuries as a result of being left unattended at home. The tragic incident in January this year involving the death of four young children, clearly drives home the message that much more need to be done if we are to prevent similar tragedies happening in the future.

Lying at the centre of the problem is the inadequate provision of public or government-sponsored child care facilities. In the White Paper on Social Welfare Into the 1990s and Beyond, Government acknowledged that there is an increased need for day care facilities for young children who cannot be cared for by parents during the day, but it refused to improve on the existing planning ratio for day nurseries which has for some years stood at 100 places for every 20 000 of the general population. This is so despite the fact that Government is well aware that existing provisions are not sufficient to meet current demands. The experimental project of occasional child care service introduced in November 1989 with the participation of 15 nurseries took off badly. Initial utilization of the service was less than 10% and despite efforts being made to boost the service, the utilization rate remained poor. On

average only one out of the seven occasional child care places in each nursery was used daily, indicating not only a wastage of resources but also unattractiveness of the scheme. The reason for the bad response appears to be poor publicity, the limited number of centres available and the strict admission criteria. I understand that the parents of the four children who died in January this year were not aware of the availability of such service even though, ironically, one of the nurseries offering the same was within walking distance from their home. Although the service is now being extended to 50 nurseries and the admission criteria made more flexible to allow the service to be more widely used by almost everybody having such needs, the success or otherwise of the scheme remains to be seen. To a large extent, whether or not the scheme can be effective depends on firstly, knowledge of the existence of such a service and secondly, the acceptability of the same as a viable option for parents needing occasional child care help. Efforts must be made to ensure that there is sufficient publicity to promote the service, that there is sufficient encouragement to parents to use the service, and that the service is generally accessible to potential users.

But occasional child care service can only afford interim relief to those with short-term needs. In the long run, Government must address the central issue of insufficiency of child care services, both in terms of quality and quantity, on a territory-wide basis. The demands of society cannot be met by mere adherence to a fixed planning ratio which is perhaps already outdated. I therefore wish to take this opportunity to renew my plea to Government to comprehensively review the whole structure of our child care services and to take urgent steps to improve and expand such services to ensure that the needs of our children and those taking care of children are adequately catered for.

Sir, I agree that it is very important to educate parents and child-carers of their responsibilities towards children, particularly young ones. That is why family life education programmes on home safety and child care are crucial. However, the frequent incidents of child neglect in our society appear to indicate that education alone is insufficient to ensure responsible parenthood. If soft-sell education is not working, then the hard-core approach of legislation must be considered. In countries such as the United States, Canada, Australia and New Zealand, there is legislation prohibiting any child being left unattended without adequate provision having been made for its supervision, care or safety. In Hong Kong there have been arguments against the introduction of legislative controls in this area on the grounds that enforcement would be difficult, also that nobody would

really wish to impose additional punishment on bereaved parents who are already punished by the death of their child and in any event, existing statutory provisions are adequate to deal with cases of serious abuse and wilful neglect of children. But section 27 of the Offences Against the Person Ordinance has not deterred parents leaving children alone at home. Neither has the Protection of Women and Juveniles Ordinance served this purpose. In my view, we need to have legislation similar to those in the United States and Canada specifically making it unlawful for parents or child-carers to leave young ones unattended at home. The experience of other countries is that criminal prosecution is rarely taken against parents solely on the basis of non-attendance but the existence of such legislation served a useful educative and deterrent purpose. It is the preventive effect rather than the punitive effect that I believe such legislation will achieve. However, in the context of Hong Kong, where most of the time both parents have to work by reason of economic necessity, we must ensure that when we have such legislation, adequate support services in the form of child care facilities are also available to assist parent who may have difficulty in complying with the law.

Sir, with these remarks, I support the motion.

MISS LEUNG (in Cantonese): Sir, I rise to speak for the motion, basically. Yet I should like to point out that the motion before us is not comprehensive enough in that it only focuses on demanding of the Government to take immediate steps to improve the quality and widen the availability of child care services throughout the territory so that more children will benefit from it. In other words, it only urges the Government to strengthen the provision of child care services but neglects to stress the responsibility of the spouses, that is parents, and the family as a whole in this respect, though I agree with the Honourable Paul CHENG that child care is a community responsibility. The Honourable Martin LEE's motion mentioned the tragedy that occurred early this year in Ho Man Tin. In that tragic incident, which occurred last January in Ho Man Tin, four young children left unattended at home were burnt to death when a fire broke out. As a matter of fact, in recent years there have been numerous accidents involving young children who have been left alone at home. In this regard, the Government should take effective measures such as strengthening the provision of child care services so that parents will not need to leave their children unattended at home, which is something the Government should keep reminding parents never to do.

Sir, but we must not forget that even with adults at home accidents involving children may still occur. An example would be climbing out of the window and falling from a height. Therefore I feel that parents or adults present at home have the responsibility to ensure domestic safety and to avoid accidents happening to children.

Sir, as a matter of fact, child care should start at home. Within the family, either spouse should bear equal responsibility. The burden of responsibility should not be shunted onto the female spouse. Here may I point out that the matter under debate now bears a close relationship to the subject of women's status, which is a matter I am going to raise during a debate on the adjournment later today. Because of the limited time allowed for an adjournment debate, I may as well discuss now part of my subject for the adjournment debate which has a bearing on the Honourable Martin LEE's present motion.

I hope Members will understand that the traditional role of looking after the household and taking care of the young and the old within the family falls to the woman. If women go out to work to become economically productive on top of their duty within the household their work will be heavier than men who fulfill only the single role of economic production. Therefore the husband should, both in spirit and deed, share the responsibility with the wife. More to that, society, which includes the Government, voluntary agencies and employers, should provide adequate child care services so that women can more readily fulfill the dual role of engaging in economic production as well as looking after the children and the household.

Before I came into this Chamber today, a number of organizations who got wind of my proposal to raise the subject of women's status for debate on the adjournment handed me petition letters. Some of the letters requested for adequate community support services, including child care, after school care and temporary care services, to lessen the pressure on women, particularly single-parent women.

Sir, finally, I would like to comment on the proposal to enact legislation to restrain parents from leaving their children unattended at home. In this regard, the authorities concerned must adopt a careful and cautious approach and never resort to rash action. We must have sufficient and proper child care services available before we can consider implementing this proposal.

Sir, with these remarks, I support the motion.

MRS SO (in Cantonese): Sir, the accidents happened to young children who were left at home alone by their parents have aroused concern in the society. It is of course a tragedy to parents and families to learn that their children have sustained injuries or even died. The more important point, however, is that in order to prevent the recurrence of such incidents we must learn the lesson from the past tragedies and make improvements.

Many parents who leave their young children at home have thought that temporary so doing will not cause any problems because they leave home only for a short while. But this often ends up with accidents. These parents have neglected the care for their children and have overestimated the power of self-restraint of the latter. In the absence of supervision of adults, children often do things which jeopardize their own safety like playing with fire and climbing over windows. It is therefore extremely risky to leave young children at home.

I would like to raise three points on the prevention of such circumstances.

Firstly, the Government must introduce legislation to prohibit parents from leaving their young children at home alone in order to give protection to the safety of children. However, there are views in the society that it is inhuman to give additional punishment to parents who have actually received the greatest punishment of losing their children out of negligence. Moreover, the enforcement requires a lot of manpower and has many difficulties. But it must be pointed out that the objective of legislation is to give protection to children and produce deterrent effects on parents. Although there may be difficulties and a lot of resources are involved in the enforcement, the legislation is, in my view, worthwhile as long as the lives of children can be protected.

Secondly, occasional child care service should be promoted vigorously. The Government has extended such service from May this year. In Hong Kong there are 50 centres providing 150 places. The admission criteria have also been relaxed to positively encourage parents to make use of such service. However, I am of the view that the number of places should be increased to extend the services to regions where there are such needs. The publicity should be strengthened in order to encourage parents to make use of such service.

Thirdly, the Government should continue to promote the message of not leaving

young children at home alone and stress the dangers of so doing. At times, it should join hand with voluntary agencies in organizing seminars to advise parents to make arrangements as far as possible for the supervision of their children before going out and in promoting mutual assistance in the neighbourhood.

In a word, in order to prevent the occurrence of tragedies on young children being left at home alone, the introduction of legislation to deter parents has to be in concert with the availability of occasional service as well as extensive educational publicity so that the desired result can be produced.

Sir, with these remarks, I support the motion.

MRS TU: Sir, much has been written about a woman's right to work and pursue a career and the Hong Kong economy certainly needs the hands and brain of every woman who can and wants to work. But what of the children who have no way to struggle for their right to childhood care? In my estimation children are most frequently the victims of our money conscious society. There are homes where both spouses have to work to support the family and their children are a physical and moral risk. There are other homes where the mothers do not need to work but they wish to do so and their children are left to their own devices.

The extended family used to look after the needs of these working mothers but now housing policies require young couples to move from urban areas to new towns and family interdependence is breaking down. The Government has been miserly about providing child care services to meet this need. The tragic results are seen not only in child deaths from fires and falling out of windows but also in child suicides or child delinquency resulting from the feeling of abandonment by parents.

Most at risk are the children of one parent families, resulting from divorce or from the death of the breadwinner by disease or industrial accident. The single parent must either face a miserable existence on public assistance or go to work and leave the children at physical or moral risk. Some of these problems could be alleviated with a little more flexibility in housing policies. I often deal with cases of divorced women who have merely asked for a transfer to a housing estate near to relatives who will take care of the children while they work to support them. Such requests take months even to investigate and more often than not they are rejected.

When I see a family that requires both parents to work, or a single parent family with young children but no extended family support, I know I have seen a tragedy in the making. The children will suffer and some will be recruited by triads.

Can Hong Kong boast of its high GDP and its low taxation system yet blatantly neglect those children most in need of care? I know that some parents wilfully neglect their children and the law should deal with them. But most parents do fundamentally care for their children, only the odds are stacked against them if they cannot be re-housed near relatives or there are no child care centers nearby.

If the children go astray we advocate heavy punishment or even the death penalty. But what did society do for them in their early days when they needed child care? The relationship between child neglect and youth crime seems to go without investigation. The crime problems we suffer today are rooted in the child neglect of yesterday. Early childhood is the foundation stone of every man and woman and we need to make sure that the foundation is well laid.

If we were to put as much effort into building up the child to become the adult as we are putting into the infrastructure of a new airport, we should live in a safer and happier community tomorrow.

Sir, I support the motion.

MR PETER WONG: Sir, I would like to declare my interest as an Executive Committee member of the Hong Kong Society for the Protection of Children which operates nine day creches, 10 day nurseries and one residential creche.

The very broad brush criticism of all child care services in the motion can be taken to reflect on all those who provide the service. I sincerely hope that is not the case since all voluntary agencies and staff endeavour to do their very best within the constraints of resources. This is not to say that improvements in the present system cannot be made and more resources cannot be allocated. Honourable Members know too well that child care centres have to compete with other worthy causes such as health, elderly services and other welfare provisions for the tax dollar.

At present, there are 33 943 child care centre places comprising 2 238 subvented, 19 806 aided, 911 non-profit making and 10 988 profit-making places, all coming under

the auspices of the Social Welfare Department and governed by the Child Care Centres Ordinance. The waiting list for the child care centres showed that the quantity can always be increased to permit greater convenience to parents. I do question, however, whether the distribution of the existing centres is appropriate. The opening of new centres is dictated by the availability of accommodation in new buildings erected by the Housing Department. These tend to be in housing estates and are rarely found in industrial or urban areas. It stands to reason that old urbanized areas are unlikely to yield space for commercially unrewarding child care centres when pitched against ventures for profits. Easy availability of a close-by child care centre can be persuasive in having parents use a centre, but for some parents the present reasonable cost of \$800 to \$1,200 per month may be a deterrent. The Social Welfare Department keeps a list of waiting applications but no concerted effort has been made to assess real demand by locations. Such a survey will assist SWD and the voluntary agencies to make better plans to meet real demand. The Society for the Protection of Children stands ready to assist the running of further centres in association with the Government.

Another area that has to be addressed is child care workers remuneration. It may surprise you that the starting salary of a child care worker at MPS Point 1 is \$4,285, which is less than what we are paying a receptionist whose job is comparatively less demanding. Coupled with the policy of integrating mildly handicapped children with normal children, it is little wonder that child care centres are experiencing staff turnovers of more than 20%.

The fee assistance scheme is also causing problems in that only 5% of the running cost is given to aided child care centres. The other 95% has to be recovered from parents who will have to demonstrate the need to get a subsidy, which involves long and cumbersome procedures. Calls to raise fees by the centres are unlikely to receive a sympathetic hearing from Government which likes to keep subsidies low. I would submit that the request for a review of both the workers' salary scales and the fee assistance scheme should be sympathetically received.

All these pressures are affecting the quality and quantity of our child care services. I would therefore qualify my previous remark about the competition of public funds by urging Members, and those involved with the resource allocation process, to be cognizant of these problems in considering the appropriate quantity of resources to be allocated in the next funding exercise.

Sir, just improving quality and availability of child care services would not prevent the recurrence of such an incident. We need better publicity to let parents know about the availability of existing services. At the same time, we really need to educate parents to prevent abuses. Neighbours should be much more co-operative in arranging to keep a watchful eye on the children during unavoidable absences of parents. All these are positive steps which need to be taken to improve the well being of children in Hong Kong.

Sir, I agree with the spirit of the motion and that is to improve the child care services overall in Hong Kong.

SECRETARY FOR HEALTH AND WELFARE: Sir, today's motion debate started with a reference to the Ho Man Tin tragedy. The sad and shocking tragedy of the Mak family in January this year filled us all with a tremendous feeling of loss, outrage and a whole myriad of emotions. Tragedies like this and others as mentioned so luridly by some Members have unfortunately happened all too often but once is once too many!

Whilst one's reaction to any horrendous accident is always instinctive and emotional, this reaction nevertheless implies a judgment and a sensibility. Today's debate gives us a chance to check our judgment against that of others and provides safeguard to a reasoned view. However, our capacity to recognize the problem, and find solutions to solve it would be considerably impaired, would it not, if we were to lose sight of our objectives on child care.

I would like therefore to evince some facts and figures; to explain policy directions for the future, and to share with this Council what the Government is doing and plans to do; so that we can all better serve the community.

The White Paper on Social Welfare into the 1990s and Beyond, tabled in this Council on 13 March this year, clearly confirms the Government's intention to improve and expand child care services and to adopt new approaches to meet changing needs.

The support and assistance given to parents to provide a suitable home environment for the physical, emotional and social development of the child underlines our social welfare child care policy. We believe that children are best cared for at home by their parents. My firm belief is that stereotypes are best avoided and that parenthood should involve both the father and the mother -- and I hear nothing but women should go out to work but what with men staying at home! Sir, there is

a stereotyping problem here which needs to be overcome. A family could become totally dysfunctional if children were neglected while parents were out there chasing the buck or passing it, or both. Parenting is a 24 hour responsibility. Here I must echo agreement with the views expressed by many speakers before me on the importance of parental care and community support.

The current Government policy is that child care services should be provided to preserve the harmony and integrity of the family so that parents can continue to take care of their children. As so eloquently expressed by my honourable friend, Mrs Elsie TU, it is clear that traditional family ties are weakened in Hong Kong as a result of modernization, and the sharing of the burden of taking care of children by grandmothers and aunts is now no longer available. Furthermore, social isolation, ignorance on the part of parents, nuclear families uprooted from their familiar environment, all could result in inadequate neighbourhood support and other social reinforcements. The Government recognizes this and innovative services are developed, and constantly monitored, to cater to the changing needs of society. Services now available to parents who cannot take care of their children throughout the day include day creches, day nurseries, home help, family aide services, occasional child care service and after school care service.

Members will be interested to know that there are at present 1,000 subvented and non-profit making day creche places and 20 650 aided and non-profit making nursery places. We plan to expand the day creche service, particularly in the new towns. At the same time, we plan to provide an additional 1 400 aided nursery places every year until the demand is met in full. For low income families with social needs who cannot afford the fee, a fee assistance scheme is in place to help them. Separately, the private sector is now providing some 10 600 nursery places, not to mention other kindergarten places which do not come under my purview. Additionally, 150 occasional child care places are provided in 50 existing day nurseries for children whose parents have to stay away from home occasionally due to urgent commitments. Primary school children from families with social and financial needs are provided with after School Care Programmes which include homework guidance, meals, group activities, play activities and counselling services. Non-governmental organizations are now running about 30 such programmes, and five of them are receiving government subsidy on an experimental basis. These programmes help to minimize the risk to young children being left unattended at home.

Sir, while we believe that children are best taken care of by their parents, there

might be circumstances where a child has to be temporarily put into a residential care home. At present, we have a total of 2 386 places of residential care, including foster care, small group homes, children's homes, boys' homes, girls' homes and hostels. Additional foster care and small group home places are being planned

For disabled children -- and I am very disappointed nobody mentioned disabled children -- special child care centres are provided. The programmes offered there aim to develop the children's perceptual motor communication and personal skills and general well-being. Again, the primary objective of these services is to ensure adequate support for parents who need them.

As regards training to ensure quality, it is a statutory requirement that all child care workers must have received special child care training before the end of their first year of service. Except those who have received pre-service child care training, all child care workers are provided with a eight-week in-service training by the Social Welfare Department organized by the Hong Kong Polytechnic. Eight such courses are provided this year. At present, about 80% of all child care workers are trained. It is estimated that by the end of next year in 1992-93, all child care workers will have had special training before the end of their first year of service thereby guaranteeing a standard of service laid down by law. Moreover, the Child Care Centre Advisory Inspectorate of Social Welfare Department provides advice and guidance to these centres through regular visits and consultations.

In order to attract more young people into the child care field, their salary structure has recently been reviewed -- I am sorry to say that my honourable friend Mr Peter WONG's figures were slightly out of date. Both the Hong Kong Council of Social Service and Social Welfare Advisory Committee have been consulted and an improved scale, comparable to other grades with similar qualifications within the Civil Service, has been adopted. Funds are already made available to implement them from October 1st. This, I hope, will help to retain experienced staff as well as improve recruitment.

I think it is also appropriate here, Sir, to express recognition of the contribution made by all workers, mostly women I might add, who have worked silently behind the scene looking after children in the child care centres devoting their lives and their time and expertise to bring up children in a good environment. They are our Hong Kong children, our representatives of the future. I think it is important to know that the children will reap the benefit of the care we give and given by the

workers. Therefore I think we must make sure that children are brought up in safe, healthy and caring conditions as much as possible within the family surrounding, and loved and cared for by their parents.

To provide more financial assistance to enable low income families to make use of child care centre facilities, the Fee Assistance Scheme was improved in last September -- only nine months ago -- by relaxing the income criteria by about 33%. A family of four with income net of rent below \$3,000 will be assisted with full fee assistance. Those with net income at about \$6,100 will receive half fee assistance. This ensures that no family with social needs will be prevented from making use of child care centre facilities because of financial difficulties.

Public education is an important part of our child care policy. "Responsible Parenthood" has been the main theme of our family life education publicity campaign since 1989. A wide range of educational programmes on parenting are also conducted regularly at the district level. I must confess that I am very grateful for the many innovative ideas in this debate from which my colleagues and I will take reference.

During this debate also, there have been calls for legislation, or something to be done, against leaving children unattended at home. I am grateful for my honourable friends Mrs Rosanna TAM's and Mrs Peggy LAM's admirable analysis of the pros and cons of a legislative approach. Social attitudes guide our policy. Social values govern our behaviour. Whether we need legislation, I shall defer to the views of the community. As mentioned by Mrs TAM, a consultative paper will be issued shortly for public comments.

Sir, as every woman well knows, and I am sure some men too, child care is too important a subject to be tackled with sporadic attention or at every leap year or only after every tragedy. A deep commitment is called for; so is a sustained effort, from the entire community.

In thanking Mr Martin LEE for this timely motion, I am grateful to this Council, Sir, for taking the lead. I look forward to this Council, Sir, for further initiative. With these remarks, Sir, I support the motion.

MR MARTIN LEE (in Cantonese): Sir, I am happy to find that this very last motion I moved in the current Session has had such a smooth ride before this Council. It has not been countered with amendment motions. None of the Members who has spoken has

opposed it. Nor has our kind-hearted Secretary for Health and Welfare. I therefore have no case to answer.

Question on the motion put and agreed to.

Adjournment

The enhancement of the socio-economic status of women

CHIEF SECRETARY: Sir, I move that this Council do now adjourn.

HIS EXCELLENCY THE PRESIDENT: I understand that there are two Members who wish to raise subjects to discuss on the adjournment. Normally an adjournment debate would last 45 minutes and it is somewhat unusual to have two Members who both wish to raise subjects for debate on the adjournment. Normally they would have to fit in with that 45 minutes. But normally it would be better not to have two Members speaking on the adjournment. Today is not normal. It is the last sitting of this Session. So I propose to allow those two Members to raise two different subjects and also to extend the time available for that debate to 30 minutes for each of those subjects before in each case I call upon an Official Member to reply. Now I had a list of nine Members who wish to speak on each subject. However with one late entry on the first subject, which Miss LEUNG Wai-tung wishes to raise, I now have ten Members. Members will with a little arithmetic be able to work out how long it is for each person to speak if all those who put down their names are going to get a chance to speak. I hope that is clear.

10.26 pm

MISS LEUNG (in Cantonese): Sir, in accordance with Standing Order 9(5), I rise to propose an adjournment debate on the enhancement of the socio-economic status of women.

Sir, two conflicting feelings are coming over me. I feel honoured; yet a heavy summons lies like lead on me. I feel laden because I find that the relatively low socio-economic status of women in Hong Kong has long failed to arouse sufficient concern from the Government and legislators. It was not until today in the Nineteen Nineties that this Council holds an adjournment debate on this important subject which has a direct bearing on one half of Hong Kong's population and indirectly relates

to the other half. I feel honoured because I am the first Councillor ever to propose a debate on enhancement of the socio-economic status of women in Hong Kong. Yet I also feel displeased and disappointed because the Honourable PANG Chun-hoi, a gentleman Member of this Council, will be proposing another subject for debate on the adjournment, which subject has already been debated numerous times before. As a result, the valuable time allotted to the debate on my subject has been reduced to 30 minutes. I had already given way in an earlier sitting to the Honourable Kingsley SIT, another gentleman Member, who had a motion debate to move. Such being the case, I believe Members should know deep down in their hearts what in reality the status of women is.

Sir, discrimination against and exploitation of women is a global phenomenon and this is also true of Hong Kong. Yet most of Hong Kong people do not know of the predicament of women, particularly women on the middle to lower strata of society. Nor do they perceive this major problem of the low status of women. Even if some might know of or perceive this problem, they are unable to understand the essence of the problem and in course of time have grown insensitive to it.

Sir, as a predominantly Chinese society, Hong Kong of the present day is still influenced to a certain extent, subconsciously though it may be, by Chinese traditional concepts and values which tend to emphasize male superiority and entrench the thinking that there should be unequal status between men and women. Women are obliged to bear the pressure and oppression from "the three obediences and four virtues". In traditional society, women have no economic means. Without economic means, how could they have social and political leverage? Even presentday social concepts and values to a certain extent continue to support men as the centre of gravity within society and the family. Therefore many men, either intentionally or unintentionally, discriminate against women. And many women, including some who are being manifestly oppressed, also subconsciously discriminate against themselves. This is understandable.

Sir, with regard to the roles played by men and women, basically men in Hong Kong only engage in economic activities and women, particularly those on the middle to lower strata of society, engage in looking after the household and taking care of the old, the young and the sick in the family. Some may also engage in economic activities in addition to the above work. Women, especially those engaging in economic activities, have longer working hours and heavier workload than men. They are hard pressed and often driven breathless by outside and domestic work.

Sir, Hong Kong women's socio-economic status is manifestly inferior to men. Basically, in presentday society the possession or lack of economic means would depend on the possession or lack of knowledge and skill. Although in terms of education opportunity the question of inequality between men and women no longer exists, yet as far as choice of academic disciplines is concerned, sexual segregation, for reasons of tradition, still persists in good measure. Men have been enjoying a position of predominance in the enrolment for degree and professional courses which will assure them of good job prospects. Against this background, we have discovered, for example, that one of the findings of the 1986 by-census was that in overall terms the median income of women was 70% of that of men.

Sir, I am of the opinion that the Government should consider setting up a working group to study ways and means of enhancing women's socio-economic status, to identify and to understand the practical problems confronting women and then to propose a strategy to deal with the matter. Furthermore, the Government should consider conducting a comprehensive review of Hong Kong's existing legislation to identify and delete whatever provisions which import an element of sexual discrimination. The Government should positively encourage and promote the concept of equal employment opportunities and equal pay for men and women in both the public and private sectors. Sir, we, Members of this Council, the Government and voluntary agencies should encourage women to actively participate in community activities to enrich their experience and broaden their horizon. This will be particularly important to women on the grassroots level because it will give them a chance to know themselves and strengthen their self confidence.

Sir, because time is running out I have now to wind up my speech. My purpose of proposing this subject for debate is to arouse the concern of Members of this Council and of the public over the socio-economic status of our womenfolk. This debate on the adjournment should be no more than a prelude to usher in a more detailed discussion of the subject in the fulness of time. What I am advocating is no more than an attempt to recover from our menfolk the status to which women are entitled and which has long been withheld from them by men.

MRS CHOW: Sir, listening to Miss LEUNG, I was wondering whether we lived in the same society. Anyway, Sir, first I would like to thank Miss LEUNG Wai-tung for creating this opportunity for me to voice my acknowledgement and approval of the enhancement

and the advancement of the social and economic status of women in Hong Kong so far, particularly in the last few decades.

Considering that our Chinese roots and tradition tended to encourage and nurture the same inclination as other oriental societies towards discrimination against women, Hong Kong has fared exceptionally well in offering equal opportunities to females in education, employment, business, professions and politics. The reasons are many. It could be that Hong Kong went through such a period of expansion in the last two or three decades that it could not afford to deprive itself of half its talents. It could be that pragmatism displaced prejudices, and initial discrimination gave way to sound commercial judgement when new grounds continue to be broken by women, and new records set. It could also be that our women are prepared to work harder, assume more roles, and with much less fanfare than their counterparts in other parts of the world especially in the west.

Of course discrimination against women, or for that matter against anyone, should not be condoned, and there should be laws to punish it, and education to eliminate it, where it exists. But I believe it is equally wrong to preach the oversimplistic notion that discrimination against women is widespread in Hong Kong. In my view, discrimination, whether real or imagined, should be accorded as little significance as possible unless it prejudices the exercise of power or authority, and gives rise to injustice in which case the law must be able to rectify it. However, attitudes and behaviour resulting from the fact that differences exist between the sexes should not be automatically classified as discrimination. Men and women are born different. Segregation of the sexes by choice in schools, in clubs and in restaurants is not discrimination. Social niceties resulting from a recognition of the difference of the sexes are not discrimination. Negative male chauvinism has lost the day, and militant feminism is not going to win it. This is Hong Kong.

The great strength about Hong Kong women is that we are complex-free.

This is probably the main reason that we have come so far in so short a time. Feminist movements elsewhere would do well to borrow a leaf out of our book by revising their strategy along Hong Kong lines to prove the worth of women by actual performances and results. This is the best and most solid way to eliminate any bias against women.

MR MARTIN LEE (in Cantonese): Sir, Miss LEUNG rose to accuse the gentleman Members of this Council of bullying their female counterparts. In fact, we all witness that

the gentleman Members of this Council, like other gentlemen in Hong Kong, dare not discriminate against our lady Members. However, I believe the Government should make concrete improvements in legislation and strategy.

In terms of legislation, I think the Government should introduce the United Nations Convention on the Elimination of all Forms of Discrimination Against Women into Hong Kong as soon as possible. The convention requires that nations take the initiative in introducing legislation against sex discrimination and formulate specific measures to improve existing social and cultural institutions that tend to consolidate inequality between the sexes. The convention includes measures which guarantee equality between men and women in politics, employment and education. It also stresses that men and women should take equal responsibility in the family and that women should not be discriminated against in health care service and family planning. In fact, China and the United Kingdom are two of the signatories to this convention and Hong Kong should follow suit and give full legal backing to the right of equality between the sexes.

However, even the Bill of Rights has failed to give full protection to the rights and interests that women are entitled to because it only deals with discrimination arising from or in breach of existing legislation. Therefore, it will be very difficult for women to take legal action even if they have been sexually discriminated against.

In fact, there are laws that are discriminatory against women in Hong Kong, for example, the one on the succession rights of male indigenous residents in the New Territories. This is an instance of blatant and unreasonable discrimination against women.

The current Employment Ordinance is unable to fully protect working women's rights and interests. Some of Hong Kong's labour laws, such as the one relating to maternity leave, fail to measure up to the standards set out in the International Labour Convention.

In terms of strategy, I have just pointed out that the Government should consider setting up a consultative committee to deal with women affairs. With rapid social changes, the demand for family service has also changed. The establishment of a consultative committee on women affairs will enable the Government to understand more effectively their needs and formulate an appropriate family service strategy to cater

for the needs of different social strata. Similar organizations have already been established in other Southeast Asian countries like Thailand, Singapore, Malaysia, the Philippines and China. These organizations study and are concerned about the problems of women. Their studies and recommendations will make positive contributions to the Government's long-term strategy on women.

The establishment of a consultative committee on women's affairs is not meant to give women a privileged position or to favour their rights and interests even at the expense of others (men). The committee will be important because it can strike a balance between the sexes in terms of rights and interests through study, education, promotion and an effective understanding of women's needs.

MR TAI: Sir, may I first say that the points I am to raise are also shared by my colleague, the Honourable LAU Wong-fat.

With our changing society the economic role played by the female members of our community is becoming more and more significant, not to mention that the supporting role they have always played, and will play, in looking after the family and children.

We have consultative bodies on youth, and I think it is time for Hong Kong to set up a consultative body to look at the various problems, and the social status, of women. Policies should be set to cater for the needs of how to improve their social status, and solve their various problems faced by the female members of our community.

Nonetheless, we have certain guidelines and policies in various pieces of legislation, such as our labour laws relating to maternity and so on, but all these are only piecemeal approaches.

The other two issues I would raise are on the social status of females in the rural community:

Firstly, the right to vote for a village representative. Election practice at village level varies from village to village. In some villages there are female village representatives; in some villages women are entitled to vote, and in yet other villages females are not entitled to do so. With the passage of the Bill of Rights this is a clear contravention of the sex equality right. This sort of voting practice has been carried on for many years, and I think within the years to come, we need

to proceed with some consultative measures with the Heung Yee Kuk to address this problem.

I can say that within the rural community itself there is no great pressure to change the voting system, but it does not mean that the problem should not be looked at, and I must say that we are opening another can of worms!

The other issue is the females' non-entitlement to interest in their ancestral property held by a Tso or Tong, which sometimes bears criticism by some quarters of our community which regard this as prejudicial, and sexual inequality.

Personally, I do not think sexual equality or the status of female members of our community should have anything to do with inheritance rights subject to a perpetual trust. The most important aim of property held by a Tso or a Tong is that the property should be kept within the family.

It used to be, and still is, the practice that when female members of the community marry, they are maintained by their husbands. However, a widow is entitled to maintenance out of the ancestral property. Moreover, properties held by a Tso or a Tong is not supposed to be sold, but be designated for specific purposes.

The social status of the female in the rural areas in the New Territories, apart from what Mr Martin LEE has referred to as non-entitlement to erect a village house in her own land which is solely governed by government policy, is by and large equal to that of women in the urban areas and the problems confronting her are no different from her urban counterparts either.

MRS TAM (in Cantonese): Sir, Hong Kong is a civilized city with a highly developed economy and I personally believe that women in our community are generally respected. I do not intend to highlight women's struggle in enhancing their social status. What concerns me most is the need to safeguard women's welfare and the inadequacy of such welfare services. I would like to urge the authority concerned to take care of and improve women's welfare in Hong Kong.

In the past 10 years, the number of working women in Hong Kong has been increasing and more and more of them are joining the workforce. With the rapid development of nuclear families, new demands for services from women have emerged. There are mainly two kinds of women who need the services, namely dual-role women and full-time

housewives. The former are the working wives I mentioned earlier. They need to look after both their families and jobs. Therefore, there is a definite demand for nursery service. For full-time housewives, in particular those who live in remote new towns, it is unlikely that they will be helped by their families and relatives. They live a rather monotonous and boring life.

It has been pointed out by some organizations that women centres should be set up in some new towns so that women can visit these centres when they are free and find spiritual sustenance in them. They can also participate in various kinds of community, recreational or learning activities. These will help maintain their social life even after they have got married. I think this suggestion is worthy of consideration. A preliminary study on resources should be undertaken. We can organize women activities in youth or old people centres when these premises are free so that more women will benefit from this. This arrangement will dovetail with multi-purpose service strategy this Council is promoting.

Sir, these are my remarks.

MR PAUL CHENG (in Cantonese): Sir, I would like to take this opportunity to show my greatest respect to my female colleagues of this Council on the basis of my observations obtained from the job as a legislative councillor for the past few years. Although they do not take up a high percentage of the membership, their contribution is indeed tremendous. This has proved that when given the opportunity to develop their potentials, women are capable of constituting a strong and immense force in the community.

Undeniably, we have seen enormous enhancement of socio-economic and political status of women in Hong Kong over the past two to three decades. However, findings of various surveys have shown that women in Hong Kong are always being discriminated. They cannot enjoy equal employment opportunities and the Government has failed to provide adequate safeguard for them. Equality between sexes has not been fully embodied in existing legislation. The prosperity that the territory is enjoying today is also achieved by the women who take up half of the population. We have the duty to take care of their well-being. A working party should therefore be convened to carefully consider ways to rationalize existing policies as well as to improve the facilities, so that the status of women in Hong Kong can be put on a par with other advanced countries in the world.

With these remarks, I strongly support the motion moved by the Honourable LEUNG Wai-tung.

MR CHOW (in Cantonese): Sir, comparatively speaking, the socio-economic status of women in Hong Kong is in fact much higher than those in some countries in Southeast Asia and the Third World. But does it mean that there is no problem and the situation is satisfactory?

In Hong Kong, women have all along been making double contributions through their participation in economic activities and their commitment to housework. Regrettably, the important roles played by women in both society and families have not been fully recognized. The socio-economic status of women in Hong Kong is still relatively low, but such status is interrelated with employment and earnings.

According to the Census and Statistics Department, for the year 1988, the participation rates of female and male in the labour force are 48% and 80% respectively. It can be proved that women's contribution in total productivity should not be underestimated.

Although it is increasingly common that women would go out to work and more career women emerge, yet the majority of working women are engaged in non-skilled or semi-skilled jobs as assembly workers, office clerks and sales girls. As regards remuneration, the average daily wages are \$144 for men and \$201 for women. In terms of promotion prospect, females are inferior to males. A study reveals that it took 13.5 years for a senior male civil servant to be promoted to the present rank while it would be 18 years in the case of females. I wonder whether the senior female civil servants at the directorate level will agree with me on this point.

Furthermore, the participation rates of women in the labour force also vary with ages. In 1989, the rate is 78.6% for the 20-29 age group, 53.7% for the 30-39 age group and 36.6% for the 50-59 age group. It reflects that quite a lot of women have to give up their jobs due to pregnancy. Although some of them would join the labour market again when their children have grown up, they have to face the problems of lagging behind in skill and re-adjusting themselves to the working environment. Hong Kong experiences labour shortage in recent years, but many women cannot join the labour force for various reasons. It is indeed a big waste of society's resources

and has resulted in a relatively lower economic status of women. Therefore, the Government should positively address the problem of in-service training and re-training for women to cater for the need of those who re-join the labour force again after giving birth. In this connection, nursery service and occasional child care service are essential.

Furthermore, the plight of those who are engaged in take-home job and part-time job should also be a matter of our great concern. Many married women, under the pressure of housework and child rearing, as well as out of financial needs, are forced to engage in take-home job and part-time job, which are not covered by the Employment Ordinance. Moreover, the wages are meagre. In Hong Kong, there are about 80 000 workers engaged in take-home job, with women constituting the bulk. However, their wage rate is half of those full-time workers of similar job. It is necessary for the Government to consider legislating to protect part-time and take-home workers.

Finally, I hope to urge the Government through the adjournment debate today to enact legislation in addition to the human rights law to protect women against all forms of discrimination so that their civil rights can be fully safeguarded.

In fact, the ideal of women's liberation is the equality of mankind. Only when all people, regardless of sex, thoroughly co-operate and develop their own talents to the full will there be advancement in the history of mankind. Each sex has its own uniqueness. It should be borne in mind that every person, be it woman or man, should be allowed full play to their characteristic.

MRS LAU: Sir, over the past three decades the number of working women in Hong Kong increased threefold. The quality of their contribution to the economy also improved as they moved from what was essentially domesticated labour into sophisticated economic spheres. As a result, the socio-economic status of women is progressively enhanced. But I must point out that the improved status of women only became more discernible in the late 1980s. After all, it was not until 1986 before we had the first female judge on the bench and the first female Secretary in Government. Efforts must therefore continue in order to reinforce the position of women. I must also point out that although there is now a general perception of equality between men and women, certain issues remain which continue to give valid reasons for concern to crusaders of woman causes. Because of time constraints I shall briefly touch on two of these.

Sir, the average working woman in Hong Kong has to perform multiple roles -- the

productive role, the reproductive role and the marriage-related role. However, support services, particularly in relation to child care, are grossly inadequate. Many women are forced to cease work after child-birth. With the increase in nuclear family structures, the problem is more acute. A further extension of the problem is that when these women who have quit wish to return to the workforce later on, they find themselves seriously disadvantaged because the job skills they previously acquired have become obsolete. This not only results in wastage of skills but also severely hampers the participation of women in our economic activities. I believe that Government should look into this area. There is a clear case for better provision of child care services; there is also a clear case for more vocational training facilities to enable women wishing to rejoin the workforce to update their skills.

On the question of equal pay, pay parity between the sexes within the Civil Service was achieved in 1975. But in the private sector, particularly the lower stratum of the labour market, wage disparity between the sexes still exists, with some female workers earning some 20% to 25% less than their male counterparts. Although it may be argued that the pay differentials result from different job requirements and occupational structures and are not evidence of wage discrimination on ground of sex, the truth cannot be tested against any anti-discrimination or equal pay legislation because we simply do not have such laws. The United Kingdom is a signatory to the United Nations Convention on the Elimination of All Form of Discrimination Against Women but Hong Kong does not benefit from such Convention. Neither do we have any legislation similar to the Sex Discrimination Act in the United Kingdom. As we boast of being a society that gives equal treatment to everybody, whatever their gender, I believe that we should have legislation similar to those in the United Kingdom to demonstrate that we practise what we preach.

MR MCGREGOR: Sir, I was a little surprised when this motion was introduced as I thought that, generally speaking, women in Hong Kong were given equal treatment in all respects as that accorded to men. The law, I believe, did not differentiate but in fact in many ways recognized a greater vulnerability of women to certain categories of discrimination and criminal offences. Certainly it seemed to me women in Hong Kong have less discrimination against them than in many other countries in Asia and elsewhere.

I was aware that when I first came to Hong Kong in 1951 the situation was very

different. Women had only the right to work long hours, to have children, to maintain the home and generally to accept a lower status than men. Certainly they had to accept lower pay than men for the same or better work.

But even then we had women who broke through the barriers of male prejudice and custom to take a leading role in a male dominated society. I remember some of them very well. Susan YUEN with whom I worked for many years had a dominant role in the formation and development of the Federation of Hong Kong Industries and the Hong Kong Management Association. I admired her and was very nervous of her when she wanted something done. So were my colleagues in the Government and that was why she tended to get very good support.

Pauline CHAN was another leader in those early days of our industrialization. She was skilled, insistent and very efficient. She was one of the first to recognize that Hong Kong had to import foreign expatriates and foreign standards if our industry was to develop technically. From toothbrushes to cameras and binoculars, she helped Hong Kong make the transition from quantity to quality. She is still doing so.

There are many other examples of the now acknowledged equality of women with men. Through the years, trade, industry, education, the arts and the sciences have seen outstanding contributions by women. Who will forget the contribution to our economy and society by such as Elsie TU, for whom I have a particular admiration and regard, Lydia DUNN, Ellen LEE, Joy SIMONS? Education seems to benefit greatly from dedicated and skilled women such as Kate BARKER who is now retiring after a lifetime of service to St. Stephen's Girls' College, some of whose students were Members of, or have been Members of, this Council. This Council and the Executive Council have benefitted from their wisdom and hard work. So where is there still discrimination? Now that we have a Bill of Rights, where are there wrongs to be righted? I can think of one area in which a complicated, contentious, cultural, traditional discrimination will surely have to be sorted out. I refer to the rights of succession to property by indigenous women of the New Territories.

At present there is legislation in Hong Kong which maintains Chinese cultural practice. In denying indigenous women in the New Territories the same right of succession to property as their male relatives, I am told that this situation is based on centuries old traditions and it therefore cannot be lightly regarded. Male rights are fiercely protected by various New Territories organizations. I came across this when I sat on the panel considering the Bill of Rights. Mrs Elsie TU and I spoke

up strongly for the indigenous women. The indigenous men would have none of it and were most indignant.

Yet the New Territories is no longer a rural backwoods but rather a rapidly developing industrial and commercial extension of Hong Kong and Kowloon. It seems to me no longer necessary to hold slavishly to old concepts and old discriminations which may have been acceptable in the last century. China provides for equality between the sexes. So did the United Kingdom, the United States, and most of the modern world. Is it not time that Hong Kong took a close look at this apparent deviation from the established right of women to be equal?

HIS EXCELLENCY THE PRESIDENT: Mrs SO, I can give you a bonus of one minute.

MRS SO (in Cantonese): Sir, on the question of raising the socio-economic status of women, I am of the view that except where a job requires vast physical input, women have demonstrated strong working ability, endurance, and mental as well as physical agility in whatever job they have devoted themselves to. Therefore, employers have shown no sex discrimination in hiring employees; their sole concern is the ability of the employee. As a result, the socio-economic status of women nowadays is as solid and firm as bedrock. Discrimination against women which was the order of the day years ago has vanished. Since the 1970s, women have been holding important positions, which is evidence of the superb working ability of women. The socio-economic status of women has been upgrading in tandem with women's ever rising level of education. More to that, the number of women engaging in social services and taking part in government and politics is ever increasing. This serves to prove that in our presentday society of rapid change and improvement women are enjoying a socio-economic status equal to men. Yet our womenfolk must not feel complacent. They must bear in mind that they need to strive for things rather than wait to be given.

10.59 pm

SECRETARY FOR HOME AFFAIRS: Sir, in the early sixties, the Hong Kong Government recruited three intelligent young ladies to the administrative service. One of them is looking over my shoulder right at this moment and watching very closely what I have to say. I have to be particularly careful especially as this same lady, better known today as the Secretary for Economic Services, was personally very active in

enhancing the socio-economic status of women in Hong Kong.

Sir, I can say with confidence that women in Hong Kong do enjoy a high socio-economic status in society. In all spheres of activity, be it education or employment, recreation or social services, the opportunities are equal for men and women. In this very Chamber, one in four councillors is a woman. The Senior Member of Executive Council is a woman, who is also Chairman of the Hong Kong Trade Development Council. In both the private and public sectors, important positions are occupied by women at all ranks.

Health

Women are born to be more equal. Statistics show that in Hong Kong they actually enjoy a higher life expectancy at birth than men: 80.3 for women, 74.7 for men. Indeed women are endowed by Nature as the more resilient of the Homo Sapiens.

Education

In education, it is the Government's policy to provide nine years of free education, irrespective of sex. There are now over 20 000 female university students representing some 37% of the total student population. In some areas of study, they dominate, for example, in mass communication there are 77% women students, in the arts subjects 68% and in business administration 54%.

There are about 20% of university teachers in Hong Kong who are women.

Civil Service

In the Civil Service, the Government's employment policy does not discriminate on grounds of sex. The terms of appointment and conditions of service are exactly the same for men and women. Parity of pay was achieved totally in 1973, and equal eligibility for all benefits in 1981. As a matter of fact, our female colleagues' take home pay is higher than their male counterparts', because at present 3% of a male civil servant's pay is deducted for Widows and Children's pensions for the benefit of his wife, daughters and sons.

At present, 32.2% of the civil servants are female of whom 13.4% are at the senior directorate and professional levels. In the administrative service, we now have one

female to every two male officers.

Welfare and protection of women

Sir, while researching into the question of domestic violence, I discovered a general misconception that only wives are battered. Not so. Police statistics over the past two years show that for every four battered wives there was a battered husband. Perhaps the battered husbands are too ashamed to seek help or admit they have been beaten up, and the statistics I have quoted may not represent the whole picture. No wonder the Domestic Violence Ordinance affords protection to either party of a marriage and their children, and quite rightly so.

New Territories

Some Members have raised concern over the rights of women in the New Territories. There are customs and traditions in the New Territories, which, like those in some ancient civilizations tend to perpetuate the inheritance of ancestral land along the male line. These customs and traditions are well enshrined and are in line with the provisions of the New Territories Ordinance (Cap. 97) approved by this Council. The Government would of course welcome suggestions from the rural community including rural women as to how this may be improved.

Convention on the Elimination of all Forms of Discrimination

I have noted some Members' concern on the United Nations Convention on the Elimination of all Forms of Discrimination Against Women. As the legal, social and economic implications of detailed anti-discrimination legislation are complex, these need to be carefully studied before a conclusion can be reached as to whether the Convention should be applied to Hong Kong.

Sir, I believe I have advanced sufficient evidence to show that women in Hong Kong do enjoy a high socio-economic status and have equal rights and opportunities under our laws. They do a lot better than their sisters in many other parts of the world. This being the case, the need for a working party or consultative body to advance the cause of women does not seem to be self-evident, and can only be considered as a long-term policy option for the future.

On behalf of the Administration I would like to thank all Honourable Members who have contributed to this important debate. Their comments and views, so eloquently

expressed this evening, will be considered carefully by the Administration in developing new policies and programmes in the future.

Importation of labour

HIS EXCELLENCY THE PRESIDENT: There is now an opportunity to raise a second issue as part of the adjournment debate. As before, there will be 30 minutes before I call upon an Official Member to reply.

11.06 pm

MR PANG (in Cantonese): Sir, first, I would like to thank you for allowing me to move this adjournment debate.

The motion is concise, comprising only three words, "importation of labour". I raise this debate because the Government introduced two separate labour importation schemes in 1989 and 1990 with a total quota of up to 17 700 workers. In the first scheme, only 1 800 workers were brought in out of a ceiling of 3 000. In the second scheme, employers were allowed to import up to 14 700 workers from overseas. While a quota of 2 000 had been set aside for the airport and related projects, the Secretary for Education and Manpower and the Panel on Manpower confirmed yesterday that only 9 400 workers out of a possible 12 700 had arrived. This serves to illustrate that the labour shortage is not as acute as has been suggested.

Sir, the Financial Secretary said in September 1988 that a shortage of labour would be advantageous to the development of Hong Kong's economy in the long run since employers would be forced to increase investment in machinery and to provide more training to staff. The Chief Secretary, Sir David FORD, expressed much reservation about the importation of unskilled labour. Sir, you also emphasized that the shortage of labour was a natural phenomenon at a time of robust economic growth and that it was reasonable to allow the workforce to share the benefits in good years.

Sir, we never expected the Government to contradict itself while the words were still ringing in our ears. In 1989, the Government unexpectedly announced the importation of 3 000 skilled workers and further relaxed the labour importation scheme in 1990 by approving the import of another 14 700 foreign workers without imposing a skill constraint. The Government has also put forward various arguments for the

importation of labour, claiming that a shortage of labour in Hong Kong will have the following ill effects:

(1) Impede the economy's growth;

(2) Exacerbate inflation;

(3) Reduce competitiveness;

(4) Discourage investors;

(5) Encourage the relocation of production processes away from Hong Kong;

(6) Failing a solution, the ordinary citizens and workers will be the ones to suffer.

All these arguments are, in the final analysis, deliberately intended to serve only one objective, that is, large-scale importation of cheap labour from overseas. Because of time constraint, I have decided to shorten my speech.

Sir, according to the Secretary for Education and Manpower, as at yesterday, only 11 200 foreign workers out of a total quota of 17 700 had arrived in Hong Kong. This illustrates very clearly the invalidity of the argument that there is a serious shortage of labour in Hong Kong. The motion on the feasibility of setting up a central provident fund or compulsory retirement scheme was debated last Wednesday and was voted against by a large majority. The reasons against the motion have been repeated again and again and are by no means convincing. Today, this Council made into law the Trade Descriptions (Amendment) Bill 1991. All these will give the impression that, instead of respecting and taking care of the interests of the workers, the Government is trying every means to exploit them.

Sir, I mentioned a while ago that I had prepared beforehand a number of proposals in respect of the importation of labour. But since they are nothing new, I am not going to repeat them. Instead, I would like to take this opportunity to ask Members of this Council and the business sector of the reasons for advocating importation of labour. Could I be enlightened with some stimulating and convincing reasons as to why labour importation is so important and necessary?

Sir, I strongly oppose any policy allowing importation of foreign labour.

MR HO SAI-CHU (in Cantonese): Sir, on the question of importation of labour, I did during a debate before this Council last July cite a multiplicity of statistics to prove that Hong Kong's labour growth had been lagging far behind its economic growth. Because of the time limit in the present debate, I will not elaborate on this point again. Although for the last couple of years the slow-down in our economy has pushed up the unemployment rate, yet the rise has been minimal. The latest statistics reveal that the unemployment rate is 2.4% and underemployment is 1.9%. These figures compare favourably with those of most regions in the world. The building of the new airport will lead the overall growth and development of the economy. However in the short term it is estimated that the unemployment rate will slightly rise. But viewed in a longer-term perspective, unemployment is going to be headed for a downtrend. The shortage of labour will continue to be with us. When the Government takes a decision on whether to import labour, it needs to have regard to the actual circumstances of the labour market and does not base its decision on some theoretical concept. Importation of labour should not be with a view to lowering production costs or curbing inflation. Neither should objection be invariably and indiscriminately raised whenever importation of labour is broached. Hong Kong's labour profile is changing, many of the manufacturing activities have been relocated to the Chinese mainland, the service industries are developing by leaps and bounds and different trades and industries require different types of labour. All this rolls into a cycle of cause and effect and it would not be proper to arbitrarily equate unemployment with shortage of labour. As far as Hong Kong's economic prospects are concerned, limited importation of labour should be a long-term strategy to safeguard the forward development of Hong Kong's economy. Of course, I must at the same time appeal to the Government that it should make an all-out effort to ensure full employment for the people of Hong Kong, that import of labour should not affect the rights and interests of our workers, and that with the development of the economy the quality of life of our workers will be gradually upgraded so that all will enjoy the fruits of prosperity.

MR NGAI (in Cantonese): Sir, having regard to the future of our socio-economic development, I believe that there is still an urgent need for selective importation of labour. Since the entry pay of the imported workers has to be set at the median wage level, and the importation is a controlled exercise, limited to certain selected trades and subject to certain quota, local workers would not be affected in their

chance of finding employment and wage increase, the question of snatching their rice bowls or cheap labour should not apply.

Sir, despite the fact that our unemployment rate has risen to 2.4% recently, we are still well above the standard of full employment which allows 3% or even 3.5% of unemployment. Facts speak louder than words. When evaluating the situation from the wage increase level and the turnover rate of the labour force, we know that there is really a persistent shortage of labour in Hong Kong and it will undoubtedly remain a problem to the industrial and commercial sectors.

As a matter of fact, there are specific requirements for importation of labour and it costs much to do so. For instance, the entry pay of these imported workers has to be set at the announced median wage level and they have to be provided with transport, lodging and other fringe benefits. In view of these requirements, employers are inclined to recruit their workforce from the local labour market as far as possible. Since imported workers are not their first choice, vicious competition between local and foreign labour is out of the question. After all, labour is only imported as an expedient measure to fill up local vacancies. The supply of manpower from both sources should work to complement each other rather than to exclude each other. I therefore support the proposal that foreign labour should continue to be imported into Hong Kong as required under appropriate quota.

Sir, a more flexible and relaxed approach should be adopted for certain categories of workers that are in more urgent demand to ease the existing labour shortage problem faced by various trades. On top of this, there should also be appropriate adjustments to the approach of fixing the entry pay at the median wage level, so that manufacturers will not be discouraged from making applications.

Sir, the industrial sector has never proposed massive import of labour, nor has it ever advocated unlimited import.

With these remarks, I continue to give my support to restrained and controlled importation of labour.

MR SZETO (in Cantonese): Sir, there has been a rise in the unemployment and underemployment rates during the period from March to May. The number of workers affected amounted to 121 600. Coupled with a high inflation rate and the fact that

workers' wages are being suppressed so much so that they cannot keep up with inflation, the burden of life for the general wage earners has obviously been made heavier, and their quality of living are threatened to deteriorate. Subsequent to an expanded quatum for 12 000 imported workers, another exercise for more foreign labour has recently been much talked about. To the grassroot class, it is no different to pressing them even harder, placing the last straw to break the camel's back.

Over the years, whatever production processes that can be relocated to the Mainland have already been relocated there. That is taking away the rice bowls of our workers and giving them to others. And now, more and more imported workers are allowed. Outsiders are let in to snatch the remaining immovable rice bowls.

Those who lose their rice bowls, be the rice bowls transferred to or snatched by others, are the labouring masses, 99% of whom have to remain in Hong Kong after 1997. But how many of those who take away their rice bowls and give them to others or let in others to snatch their rice bowls will remain Hong Kong after 1997?

It is a lie that further relaxation over importation of labour will beat inflation. Labour has been imported. Importation has been relaxed. Yet inflation is still on the rise. The importation scheme is only another means to further exploit the local workers. Their interests are being ignored in the fact of the spiralling inflation, because their wages are being suppressed and kept at a level below that of inflation.

Our workers are diligent good people. They have toiled to create the present prosperity. Do not be ungrateful and push for too much.

Sir, I have all along opposed the importation of labour. My position remains so now and beyond. Presented to you is my remarks.

MR TAM (in Cantonese): Sir, tonight, I am not going to repeat the forceful argument I gave during last year's debate on the importation of labour. Instead, I would like to elaborate on the drawbacks after the implementation of the importation of labour policy.

Within this Council and on various occasions, the Administration has pledged in all sincerity and seriousness that the importation of labour was only to relieve the shortage of manpower. The Administration would introduce measures to effectively

safeguard the interests of foreign workers. For example, it was stipulated that their wages should not be lower than the median wage of local workers and that suitable accommodation should be provided for them. Such measures would prevent them from becoming cheap labour, thereby ensuring that the wages and job opportunities of local workers would not be adversely affected.

The labour sector has been all along doubtful about the above guarantee. Now that two batches of foreign workers have been working in Hong Kong for a period of time, there are evidence that the repeated promises and assurance by the Government are completely invalid. The imported workers are exploited. Many of them have become cheap labour or received extremely low wages. And yet the Administration has done nothing to rectify the situation.

How much can a 30-odd-year old and strongly-built foreign worker earn if he works in a construction site for nine hours a day? He can get \$40 to \$50. My dear colleagues may not believe it. But I can tell you this is the fact. As their wages are too low, these imported workers do not buy themselves a can of soft drinks when they are thirsty. Instead, they drink tap water. If they are not cheap labour, what will you call them? They not only receive low wages, but also work hard without uttering a word of discontent. They can be senior technicians or take up miscellaneous duties. They do not have any bargaining power as to the job they are assigned to do. In such case, how can employers not willingly use these cheap labour who are completely at their disposal and refrain from employing local workers? How can local workers not lose their jobs or voluntarily reduce their wages in seeking employment? Where have the promises and assurance by the Administration gone? Perhaps some people may say that this is an isolated case. As to whether it is a prevalent case, I think employers should know best. But I can tell you the example I quoted just now is absolutely not an isolated case.

People may ask why these imported workers who have been exploited do not lodge any complaint to the Labour Department. The reason is simple. Foreign workers are in an absolutely disadvantageous position in Hong Kong. They can hardly fight against the unfair treatment given to them. There was a case in which a worker was dismissed by his employer after he had lodged a complaint to the trade union. The employer took away his identity card and called in the police. On that very day, he was repatriated to China with handcuffs on just like any illegal immigrants. How do they dare to complain against unfair treatment when they are faced with such serious consequence? Moreover, many of them are not aware of their rights and the channels

through which they can lodge a complaint.

It is precisely because of fear that many foreign workers do not complain about the unfair treatment they receive. Very often, under the threat of authority and the lure of monetary gains, they co-operate with their employers to supply false information to the Government. Some foreign workers were asked by their employers to sign 48 blank pay cheques when they arrived at Hong Kong. During the inspection by the Labour Department, they were instructed by their employers to supply figures about wages which were ten times the actual amount. In such circumstances, how can the Labour Department monitor the treatment received by foreign workers? Moreover, as regards the living conditions for overseas workers, it is often the case in which nearly 20 foreign workers are accommodated in a flat of 400 to 500 sq ft. The living condition is far below the standard set down by the Government. We have asked some foreign workers whether the staff of the Labour Department inspected their hostels. The answer was in the affirmative. However, there are only a few months before the two-year contract expires and yet no improvement has been made. I am not sure whether this is one of the 60 cases involving sub-standard hostels which have received verbal or written warnings from the Government. But obviously, the Administration has not or cannot enforce its own regulations and standard.

Yesterday, the OMELCO Manpower Panel was informed by the Government that, out of the 346 organizations inspected, 214 were found sub-standard in respect of provisions for foreigner workers. The Government also failed to provide the panel with the number of foreigner workers employed by the organizations under inspection; nor could it give the exact number of the organizations which were in breach of regulations and the number of workers involved. How can the Government effectively monitor the situation if it cannot even have the basic information?

Sir, the above cases sufficiently show that the Administration is not able or doing its best to provide protection for foreign workers. The latter are receiving inhuman treatment in Hong Kong and their basic rights are seriously infringed upon. The promises by the Government are all but empty talks. This is not only unfair to them, but also a threat to the competitiveness of local workers who may lose their jobs and reduce their wages. It is particularly disadvantageous to elderly workers. As a matter of fact, the complaint cases received by the trade unions is on the increase since the importation of labour has been further implemented by the Administration.

For the above reasons, Sir, I urge the Government to scrap the importation of

labour policy.

HIS EXCELLENCY THE PRESIDENT: I will have to call upon an Official Member to reply in about six minutes time.

MR BARROW: Sir, I have five points to make on this issue.

First and foremost, the indications are that the economy is picking up and is going to be stimulated by the airport development and the booming trade with China. For example, re-exports to China were up 35% in the first five months of 1991. Tourism too is picking up from the low point and was up 7% in June. This all implies a tighter labour market by year end. Sir, it is important to continue to stress the need for growth in the economy for the benefit of the community as a whole.

Secondly, the end-of-March vacancies reported this week by the Census and Statistics Department total 96 600 compared with 89 300 at the end of 1990. Although the figure may come down a little in the second quarter, it will remain well in excess of the unemployment figure.

Thirdly, the unemployment figure of 2.4% is extremely low by world standards and economists would agree that it represents full employment. Many countries with unemployment figures of at least double this figure still have a policy which allows immigration.

Fourthly, the education and employment strategies of the Government should be to encourage Hong Kong people to move up into more skilled positions and, where there are remaining shortages, they should be filled by people from overseas.

Fifthly, no employer is advocating indiscriminate importation of labour. Any future schemes must be on a controlled but non-bureaucratic basis.

As a last point, I cannot agree with Mr PANG's suggestion that a slight shortfall in the existing schemes indicates that there is not a shortage. In the main, Sir, the schemes have worked well and the shortfall is much more likely to be due to the inevitable bureaucratic difficulties that arise with any new scheme. With these words, Sir, I urge the Government to maintain a flexible policy towards the supply

of labour. Mr ARCULLI has asked me to say that he supports these points.

MR PAUL CHENG: Sir, Hong Kong's success has been not only because of non-interventionist policies, but also because of our flexibility and responsiveness to meeting the changing needs of our economy and our community. That has always been the driving spirit that has made Hong Kong what it is today.

When Government has introduced schemes to import labour, it has always done so by delineating procedures and criteria. Quotas have always been integral to the schemes. They should be, because importation of labour is but one measure to address larger issues.

Running a healthy economy requires that a basket of solutions is used. Importation of labour is one component of that basket. We need to select an assortment of components to successfully address the bigger issues. We use them when facing things like inflation or when undertaking a Promethean infrastructural project like PADS.

So long as we have the right machinery in place to understand the real needs of a particular industry sector, importation of labour is a component of that basket of solutions which should be used. With proper control through monitoring that provides a system of checks and balances, we can use labour importation as an effective tool.

With these remarks, Sir, I support government efforts to implement well-defined programmes of labour importation as economic need dictates.

MR MCGREGOR: Sir, I have not the slightest doubt that the immigration of labour will continue as a matter of essential policy. This territory has been well served by successive waves of immigrant labour. This has been an essential element in our economic, trade and industrial development. Without this labour input, Hong Kong could not have recorded a remarkable economic and social progress which has been achieved. There came a time when labour immigration had to be controlled in order to be more selective. This too has directly supported our economic growth. This is a policy that must certainly continue. Selective immigration, where appropriate as a form of contract between employer and employee, will allow labour to be used where, when and for how long as may be necessary. Provided that the Government applies it

sensibly and transparently, there should be little difficulty with the existing labour force, many of whom were themselves immigrants. Unions must be consulted and their views taken into account.

The new airport will need thousands of labourers who are not available in Hong Kong. There will be other major projects which require labouring workers in quite large numbers. It is clear that such workers will have to come from China. I therefore agree with the labour immigration policy and would strongly suggest that it be continued and refined as we go along.

11.34 pm

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Sir, I welcome this debate as it will provide me with an opportunity to leave my mark in history. Barring the unexpected, I shall be the last appointed official Member in the history of Hong Kong to speak before this Council. I feel tempted to use the whole of the 15 minutes allotted to me. Yet it is approaching midnight and I will try my best to be brief in expounding the Government's policy on labour importation and the rationale behind it.

Hong Kong has experienced a general shortage of manpower in recent years. There are three main reasons for such a situation.

First, Hong Kong has seen rapid economic growth in the past ten years. The demand for labour in various trades and industries has correspondingly increased. Faced with an insufficient supply of labour, many employers have adopted advanced automation or production technology to enhance the productivity of their employees and to reduce the demand for manpower. In the manufacturing sector, many manufacturers have, as far as possible, moved their labour intensive production processes to mainland China and other neighbouring countries. Nevertheless, the rapid expansion of the local service sector has led to a greater demand for manpower.

Secondly, the supply of manpower in recent years has followed a downward trend rather than increased. Our success in controlling illegal immigration and the trend towards smaller families have resulted in low population growth in recent years. Furthermore, the greater availability of education has brought about a gradual lengthening of the average period of schooling of our young people. Hence, there has been a slight but gradual decline in the local population's labour participation

rate.

Thirdly, there has been a considerable growth during the past few years in the number of people emigrating to foreign countries. Among those leaving Hong Kong each year, about 12 000 to 15 000 are professionals, managers and technicians at an economically active age. The loss of these talents has intensified our labour shortage problem.

Hong Kong is devoid of natural resources. We have to rely mainly on our labour force to give impetus to economic development. A sustained shortage of manpower will limit the potential for economic growth. If we do not try our best to rectify the imbalance of supply and demand in the labour market, the social and economic development of Hong Kong will be impeded, and local and foreign new investment as well as reinvestment will also be adversely affected.

In order to ensure the continuous growth of our economy, the Government decided in 1989 to adopt a new policy, allowing employers to import up to 3 000 foreign craftsmen, technicians and supervisors in a systematic and limited manner. In 1990, it was decided to expand the labour importation scheme by approving the importation of a further 2 700 skilled workers and 10 000 experienced operatives. In addition, in order to cope with the new airport and airport-related projects, the Government decided in 1990 to approve the importation of an initial 2 000 foreign workers so as to enable the work in the early phases of the new airport project to proceed smoothly. In view of the scope and unique circumstances of the new airport projects, the Government considered that the provision of labour for these projects should be handled separately from the general labour importation issue.

I would like to stress that the existing labour importation schemes are systematic and limited. The Government has no intention whatsoever to allow massive and unrestrained importation of foreign workers. No government would hope to see a large number of unemployed local workers, let alone take positive action to deprive workers of their job opportunities. Such action will not only be of no help whatsoever to economic development but also cause social instability, bringing a great deal of trouble to the Government itself.

Actually, the Government has always attached great importance to safeguarding the rights of workers, because we recognize the contributions of the work force to economic development and strongly believe that workers have a right to share in the

fruits of such development. Therefore, in regard to the importation of labour, employers are required to pay imported workers not less than the median wage of local workers of the same level so as to ensure that wages of local workers are not depressed. Moreover, it is stipulated that, should redundancies arise, imported workers should be dismissed first.

In addition, the Government has taken positive measures over the years to safeguard the welfare of local workers and better their remuneration. Let me cite some recent examples. As regards conditions of employment, major improvements have been made in 1988 to the long service payment scheme first introduced in 1986. A Bill to further improve the scheme was published in May this year. Two major amendments were made to the Employment Ordinance in 1990; first, employees' statutory entitlement to annual paid leave has been increased from seven days to 14 days; secondly, the Ordinance has been extended to cover all employees, and the definition of "lay-off" has also been amended. The Protection of Wages on Insolvency Fund set up to protect the employees from being affected by employers' insolvency was extended in 1989 to include severance pay. The amount of severance pay guaranteed by the Fund has been increased substantially since May this year. Regarding protection of the safety of workers, the Government amended the Factories and Industrial Undertaking Ordinance in 1989 to strengthen industrial safety requirements for employers and employees. In 1990, the Ordinance was further extended to the food business. With regard to compensation for workers who have sustained injuries at work, the Government has introduced the Employees' Compensation Insurance Levies Scheme in 1990 to ensure that workers receive the compensation due to them. The Ordinance introducing the compensation scheme was passed by this Council in May this year. In the years to come, the Government will continue to endeavour to improve our labour legislation and safeguard the rights of the labour force.

Back to the labour importation issue. I mentioned earlier the four schemes introduced in 1989 and 1990. Apart from the airport-related scheme, all the other three schemes have already been implemented, and most of the foreign workers imported for these purposes have started to work though some are still applying for permission to enter Hong Kong. The Government is now reviewing the operation of these schemes, investigating complaints regarding maltreatment of foreign workers and closely monitoring changes in the local labour market, both as regards the overall situation, and as regards the supply and demand for labour in individual sectors and occupations. If, after careful consideration of all relevant factors, the Government concludes that there is a practical need to do so, it will continue to permit the importation

of labour in a systematic and limited manner.

Question on the adjournment proposed, put and agreed to.

Valedictory

HIS EXCELLENCY THE PRESIDENT: This is the last meeting of this Council which will be attended by the Financial Secretary, Sir Piers JACOBS. With this meeting he completes 29 years of Government service having started in the Registrar General's Department and having become Financial Secretary and joined this Council again in 1986. It is no easy job being Financial Secretary of Hong Kong at times like this and today has been no easy day for the Financial Secretary. But when he looks back on his time in Hong Kong, and when the Council looks back on his time in Hong Kong, I hope that they will remember a great many notable achievements. There cannot be many Financial Secretaries or Ministers of Finance around the world who can look back on five consecutive surplus budgets. Sometimes the surpluses have been larger than the Financial Secretary expected. The Salaries and Profits Tax have been restored to 1983 levels and new schemes for separate taxation of married women, a subject dear to the hearts of some Members of the Council, have been brought in. A great deal of work has been done on regulation of the securities industry and the stock market has demonstrated its resilience as a result despite a number of crises. This Council has benefitted greatly from the Financial Secretary's careful work, his patience, his perseverance and his humour and I think we owe him a debt of gratitude for that. The deep commitment of Sir Piers to Hong Kong is shown by the fact that he will be staying on in Hong Kong after his retirement and I am sure that Members would wish to join with me in wishing both Sir Piers and Lady JACOBS a very long and a very happy retirement.

MR ALLEN LEE: Sir, I am sure my colleagues would like to be associated with the warm tribute you have paid to Sir Piers JACOBS. Sir Piers has been Financial Secretary since May 1986 and we have worked with him over five years. He is the only "legal" Financial Secretary in the history of Hong Kong in the sense that he received his legal training in the United Kingdom and was admitted as a solicitor in the Supreme Court of Judicature in England as early as 1955.

For the past five years, Sir Piers has often been put in the hot seat in this

Council for answering some of the most complicated and difficult questions. The problems he has dealt with include separate taxation for women, as you mentioned Sir, supervision of financial institutions, financial arrangements for the new airport, defence cost agreement, and inflation, just to name a few. He has helped steer Hong Kong through a very significant period of its economic development. He has also worked hard to ensure that Hong Kong continues to be one of the major financial centres in the world. I would like to put on record our appreciation of his contribution to Hong Kong, his wisdom, his willingness to listen, his sense of humour and his enormous patience.

Sir Piers is retiring from this Council and from the Civil Service but I am given to understand that his fine qualities are much sought after. We therefore wish Sir Piers and Lady JACOBS every happiness and success in their new and future endeavours.

End of session

HIS EXCELLENCY THE PRESIDENT: This is the final session of the Legislative Council before the dissolution on 22 August and I would like to take this opportunity to pay tribute to a great deal of hard work that has been done during the past three years both inside the Council Chamber and in the corridors and in various other places outside the Council Chamber. Each time I make one of these final addresses I have to note records which have been set by this Council and I would like to point out to Members that the 1990-91 Session has recorded a record amount of time spent in this Chamber. The total I have up to now is approximately 156 hours which is about 30 hours longer than any previous record. And I will leave it to Members how they evaluate that sort of record. But there is one other sort of record which I think Members can look at with unalloyed pride and that is a record number of Bills passed -- 123 Bills -- and what is most important is that those included a number of very complex Bills and very important pieces of reforming legislation. I think the Council can take pride in that.

There are some Members of the Council who will not be back here in October, either because they are retiring or because they are official Members who will not be sitting as full Members, and possibly some Members who are standing for election and who may not get back. Whoever they are, whatever the results, I would like to thank all those Members, whether they come back or whether they do not come back, for all they have done over the past year. During the past three sittings I must say I have got the

impression that Members are so anxious not to depart from this Council that they are determined to stay on here sitting through all hours of the night because they cannot bear to leave.

I recently announced my intention to appoint Mr John SWAINE as Deputy President for the next Session. I am glad that that has been so widely welcomed and I do wish him every good fortune sitting in this chair.

I shall sit here occasionally myself and although I shall miss the late night noodles, I would like to assure Members of the Council that, whether I am here personally or not, I shall continue to pay a great deal of attention to everything that goes on in this Council.

I would like also to thank all those behind the scenes through the darkened glass on either side of the Chamber, through the darkened glass in front of me, all those who worked so hard to keep this Council going, the members of the OMELCO staff, the interpreters who have to work extremely hard over the past few sittings and also those who sit silently or photograph silently and record the doings of this Council. My thanks to all of them. To all of you, all of them, it is now time to have some relaxation and to take a well deserved holiday. It is, I believe, a very well deserved holiday. The first sitting of the 1991-92 Session is scheduled for 9 October. Meanwhile I wish you a very good summer holiday. Thank you to all of you.

Sitting adjourned accordingly at eight minutes to Twelve o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Supplementary Appropriation (1990-91) Bill 1991, Official Solicitor Bill 1991, Surveyor Registration Bill 1991 and the Planners Registration Bill 1991, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.