

1 HONG KONG LEGISLATIVE COUNCIL -- 19 February 1992

HONG KONG LEGISLATIVE COUNCIL -- 19 February 1992 1

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 19 February 1992

The Council met at half-past Two o'clock

PRESENT

THE DEPUTY PRESIDENT

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

THE CHIEF SECRETARY

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

THE FINANCIAL SECRETARY

THE HONOURABLE NATHANIEL WILLIAM HAMISH MACLEOD, C.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 MRS RITA FAN HSU LAI-TAI, O.B.E., J.P.

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

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

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 SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

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

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

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

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

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

PROF THE HONOURABLE EDWARD CHEN KWAN-YIU

THE HONOURABLE VINCENT CHENG HOI-CHUEN

THE HONOURABLE MOSES CHENG MO-CHI

THE HONOURABLE MARVIN CHEUNG KIN-TUNG, J.P.

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE TIMOTHY HA WING-HO, M.B.E., J.P.

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

THE HONOURABLE SIMON IP SIK-ON, J.P.

DR THE HONOURABLE LAM KUI-CHUN

DR THE HONOURABLE CONRAD LAM KUI-SHING

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE MISS EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

THE HONOURABLE GILBERT LEUNG KAM-HO

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

THE HONOURABLE FRED LI WAH-MING

PROF THE HONOURABLE FELICE LIEH MAK, O.B.E., J.P.

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE ZACHARY WONG WAI-YIN

ABSENT

DR THE HONOURABLE LEONG CHE-HUNG

THE HONOURABLE NG MING-YUM

THE HONOURABLE HOWARD YOUNG

IN ATTENDANCE

MR DAVID ALAN CHALLONER NENDICK, C.B.E., J.P.
SECRETARY FOR MONETARY AFFAIRS

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

MR ALISTAIR PETER ASPREY, O.B.E., A.E., J.P.

SECRETARY FOR SECURITY

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

MR PAUL LEUNG SAI-WAH, J.P.
SECRETARY FOR RECREATION AND CULTURE

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

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.

Public Health and Municipal Services (Public
Pleasure Grounds) (Amendment of Fourth
Schedule) Order 1992.....
13/92

Abattoirs (Urban Council) (Amendment)
Bylaw
1992..... 14/92

Hawker (Urban Council) (Amendment)
Bylaw
1992..... 15/92

Slaughterhouses (Urban Council) (Amendment)

Bylaw	
1992.....	16/92
Public Swimming Pools (Regional Council)	
(Amendment) Bylaw 1992.....	
17/92	
Kowloon-Canton Railway (Restricted Area)	
Notice	
1992.....	18/92
Waste Disposal (Appeal Board) Regulation.....	
19/92	
Waste Disposal (Chemical Waste) (General)	
Regulation.....	
20/92	
Waste Disposal (Forms and Fees for Licences)	
Regulation.....	
21/92	
Consular Relations (Privileges and Immunities)	
(Commonwealth Countries and Republic of	
Ireland) (Amendment) Order 1992.....	22/92
Registration of Persons (Invalidation of Old	
Identity Cards) Order 1992.....	
23/92	
Merchant Shipping (Prevention of Oil Pollution)	
Regulations (Exemption) Notice.....	
24/92	

Sessional Papers 1991-92

- No. 44 -- Hong Kong Examinations Authority 1991
Financial Statements for the year ended
31 August 1991 with Programme of
Activities 1.9.1990 - 31.8.1991
- No. 45 -- The Hong Kong Academy for Performing Arts
Annual Report July 1990 to June 1991
- No. 46 -- Occupational Safety and Health Council
Annual Report 1 April 1990 - 31 March 1991
- No. 47 -- Trustee's Report on the Administration of
the Education Scholarships Fund for the year ended
31 August 1991
- No. 48 -- Report by The Commissioner of Police on the
Administration of the Police Welfare Fund
for the period from 1 April 1989 to 31 March 1990
- No. 49 -- Report of the Public Accounts Committee
on the Report of the Director of Audit on the
Accounts of the Hong Kong Government for
the year ended 31 March 1991 and
the results of value for money Audits
January 1992
P.A.C. Report No. 17
- No. 50 -- Revisions of the 1991-92 estimates approved
by the Urban Council during the third quarter
of the 1991-92 Financial year
- No. 51 -- Urban Council Estimates of Revenue and
Expenditure for the Financial Year 1992-93
- No. 52 -- Regional Council Estimates of Revenue and

Expenditure for the year ending 31 March 1993

DEPUTY PRESIDENT: In addition to the business on the Order Paper there will be a statement from the Financial Secretary under Standing Order 20 after Question Time.

Addresses by Members

The Hong Kong Academy for Performing Arts Annual Report July 1990 to June 1991

MRS MIRIAM LAU: Mr Deputy President, the 1990-91 Annual Report of the Hong Kong Academy for Performing Arts for the year ended 30 June 1991 is tabled before this Council today.

As a member of the Council of the Academy during the period covered by the report, it is my great pleasure to present this report to you and Members of this Council.

The Academy established two new courses during the year, one on opera in September 1990 and one on television production in February 1991. Opera is central to classical musical experience and is an essential part of a singer's training. The new opera course offers classes in acting, movement, language and repertoire as well as fully-staged performances. The new television production course covers camera and lighting skills as well as production management, editing and sound, and the theory of broadcasting and visual communication. Graduates from this course will help to meet the pressing demand for trained manpower from the local television and film industries.

An even more important development was the completion over the year of course restructuring in preparation for the Academy's transition to a degree-granting institution. Subject to the accreditation by a visiting panel of international experts next month, the Academy will be admitting its first degree level students in September this year. The ability of the Academy to offer degrees will not only testify to its high standards of professional training, but will also help to attract students of the highest calibre.

The Academy is committed to achieving international artistic standards. To keep abreast of such standards, master classes were held by visiting lecturers, and staff and students took part in several overseas seminars and performances.

Public performance forms an important part of the training for students. In the period covered by the annual report, the students presented no less than 266 public performances before audiences exceeding 35 000 people. This experience stands them in good stead. Academy graduates now play a major role in Hong Kong's performing arts.

Mr Deputy President, I am most gratified that the Academy had another very successful year. I am confident that the Academy will successfully go through the accreditation process next month and will become a degree-granting institution this summer.

Report of the Public Accounts Committee on the Report of the Director of Audit on the Accounts of the Hong Kong Government for the year ended 31 March 1991 and the results of value for money Audits January 1992 P.A.C. Report No. 17

MR STEPHEN CHEONG: Mr Deputy President, the 17th Report of the Public Accounts Committee, tabled today, has been compiled following the Committee's investigations into matters raised in the Director of Audit's report on the accounts of the Hong Kong Government for the year ended 31 March 1991 and the results of value for money audits.

On behalf of the Committee, I would like to pay tribute to our former Chairman, Mr Peter POON, who led this Committee so well during his term of office. I am privileged to be appointed his successor and would also like to thank my fellow members for their contribution to the work of the Committee in producing the 17th Report.

Mr Deputy President, we are very sorry to learn from the newspapers of Committee Member Mr Stephen NG's illness. I am sure all Members would wish him a speedy recovery.

Mr Deputy President, the Committee has been encouraged by the continuing improvement in standards of financial and resources management within the Government,

and by the positive attitude adopted by the Administration towards the Director of Audit's recommendations in his Report No. 17 and towards the implementation of many of our Committee's recommendations in previous reports. There remain, nonetheless, some areas of concern to the Committee, which I would like to highlight.

First, the Committee are concerned at the long-standing problem of the overloading of goods vehicles which, apart from causing considerable damage to roadways, has also been identified as one of the major contributory factors in serious traffic accidents. This problem was first raised in the Director of Audit's Report No. 11, tabled in this Council on 27 April 1988, but the various measures so far taken have apparently failed to achieve their intended objective. It is understood that a review on this issue was completed by the Transport Department in September 1991, and that new proposals have been put forward, which are now under consideration within the Administration. I look forward to the early implementation of effective measures in curbing this problem.

Another issue concerns the low productivity of regular reviews under the Public Assistance Scheme. This issue was initially raised by the Director of Audit in his Report No. 14, tabled in this Council on 15 November 1989. On this item, we are finally pleased to note that the Administration has introduced new review cycles and manning scales, thereby realizing considerable savings on staff resources. We commend the Administration on such efforts and would like to suggest that there could be ample scope in other areas within the Government where savings can be identified without affecting its provision of services to the public. We would urge the Administration to continue its efforts to this end.

Returning to the Director of Audit's Report No. 17, I should mention that in the course of the Committee's investigations, we came across a case in the Registrar General's Department, where the department's estimate of future workload in the computerization of urban land registration records was unrealistically overruled by the resource branch. The result has been that the intended improvements in the standard of services to the public cannot be realized. We would like to urge Branches of the Administration to take full account of the operating department's expertise and experience in assessing future workload estimates and do not exercise the axe just for short-term objectives.

We would also like to express our concern that there seemed to be a tendency for the Administration to rely on the employment of consultants to undertake tasks for

which the Administration may have sufficient in-house expertise. We would like to see that prior to the employment of consultants, the Administration would first seriously explore the feasibility of undertaking such tasks in-house. The work done by the Architectural Services Department in relation to the Stage III extensions and improvements at Queen Mary Hospital should be an example for other government departments to study.

Whilst still on the Director of Audit's Report No. 17, I should perhaps also say a few words about the issues concerning the building of the Hong Kong University of Science and Technology (HKUST). Naturally, this particular subject has attracted much media as well as public interest. In view of the complexity of the issues, which involved not only the Administration but also other parties including the HKUST Council and the Royal Hong Kong Jockey Club, our Committee has yet to conclude the examination of evidence. Indeed, a third public hearing has been scheduled for next Monday, 24 February, to elicit further information. There is, therefore, nothing much on this subject that we have included in our Report No. 17, which is being tabled today. Instead, I shall report back to this Council our conclusions and recommendations once we have finalized our deliberations on this issue.

Finally, Mr Deputy President, allow me to reiterate that the function of the Public Accounts Committee, as a committee, has never been vindictive or punitive; and it should not be so in the future. The Committee would look forward, drawing lessons from the past, to arriving at recommendations that would lead to a more efficient and economic use of public funds in the future.

I would also like to take this opportunity not only to thank our Members but also the staff of the Audit Department and the Secretariat for all their help in the compilation of this particular report.

Thank you, Mr Deputy President.

Oral answers to questions

Legislation inconsistent with the Hong Kong Bill of Rights

1. MR SIMON IP asked: The Hong Kong Bill of Rights Ordinance came into force on 8 June 1991 with six specific pieces of legislation being exempted until 8 June 1992. Will the Government please inform this Council:

(a) what progress the Government is making to introduce legislation to amend the Ordinances subject to the freeze under the Bill of Rights Ordinance; and

(b) whether the Government has reviewed comprehensively the laws of Hong Kong to ascertain what laws may contravene the Bill of Rights Ordinance; and if so, what action will be taken and priorities set to amend those laws?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, of the six Ordinances subject to the one-year freeze period under the Bill of Rights Ordinance, amendments to two of them, that is, the Prevention of Bribery Ordinance and the Independent Commission Against Corruption Ordinance, have been gazetted and will be introduced into this Council on 26 February 1992.

We are finalizing our proposals to amend the Crimes Ordinance, the Societies Ordinance and the Immigration Ordinance to avoid inconsistency with the Bill of Rights Ordinance. Subject to the advice of the Executive Council, the relevant amendment Bills will be introduced into this Council before the freeze period expires on 8 June 1992.

As for the Police Force Ordinance, most of the provisions which may cause problems under the Bill of Rights are related to police powers of stop and search, and arrest and detention. The Law Reform Commission has carried out extensive examination of the areas involved and will publish its report soon. Given the importance of the subject, it is both prudent and necessary to await the report before formulating our position on the Ordinance. We will consider the report as a matter of urgency, with a view to introducing amending legislation into this Council as soon as possible thereafter.

As to the second part of Mr IP's question, the Administration had conducted a review of the existing legislation of Hong Kong where problem areas were thought to exist prior to the enactment of the Bill of Rights Ordinance. We concluded that while certain provisions of the law could be at risk of being found to be incompatible with the Bill of Rights, ultimately this was a matter which could only be decided one way or the other by the courts. We therefore adopted the cautious approach of seeking to freeze the operation of the Bill of Rights Ordinance only in respect of a small number of Ordinances containing provisions which, if repealed upon a finding of

inconsistency with the Bill of Rights, would create an unacceptable operational vacuum particularly in the sphere of law enforcement. Our priority now is therefore to complete our examination of those six Ordinances subject to the freeze, and to introduce amending legislation where this is thought necessary. Our approach for other legislation is to deal with cases of possible or determined incompatibility with the Bill of Rights Ordinance as they arise, whether as a result of our own review and research or of cases decided by the courts.

In recommending legislative amendments in response to the Bill of Rights, we should bear in mind that the Bill of Rights legislation is an entirely new area of law for Hong Kong and a local jurisprudence is only just beginning to develop. A cautious approach is therefore justified, at least until we have more local judicial precedents to guide us.

MR SIMON IP: Mr Deputy President, the Secretary, in answer to the second part of my question, said that the Administration had conducted a review of the existing legislation where problem areas were thought to exist. Would the Administration be willing to release the result of that review so that the public would be aware of the laws that may contravene the Bill of Rights? If not, would that not be a reason to fortify the call for the setting up of a Human Rights Commission to review the laws of Hong Kong?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, the review to which I referred earlier in my main reply was conducted, as I said, prior to the enactment of the Bill of Rights Ordinance. At the time, we concluded that, on the basis of our examination, there were certain areas of Hong Kong's Ordinances which might be -- and I stress might be -- incompatible with the Bill of Rights Ordinance. A list of those Ordinances which might be incompatible with the Bill of Rights was passed to the Convenor of the Legislative Council ad hoc group on the Bill of Rights Bill in May 1990; and I see no reason why Members of this Council cannot get a copy of that list if they show any interest.

MR MARTIN LEE: Mr Deputy President, will the Administration admit that what it claims to be a cautious approach is really an irresponsible approach in that the Administration wants to leave problematic areas to the courts rather than to comply

with the provisions of the Bill of Rights by ensuring that no existing law in Hong Kong would infringe its provisions?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, the cautious approach to which I have referred is of course, in our view, perfectly justified, having regard to the fact that the Bill of Rights is a new area of law in Hong Kong. As to the question of whether any one of our existing laws is incompatible with the Bill of Rights, it is a matter for the courts to decide. The Administration certainly can examine, and is indeed examining, some areas of our law to assess the risk of their being judged by the courts to be incompatible. This assessment together with our operational needs will be taken into account in deciding whether amending legislation should be introduced.

MISS EMILY LAU: Mr Deputy President, in his main reply to Mr IP's question, the Secretary has said that the Government's approach to legislation outside those six Ordinances covered by the freeze period is to deal with cases of incompatibility as they arise. Would the Government agree that such cases have indeed arisen given that the Official Secrets Act and the Public Order Ordinance were picked out as being incompatible with the Bill of Rights at the two United Nations Human Rights Committee hearings held in November 1987 and in March 1991; if so, what action will the Government take to deal with these two cases specifically?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, I gather that the reference was to the Public Order Ordinance and the Official Secrets Act. These two statutes have been included in the list which we passed to the ad hoc group in 1990. All the Ordinances on that list are now under examination, some of which have been dealt with already, as in the case of decriminalization of homosexuality; and there are other cases where we are considering introducing amending legislation. So the Government is certainly not ignoring those two Ordinances mentioned by Miss Emily LAU.

MR JIMMY MCGREGOR: Mr Deputy President, since many people are worried about what appears to be an increase in violent crime and triad related crime, can the Government give an assurance that proposed changes to the Ordinances affecting police and ICAC

powers, brought about as a result of the Bill of Rights Ordinance, will not significantly reduce the efficiency of these law and order agencies and their ability to serve the community effectively?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Yes, Mr Deputy President. In considering the approach towards amending legislation, we certainly take into account the balance between the need to protect the individual's human rights as provided for by the Bill of Rights Ordinance and the need to ensure that law and order is maintained effectively which, certainly, would relate to the operations of the Police Force and the ICAC.

MR LEE WING TAT (in Cantonese): Mr Deputy President, in past years, some student groups paraded on the streets without a permit or the approval of the Commissioner of Police to demonstrate that the Public Order Ordinance contravenes the Bill of Rights. Will the Administration inform this Council if it would conduct a comprehensive review on the Public Order Ordinance; if not, why not?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, as the Public Order Ordinance falls under the policy responsibility of my colleague, the Secretary for Security, I think he would wish to answer that particular question.

SECRETARY FOR SECURITY: Mr Deputy President, we have no immediate proposals to amend the Public Order Ordinance.

MR JAMES TO (in Cantonese): Mr Deputy President, the Administration mentioned that there would be reviews and examinations within different branches and departments and naturally they would be based on the rulings of the courts. May I know if there is a timetable drawn up within each branch or department, and thus setting a deadline for its review?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, in examining the six Ordinances subject to the freeze under the Bill of Rights Ordinance, we do have a timing which we need to bear in mind. In respect of other Ordinances, it is very

hard to draw up any overall timetable, bearing in mind that different laws may have different degrees of complexity and therefore might require different timing and effort in looking at them. But certainly every branch or department of the Government is fully aware of the fact that this is one area which they very much would like to deal with as soon as practicable.

Children left unattended at home

2. MR HUI YIN-FAT asked: Will the Administration inform this Council what follow-up actions it proposes to take having regard to the already available public responses to the Consultation Paper on Measures to Prevent Children from being left Unattended at Home?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, the three-month public consultation on "Measures to Prevent Children from Being Left Unattended at Home" ended on 31 December 1991. A total of 190 written submissions were received.

The comments and suggestions received were analyzed and incorporated in a report which was submitted to the Social Welfare Advisory Committee for discussion on 20 January this year.

On the basis of the recommendations of the Social Welfare Advisory Committee, the Administration intends to take the necessary follow-up actions:

(a) First, child care and other support services will be expanded. In order to help parents care for their children, a target of 1 400 day nursery places for children between the ages of two and six has been set annually until demand is fully met. At the same time, day creches for children under two years of age will be expanded by phases, particularly in new towns, to cater for young families. The idea of work-based child care centres will be promoted among industrial and commercial employers. The after-school care programme and the occasional child care service will also be expanded.

(b) The establishment of a social network of informal care and support provided by families, relatives, friends and neighbours will be encouraged. The concept of mutual help will be promoted. The Administration will examine the feasibility of exempting mutual-help groups from registration under the Child Care Centres Ordinance

(Chapter 243) to facilitate their formation by mutual aid committees, parents' groups and local organizations. With the assistance of the Housing Authority, suitable premises are being identified for the establishment of occasional child care services on a self-financing and mutual-help basis.

(c) Furthermore, public education on responsible parenthood will be promoted. The Social Welfare Department, in conjunction with non-governmental organizations, will promote home safety and responsible parenthood as part of their regular family life education programmes. They will continue to conduct publicity and educational activities at both the central and district levels to educate parents not to leave their children unattended at home. A case in point, Mr Deputy President, is a recent publication entitled "Do Not Leave Me Unattended".

Whilst at the moment we do not intend to enact a special piece of new legislation to punish parents who leave their children unattended at home, nevertheless, we intend to review the existing legislation to see whether it can be strengthened to deter parents from habitually putting their children at risk by leaving them alone. We are keeping an open mind on future options.

MR HUI YIN-FAT: Mr Deputy President, referring to the last paragraph of her reply, could the Secretary for Health and Welfare kindly inform this Council when the review on existing legislation with the object of preventing parents from habitually leaving their children alone will be completed? Can the findings be made known to the public?

SECRETARY FOR HEALTH AND WELFARE: As regards the review, Mr Deputy President, we have already started the preliminary spadework; and depending on the legislative requirement and the legislative programme, we hope to complete the review as soon as possible, certainly within this year. As regards the second part of the question, since the review may involve a change of law, we will certainly make the process as open as we can.

MRS MIRIAM LAU: Mr Deputy President, bearing in mind that the unpopularity of the present occasional child care service is partly due to the inflexibility of hours of operation and the relatively high fee structure of the centres offering such services, will the Administration, as a matter of urgency, review these areas to make sure that the services offered will be more attractive?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, the flexibility in terms of admission and charges has been reviewed and changes will be introduced. The flexible approach, requiring perhaps lower fees for admission, will be implemented next month, that is to say, from 1 March.

DR LAM KUI-CHUN: Mr Deputy President, would the Secretary for Health and Welfare inform this Council of the latest position of the organizations offering work-based child care centres, as mentioned in item (a) of the third paragraph of her answer?

SECRETARY FOR HEALTH AND WELFARE: The work-based model is in fact a very new approach and it is a very important approach. Indeed, in respect of this new model, the Hong Kong Bank has introduced it voluntarily. This innovative approach will in fact benefit the organization itself. For instance, the model will help reduce staff turnover; it will enhance the image of the workplace and encourage more women, and perhaps single-parents, to work. As far as I can gather, there is another hospital which is also considering the introduction of a work-based child care centre within the hospital's compound. We will keep an eye on this innovation which promises great success for the future.

MR HENRY TANG: Mr Deputy President, in item (a) of the third paragraph of her reply, the Secretary has said that the idea of work-based child care centres will be promoted among industrial and commercial employers. Since the present Buildings Regulations prohibit the establishment of any child care centre in industrial buildings, does it mean that there will be a relaxation of these Buildings Regulations so that young parents will be able to leave their small children in these day care centres whilst attending an industrial workplace?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, the welfare of the child will come first. When we talk about a work-based child care centre it may not necessarily be at the place of work. It could be, for instance, in an adjoining area but sponsored by the employer. The child care centre need not necessarily be operated by the employer. In the case of Hong Kong Bank, we believe that the management of the centre has been contracted out to a non-government organization; similarly for the proposed

hospital arrangement, the centre is going to be managed by a non-governmental organization. We feel that in allowing a place to be used as a child care centre the premises must be suitable for child caring; so there is no question of relaxing the rules to open the child care centre.

MR TIK CHI-YUEN (in Cantonese): Mr Deputy President, in paragraph 3(b) of her reply, the Secretary has mentioned that some organizations and mutual aid committees will be encouraged to establish child care services on a self-financing and mutual help basis. Could I ask the Administration how it will ensure the services provided by these organizations will be safe and up to standard?

SECRETARY FOR HEALTH AND WELFARE: The objective of mutual-help and certain new models of service really is a way of enhancing the social network. But in enhancing the links between people for self-help, the safety of the child would come first. So we hope that whilst people will be encouraged to volunteer for service, the standard of personnel requirements may be different but certainly not the standard of service. The safety of the child is uppermost in our minds.

MR EDWARD HO: Mr Deputy President, in order to promote a better understanding of responsible parenthood amongst young people before they become parents, will the Secretary inform this Council whether there are courses in parenthood in the school curriculum?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, regarding the education system, I cannot answer on behalf of the Secretary for Education and Manpower; but certainly in the Social Welfare Programme on Family Life Education, the question of responsible parenthood is a theme of education for the parents.

MRS PEGGY LAM (in Cantonese): Mr Deputy President, in paragraph 3(a) of her reply, the Secretary has mentioned that there will be an annual increase of 1 400 day nursery places. Could I be informed of the date of commencement of the programme and the manpower and funding the Administration is prepared to devote to it?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, I think Members will recall

that when the question of parents leaving their children unattended at home was debated in this Council on 18 December, I said that the fund for nursery and creche services was \$119.6 million for the current year and that there would be an increase of \$10.5 million to some \$130.1 million the following year for such services. That includes provision for 1 400 additional day nursery places; additional day nursery places will be provided every year until the demand is fully met. This position remains the same.

MR MAN SAI-CHEONG: Mr Deputy President, will the Government consider adequate provision of child care centres as a policy measure and a long-term programme in the context of the economic emergence of women in the local labour market?

SECRETARY FOR HEALTH AND WELFARE: Yes, Mr Deputy President.

DR YEUNG-SUM (in Cantonese): Mr Deputy President, we are glad to hear that the Administration presently has no intention to legislate against parents leaving their children unattended at home. Women's groups will also be relieved to learn that. But in the long term, will the Administration consider using tax concession as an incentive to encourage some employers to provide child care services to their workers? For example, by providing child care services to their workers, employers will be granted some tax concessions, so that more women can join the workforce and at the same time their children will be looked after.

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, the Honourable YEUNG Sum's question consists of two parts: first, whether the Government would encourage employers to contribute to child care services; second, if I understand it correctly, whether these employers would be granted tax concessions. As regards the first part of the question, employer participation has been recognized in the White Paper on Social Welfare Policy to be a new direction worth pursuing. That is to say, it is very compatible with the policy of encouraging society to participate; employers being part of society are welcome to participate and indeed should be encouraged to do so. We will provide all the necessary infrastructural and advisory help. This participation scheme in fact helps enhance the image of the employer; it also helps retain staff, reduce absenteeism and staff turnover. There are many models, for

instance, the consortium model where small industries can group together and use a common service provided perhaps by non-governmental organizations. These child care centres may not necessarily be in workplaces; they may be in residential areas, and the service may be sponsored or paid for by the employers.

As regards tax concessions, without wishing to trespass into the sacred ground of the Financial Secretary, I think the concept of tax concessions, as an incentive to employers, is incompatible with the simplicity of Hong Kong's tax system. (I say this because I have previously served my apprenticeship in the Treasury, so to speak, for seven years.) Hong Kong's tax system and the simplicity of the tax structure would be rendered very complicated if we were to grant tax concessions. Tax concessions are neither simple to administer, nor indeed equitable within the Hong Kong system; but I must admit I speak without wishing to trespass into the sacred grounds of the Financial Secretary.

MR FRED LI (in Cantonese): Mr Deputy President, could the Secretary inform this Council of any concrete plan to implement the phased expansion of nursery services (which have been frozen for years)? How many additional nursery places will be provided annually and which districts in fact do "new towns" refer to?

SECRETARY FOR HEALTH AND WELFARE: Day creche services for children under two years of age, as different from child care centres for children between the age of two and six, will be expanded by phases, as I said, in the new towns, particularly I believe in places like Tuen Mun where there are many single-parent and young families. This expansion of service is in fact going to help the low income families with social needs, and other young families who may choose to use the service when the mothers take up employment. We hope to implement this new policy which requires some extended look into the Fee Assistance Scheme. At present the Fee Assistance Scheme, which is a scheme to help low income families with social needs according to a sliding scale commensurate with the ability to pay, applies to day care centres; but we hope to work out a way whereby this scheme can be extended to day creche as well. It is very difficult to assess the demand for day creche because we have to rely very much on the individual family's response and inclination, but we hope that 250 new aided day creche places will be planned for each year.

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, would the Secretary explain why on the one hand she mentioned in paragraph 4 of her main reply that the Administration at present does not intend to enact legislation to punish parents who leave their children unattended at home while on the other said that consideration is being given to amend the existing legislation to deter parents from so doing? May I know what in fact these legislations are and whether they are relating to punishing parents of unattended children? Furthermore, when will amendments be introduced? Shall we have to wait until sufficient child care services or facilities are available in the community before introducing these amendments?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, perhaps I should answer the last part first. There are indeed sufficient day care centres; but if the supply matched perfectly with the demand, there would hardly be any need for any change in the law. We need to look after the interests of the child; and, in my opinion, one tragedy to a child is already one too many. I do not think we should only act or be goaded into action by sad happenings that we read from the newspapers. I think we should always act in such a way that the welfare of the child will be taken into account first. We need to keep up the effort and take sustained vigilant action in the interest of the right of the child.

As regards the existing law, we have at present two Ordinances which deal with cases of children abandoned or exposed to danger or being permanently left out of the social system or being victims of wilful neglect. One of these two Ordinances is:

The Offences Against the Person Ordinance which deals with cases of children abandoned, exposed to danger and permanent injury to health, and children being the victims of wilful neglect.

The other Ordinance is:

The Protection of Women and Juveniles Ordinance which provides for care and protection of children exposed to physical danger.

The question is whether physical danger should be the sole criterion; or should we include also psychological danger? At present, these two Ordinances provide for legal action. However, in considering whether or not to take legal action, the act would have to be viewed in the overall context of the child's general care and

well-being. Prosecutions or the making of a Child Care and Protection Order will seldom, if ever, be undertaken solely on the ground of a child being left unattended at home occasionally.

So the idea is whether we can expand the law in order to help the mother or perhaps even the father at home. We hope to facilitate a situation whereby if we detect certain children being perpetually or habitually left at home, assistance can be offered to the parents to find child care places for them. The idea is not so much to punish the parents as to educate them not to leave their children at home without seeking help.

MR PETER WONG: Mr Deputy President, will the Secretary confirm whether resources such as the capital cost of establishing suitable premises will be made available in 1992-93 for mutual help? Or will the parents, some of whom have handicapped children waiting for vacancies in training centres, still be left to their own devices, yet again?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, it is a very wide and open ended question. I cannot confirm anything without knowing the actual figure. Since we are talking about capital provision, it is really up to the Lotteries Fund Committee to allocate money when Lotteries Fund applications are made. Capital provisions are normally funded through the Lotteries Fund by the Director of Social Welfare.

Return of Hong Kong citizens for medical treatment

3. MR STEVEN POON asked: Given that a large number of Hong Kong people work in Guangdong area, will the Administration inform this Council:

(a) whether there are emergency arrangements to return Hong Kong citizens to the territory for medical treatment; and if so, what is the average time taken to return a Hong Kong citizen in case of emergency from, say, Dongguan County, Guangdong Province to Queen Elizabeth Hospital;

(b) of the number of cases requiring such emergency arrangements in the past five years; and

(c) whether any improvements to the arrangements are necessary?

SECRETARY FOR SECURITY: Mr Deputy President, the Hong Kong Government has no standing arrangements for the return of Hong Kong citizens from outside the territory for medical treatment. Such arrangements fall outside our responsibility. I am, however, aware that some private companies operating in China have their own arrangements for transferring their staff to Hong Kong for emergency treatment. Also some medical insurance policies offer repatriation as a benefit.

The Hong Kong Government's responsibility is to provide health care services to people within its borders. Therefore, if any person arrives in Hong Kong needing emergency care, an ambulance will be called to transfer that person to hospital. If the Fire Services Department (FSD) is given advance warning, an ambulance can be made ready at the point of entry to receive the patient.

On average the time taken to transport patients from the border, airport, helipads or ferry piers to the Accident and Emergency Department of the nearest public hospital is from 10 to 20 minutes, depending on the point of entry.

No record has been kept of the number of cases requiring emergency transfers to hospitals from Immigration Control Points. Therefore I cannot provide statistics covering the past five years. However, I have been able to ascertain that, since October 1991, a total of 105 cases involving 112 patients were conveyed by FSD ambulances from the border to various hospitals. No similar statistics are available for other points of entry.

The existing arrangements are satisfactory and improvements are not considered necessary.

MR STEVEN POON: Mr Deputy President, there are many Hong Kong citizens working as managers, engineers and truck-drivers in the Pearl River Delta, and a large number of Hong Kong citizens travelling in package tours in Guangdong Province. When they have an accident or when they are injured at work, they will be left in a place far away from home and will be treated by a medical system which is not familiar to them. This will be the time they need Hong Kong most. As indicated in the reply of the

Secretary for Security, some large private companies have arrangements with emergency services companies for their employees to be escorted or evacuated to Hong Kong under medical emergency situations. Will the Administration inform this Council whether the Government, or its agents such as the Trade Development Council, is prepared to consider making similar emergency services for general use by Hong Kong people working in the Pearl River Delta? Secondly, short of a formal arrangement, what channels are open to a Hong Kong citizen who wishes to ask for Hong Kong Government's assistance for his or her speedy return to the territory for emergency medical treatment after an accident or injury?

SECRETARY FOR SECURITY: Mr Deputy President, I cannot speak for the Trade Development Council; but the Hong Kong Government has no plans to extend its emergency services into China. I believe that for persons employed in China the prime responsibility must lie with their employers. In addition, in the case of serious accidents where persons need emergency treatment, it is probably more appropriate that they should receive such treatment initially in China until they are fit to return to Hong Kong. However, I should add that exceptionally the Hong Kong Government has been able to assist persons requiring repatriation from Guangdong Province for medical treatment. This is done only where, on medical advice and after discussion with the doctor treating the patient in China, we are satisfied that a genuine emergency exists, that evacuation is both necessary and advisable, and that no other means of returning the patient to Hong Kong is feasible. I believe that in recent years there have been very few, perhaps a handful, of such cases.

PROF FELICE LIEH MAK: Can the Secretary for Security inform this Council when the Fire Services Department ambulances are asked to convey patients from the point of entry to a hospital whether the service will be exclusively for conveying patients to public hospitals; if not, will consideration be given to conveying a patient to a private hospital as requested by the patient or his doctors?

SECRETARY FOR SECURITY: Mr Deputy President, the Fire Services would take patients to a private hospital if that was requested, or alternatively to the nearest public hospital.

DR CONRAD LAM (in Cantonese): Mr Deputy President, will the Administration hold discussions with China to the effect that patients clearing through customs will have

the formalities gone through quickly so as to enable them to return to Hong Kong as soon as possible for medical treatment?

SECRETARY FOR SECURITY: Mr Deputy President, certainly where patients arrive in Hong Kong in clear need of quick or emergency treatment, immigration formalities here are gone through very quickly, or even in some cases dispensed with for the present.

MR PETER WONG: Mr Deputy President, does the Secretary consider that it is the Government's duty to forewarn Hong Kong residents who work in or visit Guangdong Province that they would be well advised to make prior arrangements for repatriation in case of need for medical treatment?

SECRETARY FOR SECURITY: Mr Deputy President, I believe that responsibility for employees is primarily that of the employers, though clearly I expect that recent cases and recent publicity will have made people working in China more aware of the need to make these arrangements.

Written answers to questions

Law Reform Commission report on the Intestates' Estates Ordinance, Wills Ordinance and Deceased's Family Maintenance Ordinance

4. MRS ELSIE TU asked: Will the Government inform this Council what action has been taken, or when action will be taken, on the report made by the Law Reform Commission in May 1990 concerning the Intestates' Estates Ordinance, the Wills Ordinance and the Deceased's Family Maintenance Ordinance?

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, the report by the Law Reform Commission concerning the Intestates' Estates Ordinance, the Wills Ordinance and the Deceased's Family Maintenance Ordinance contains about 70 recommendations to modernize certain aspects of family law.

Following its publication in May 1990 the Attorney General sought views from

relevant policy Secretaries on the Report's recommendations. In the light of the views received, substantial work has already been undertaken towards the implementation of the bulk of the recommendations in the Report. A number of recommendations were, however, found to be more complex in nature and require careful consideration of the extent to which they would be acceptable to the community.

The City and New Territories Administration have very recently assumed the responsibility for the carriage of the Report. We are considering how best to take the legislative exercise forward.

Fund allocation to Colleges of Education

5. MR CHEUNG MAN-KWONG asked: Regarding the allocation of funds to Colleges of Education in each of the past five years, will the Government inform this Council of the following:

(a) the amount of funds allocated and their respective shares of the total budget for education; and

(b) the respective amounts and percentages of funds used on improving college facilities and settling staff costs?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the answers to Mr CHEUNG's questions are as follows.

(a) The expenditure on the four Colleges of Education under the Education Department in each of the past five years, in absolute terms and as a percentage of total actual expenditure on the education programme area as a whole (that is, including universities and polytechnics, technical education and industrial training and schools education) was:

1986-87 1987-88 1988-89 1989-90 1990-91

Actual

expenditure

(\$M) 89.59 101.14 113.95 136.26 156.72

% of total 1.1% 1.1% 1% 1% 1%
 actual expenditure on
 education programme area

(b) Within the expenditure shown under (a) above, the amounts and percentages used for improving college facilities and settling staff costs respectively were:

	1986-87	1987-88	1988-89	1989-90	1990-91
Actual expenditure on improving college facilities (\$M and %)	5.30 (5.9%)	7.90 (5.9%)	9.67 (7.8%)	14.25 (8.5%)	14.42 (10.5%)

Staff costs (\$M and %)	81.84 (91.4%)	90.53 (89.5%)	101.20 (88.8%)	118.94 (87.3%)	139.33 (88.9%)
-------------------------	---------------	---------------	----------------	----------------	----------------

The balances (\$2.45M or 2.7% in 1986-87, \$2.71M or 2.7% in 1987-88, and so on) were spent on other recurrent charges such as electricity and consumables.

Flushing water to culture live sea fish

6. DR CONRAD LAM asked: Regarding the complaint that many restaurants are using flushing water to culture their live sea fishes, will the Government inform this Council:

- (a) whether investigation has been made into this alleged practice;
- (b) whether there is legislation to prevent such a practice;
- (c) whether there is evidence that such practice is likely to put the consumers'

health at risk; and

(d) if so, what measures the Government will take to protect the health of the general public.

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, the answer to the four-part question is as follows, seriatim:

(a) Yes, investigation has been made into the alleged practice of flushing water being used in restaurants to keep sea fishes. In a recent survey conducted by the Urban Services Department, a very small number of restaurant operators admitted that sea water was sometimes drawn in this way. However, this has not been confirmed or observed during restaurant inspections.

(b) There is no legislation which specifically prohibits the use of flushing water for keeping live sea fish in restaurants. However, provision does exist in both the Food Business (Urban Council) By-laws and the Food Business (Regional Council) By-laws for persons engaged in any food business, including restaurants, to take all necessary steps to protect the food from risk of contamination.

(c) There is no evidence of the consumers' health being put at risk. The Department of Health has not received any report of food poisoning relating to the consumption of fishes kept in flushing or any other type of water. Furthermore, the whole process of sea fish dishes preparation, including cleaning by fresh tap water, degutting and cooking, should eliminate the risk of bacterial contamination.

(d) In the interest of public safety, the Urban Services Department and Regional Services Department conduct regular inspections of restaurants to ensure a high standard of hygienic practices in restaurants. They also collaborate with the Department of Health in organizing regular health education programmes for persons engaged in the food business. The operators may also be prosecuted if the food they serve is found to be contaminated.

Centralized primary schools

7. MR GILBERT LEUNG asked: With regard to the setting up of centralized primary schools by regrouping the village schools scattered in rural areas which began in

the early 80's, will the Government inform this Council:

(a) of the number of centralized primary schools throughout the territory;

(b) whether these existing centralized primary schools can achieve the objectives set by the Government; if not, what difficulties are involved; and

(c) whether the Government has any plan to set up more centralized primary schools; if not, what other measures will be taken to improve education services in rural areas?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the answers to Mr LEUNG's questions are as follows:

(a) There are at present three centralized primary schools, namely, the Sai Kung Central Primary School, the Hang Hau Central Shing Hong Fong Memorial Primary School and the Sha Tau Kok Central Primary School.

(b) The objective of establishing centralized primary schools with standard facilities is to replace small rural schools which had less than six operating classes, lacked facilities and were educationally inefficient. All three centralized primary schools were founded by amalgamating a number of small rural schools and the objective of setting them up has been achieved.

(c) The Education Department will continue to set up centralized primary schools where this is necessary and feasible. A fourth centralized primary school, to be located in Sai Kung Town, is being planned for completion in 1994. This will enable the phasing out of another five rural schools in Sai Kung.

Where it is not feasible to set up a centralized primary school due, for example, to insufficient demand in remote areas, special assistance is provided to village schools to enhance the quality of the education they provide. The assistance includes increased recurrent and non-recurrent grants, preferential provision of resource materials and equipment, a monthly inducement allowance given to teachers working in remote village schools, and priority given to teachers in these schools to attend in-service re-training courses.

School places in Tseung Kwan O

8. MR GILBERT LEUNG asked: Will the Government inform this Council:

(a) among the 100 000 residents in Tseung Kwan O, how many of them are children estimated to have reached the age for attending primary or secondary schools respectively;

(b) how many places are provided respectively by the existing seven primary schools and two secondary schools in the above district and how many children living there have to attend schools in other districts; and

(c) how many new primary and secondary schools will be built in Tseung Kwan O in the next five years and according to the projected data, how many children will receive schooling within the district by then?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the answers to Mr LEUNG's questions are as follows:

(a) The latest statistics show that there are 93 870 residents in Tseung Kwan O, including Tiu Keng Leng. Of these, 12 580 (13.4%) are of primary school age, and 8 090 (8.6%) of secondary school age.

(b) 13 950 and 3 450 places respectively are available in the eight primary and four secondary schools in Tseung Kwan O (including one primary school and two secondary schools in Tiu Keng Leng). There are enough places in the locality to accommodate all primary school age children. As regards secondary school age children, there is a theoretical shortfall of some 4 500 places within Tseung Kwan O. Of these, some may have opted to enter employment after Secondary 3. Some of those who have recently moved to Tseung Kwan O may have chosen to continue their studies in their old schools. Under existing policy, those who require places in Tseung Kwan O but who are not allocated with such places are accommodated as far as possible in nearby districts, such as Kwun Tong and Wong Tai Sin.

(c) In the next five years, three new primary schools and two new secondary schools will be built in Tseung Kwan O. In addition, two existing secondary schools will be reprovisioned and expanded. These changes will enable an additional 5 850 primary and 3 570 secondary school age children to study within the district.

Taxi licences

9. MR JIMMY MCGREGOR asked: Will the Government advise this Council:

(a) what were the average prices obtained for new taxi licences in each tender exercise from 1984 to 1991;

(b) how it is ensured that a controlled supply of taxi licences each year can meet the high demand;

(c) what is the effect of high taxi licence premium in relation to taxi fare increases and inflation; and

(d) how it is ensured that there are no speculative activities and triad manipulation in the purchase of new taxi licences?

SECRETARY FOR TRANSPORT: Mr Deputy President,

(a) The average tender premium for new taxi licences from 1984 to 1991 is given in the Annex.

(b) Our policy objective is to ensure a satisfactory level of taxi services rather than to meet the demand for taxi licences. With the continued improvement of and expansion in rail and bus services, the 1990 White Paper on Transport Policy reaffirmed the need to impose a quota on the number of new taxi licences, balancing the increasing demand for taxi services against what our roads can bear in terms of mobility. Accordingly, the Governor in Council has decided to issue no more than 400 urban taxi licences every two years and up to 100 New Territories taxi licences from 1991 to 1992, subject to regular reviews by the Council. To determine the actual number of licences to be issued each year, the Transport Department conducts annual roadside and taxi stand surveys on the adequacy of taxi services and takes into account the financial position of the taxi trade and the traffic management implications.

(c) The taxi licence premium is not taken into account in assessing taxi fare increase applications. Although a high level of premium may indirectly exert pressure on fares in the form of higher rental charged by the taxi owners, there is

a limit to the level of rental that taxi drivers are prepared to pay in relation to the expected profitability of taxi operation. Taxi fare increase applications are subject to the scrutiny of the Transport Advisory Committee and the approval of the Governor in Council to ensure that any revisions will be acceptable to the public. The relationship, if any, between taxi licence premium and inflation is not straightforward. Taxi fares, rather than the taxi licence premium, is covered by the Consumer Price Index (CPI). Spending on taxi services is only a small percentage (0.8%) of the average expenditure of households covered by the CPI(A).

(d) A working group has recently been established under the Transport Advisory Committee to conduct a fresh review on taxi policy including the present taxi licensing system. Any questions of speculative activities and alleged malpractices will also be examined to safeguard the public interest.

Annex

Average Tender Premium (1984-1991)

Year	Urban taxis	NT taxis	Lantau taxis
1984	\$164,885 (July)	\$8,865 \$18,400 (Dec)	\$27,884 (Mar)
1985	\$199,255 (Jan) \$219,771 (June)	\$25,000 (Jan)	--
1986	\$292,140 (Jan) \$372,042 (June)	--	--

Average Tender Premium (1984-1991)

Year	Urban taxis	NT taxis	Lantau taxis
1987	\$449,530 (Jan) \$596,189 (July)	--	--
1988	\$600,886 (Jan)	--	--

\$694,443 (July)

1989	\$820,546 (July)	\$44,136 (July)	--
1990	\$909,562 (Nov)	--	--
1991	\$1,512,055 (Dec)	--	--

Open nullahs

10. MR JAMES TO asked: Will the Government inform this Council:

(a) how many open nullahs there are in Hong Kong, Kowloon and the New Territories respectively;

(b) how many complaint cases on open nullahs have been received over the past three years;

(c) what measures and actions the Administration has taken to reduce the impact of the offensive smell from these open nullahs;

(d) whether the Administration has any plan to deck all the open nullahs in the territory; if so, whether there is a time schedule for its implementation;

(e) what remedial action will the Administration take regarding the present illegal practice of discharging sewage into the open nullahs; and

(f) whether the Administration will accord priority to abate the long standing problem of stinking smell and foul water arising from the open nullah at Tonkin Street in Cheung Sha Wan; if so, what specific measures will be taken?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President,

(a) There are 30 open nullahs in Hong Kong, 10 open nullahs in Kowloon and 39 open nullahs in the New Territories.

(b) In the past three years, the Drainage Services Department has received 47 complaints of offensive smells from open nullahs; of the 47 complaints, 27 were about nullahs in the New Territories, 12 about nullahs in Kowloon, and eight about nullahs in Hong Kong.

(c) Various government departments are responsible for mitigating smells in open nullahs:

(i) The Drainage Services Department and Territory Development Department are responsible for maintaining the nullahs to ensure that they are hydraulically effective. This is done by conducting regular inspections and implementing desilting and desludging programmes. In some cases more substantial works are required. For example, in Yuen Long an inflatable dam is being constructed across the downstream end of the main nullah to prevent polluted waters flowing back into the nullah and creating an offensive smell. In addition, a pumping station is being constructed to remove polluted flows from the upstream section of the nullah to a section downstream from the inflatable dam and this project is scheduled for completion in May 1992.

(ii) The Environmental Protection Department have engaged consultants to carry out Sewerage Master Plan Studies which will, in time, cover the whole territory. These studies will, inter alia, include recommendations for dry-weather-flow interception schemes to remove expedient connections of sewage to the nullahs and this will reduce the amount of sewage flowing into the open nullahs and hence the offensive smell.

On completion of these studies, first aid measures are implemented shortly afterwards, which achieve some limited and temporary improvement to the nullahs, whilst the recommended sewerage upgrading schemes are implemented in stages. Work has commenced for some of the schemes and all the major ones are expected to be completed by 1999 if funds are made available. In addition, the Environmental Protection Department can take action under the Water Pollution Control Ordinance to stop illegal discharges of polluting water into nullahs.

(iii) The Regional Services Department and the Urban Services Department attend to the regular removal of refuse and take measures against rodent infestation.

(d) The Administration does not plan to deck all the open nullahs in the territory. Existing open nullahs are essentially hydraulic structures for discharging

stormwater during rainstorms. Regular inspection and desilting programmes can be conducted more effectively and economically in an open nullah than in a decked nullah. Decking an open nullah is a costly civil engineering exercise which also makes it more difficult to enter the nullahs and carry out desilting work with mobile plant. Decking would also increase maintenance costs. In addition, decking could contribute to the problem of offensive smells by helping the retention of hydrogen sulphide, a gas which is potentially dangerous to the public and maintenance staff, and corrosive to the structure. There is, however, a proposal to deck the Tonkin Street nullah in Cheung Sha Wan -- between Fuk Wing Street and Po On Road -- for road widening purposes as part of the Cheung Sha Wan North Comprehensive Traffic and Public Transport Priority Scheme. However, this project is of relatively low priority and is unlikely to be implemented in the near future.

(e) For nullahs located within a declared water control zone (WCZ), the Environmental Protection Department is given the statutory power under the Water Pollution Control Ordinance (WPCO) to take enforcement action against the illegal dischargers. Out of 10 WCZs in the territory, six have been declared; they are Tolo Harbour, Southern, Junk Bay, Port Shelter, Deep Bay and Mirs Bay WCZs. The seventh, North Western WCZ, is scheduled for declaration in April 1992. After the declaration of a WCZ, it normally takes about two years to achieve full control on all discharges. There are already improvements in the water quality of some nullahs located in the declared WCZs, for example, Shing Mun River, Fo Tan Nullah, and so on.

In areas that the WPCO does not yet cover, the Government relies on the enforcement of lease conditions and the Buildings Ordinance to tackle the illegal discharges. When the source of an illegal discharge is traced, the Buildings Ordinance Office seeks to persuade the discharger to correct his drains or to install a waste water treatment plant. In Tsuen Wan, Kwai Chung and Kwun Tong districts, the Government has set up industrial building management co-ordinating committees to identify problems and resolve them by cultivating a self-help spirit among the owners and by co-ordinating government action.

EPD is also implementing the Livestock Waste Control Scheme under the Waste Disposal Ordinance. This will reduce much of the pollution load to some of the nullahs. Full controls are already in force in the prohibition areas, that is, urban areas, and the Tolo Harbour catchment, Mui Wo and Anglers Beach environs.

(f) The Administration has continued to take several measures to abate the smell

nuisance from the open nullah in Tonkin Street and the Sham Shui Po District Board was briefed on these measures at its 17th meeting on 21 December 1990. A further report on these measures was given to the Secretary General, OMELCO on 28 June 1991. The present position is that the smell from the Tonkin Street nullah is due to polluted water discharging into the nullah through expedient connections of foul water to stormwater drains within the catchment areas. The solution is to stop the discharge of foul water at source. In this respect, the North-West Kowloon Sewerage Master Plan Study has recently been completed and the Study has recommended a Dry-Weather-Flow Interception Scheme to collect the polluted dry-weather-flow before entering the nullah and to divert it to the foul sewerage system. This Dry-Weather-Flow Interception Scheme is presently being implemented by the Territory Development Department in association with their West Kowloon Reclamation project, which is scheduled for completion before 1996. Action under the WPCO against discharges into this nullah will also be possible when the Victoria Harbour Water Control Zone is declared in about 1995.

Complaints against police

11. REV FUNG CHI-WOOD asked: Will the Government inform this Council:

(a) since both the targets of complaints and the staff of the Complaint Against Police Office (CAPO) are police officers, what measures are available within the Police Force to ensure that the investigation of complaints will be conducted in a fair and unbiased manner; and

(b) whether any appeal channels are available if the public are not satisfied with the decisions of the CAPO?

SECRETARY FOR SECURITY: Mr Deputy President, there are a number of measures to ensure impartial investigations of complaints against the Police.

Firstly, CAPO officers belong to the Complaints and Internal Investigations Branch of the force, which is separate from the rest of the force. The fact that CAPO officers are part of a different chain of command ensures their objectivity in dealing with complaints.

Secondly, a comprehensive set of procedures for dealing with various categories of complaints have been issued for CAPO to follow. In the case of complaints involving serious allegations against police officers, advice from the Attorney General's Chambers will be sought after the investigation is completed on the follow-up action to be taken.

Thirdly, the results of CAPO investigations, together with all relevant documents such as statements of witnesses, are passed to the Police Complaints Committee (PCC), an independent statutory body, for examination. The PCC is appointed by the Governor to monitor, and where necessary to review, the investigation of complaints against police officers. If necessary, the PCC may request CAPO to re-investigate cases until they are satisfied with the investigation results.

A complainant is informed by the CAPO of the result of investigation only after this has been endorsed by the PCC. If he is not satisfied with the result, he may petition the Governor.

Annual reports of government departments, statutory or advisory bodies

12. MR FREDERICK FUNG asked: Will the Government inform this Council:

(a) whether all government departments are required to prepare annual reports, and if not, why such reports are not required of some departments;

(b) of the circumstances under which statutory or advisory bodies are required to prepare annual reports;

(c) whether there are guidelines for the preparation of these annual reports;

(d) of the circumstances under which these annual reports have to be presented to this Council, and whether they can be made available to members of the public for inspection or purchases?

CHIEF SECRETARY: Mr Deputy President,

(a) Some departments, such as the Audit Department, are required by law to publish

an annual report. Where there is no such statutory requirement, a Head of Department may decide at his/her discretion whether to produce an annual department report, taking into account the cost of producing the report and the extent of public interest in the information contained therein. About half of the government departments produce an annual report.

(b) Some statutory bodies are required by their ordinances to publish an annual report. Other statutory or advisory bodies may decide at their own discretion whether to publish an annual report.

(c) Annual reports which are required to be produced by law have to comply with the relevant legal provisions. Those government departmental annual reports which are non-statutory in nature follow certain editorial guidelines to ensure presentational consistency. Annual reports prepared by statutory or advisory bodies, which are not required by law, follow their own guidelines.

(d) Most annual reports required to be produced by law are also required to be tabled in the Legislative Council. All departmental annual reports where available and which are not required to be tabled in the Legislative Council are separately circulated to Members by the Clerk to the Legislative Council. Copies of all departmental annual reports are made available in public libraries and tertiary institute libraries for public perusal. In addition, some of the more popular reports, such as the Director of Audit's report and the Commissioner of Banking's report, are on sale to members of the public. Where they are not, requests for copies by members of the public will be entertained, subject to availability of spare copies. The circulation of annual reports produced by statutory or advisory bodies is decided by the bodies themselves but it generally follows the circulation list as applied to departmental reports.

Government expenditures and subsidies on education

13. MR FREDERICK FUNG asked: Will the Government inform this Council of:

(a) the following expenditure incurred by the Government in the past five financial years and estimated for the next three financial years (in terms of dollars per student):

(i) the annual recurrent and non-recurrent expenditure on subsidizing students of each tertiary institution, with breakdown by qualification levels (for example, Diploma, Bachelor degree) and subjects (for example, engineering, medicine);

(ii) the annual recurrent expenditure on subsidizing secondary school students, with breakdown by the category of schools (for example, government schools, subsidized schools);

(iii) the annual recurrent expenditure on subsidizing primary school students, with breakdown by the category of schools;

(iv) the annual recurrent expenditure on kindergartens and child care centres; and

(b) if the amount of subsidy is different for different institutes offering similar courses at the same academic level, the reasons for the difference?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, I would like first to deal with questions relating to the tertiary sector. There are currently seven institutions of higher education which are funded through the University and Polytechnic Grants Committee (UPGC): the University of Hong Kong (HKU); The Chinese University of Hong Kong (CUHK); The Hong Kong University of Science and Technology (HKUST); the Hong Kong Polytechnic (HKP); the City Polytechnic of Hong Kong (CPHK); the Hong Kong Baptist College (HKBC); and Lingnan College (LC). These institutions are autonomous bodies which have freedom to manage their internal affairs within the constraints of their own statutes. They are largely supported by public funds which are channelled through the UPGC in the form of recurrent and capital grants.

In the past five academic years, the UPGC had funding responsibility for five of the institutions referred to in paragraph one above (excluding HKUST and LC which came under the UPGC with effect from 1991-92). The annual recurrent grants disbursed to these five UPGC-funded institutions, expressed in terms of total amounts and of unit grants per full-time equivalent (fte) student, are set out at Annex A.

From the data shown in the Audited Annual Accounts and other information submitted by the five UPGC-funded institutions for the past triennium, the UPGC has derived the unit costs per fte student at these institutions. These are set out at Annex B. They are broken down by major faculties/departments. Any further breakdown of

the figures between different levels of studies (sub-degree, first-degree and postgraduate) and between different subjects (for example, Chinese, English, and so on) would be artificial, in view of the considerable overlapping of teachers and other supporting resources among programmes of different levels and different subjects. This means that a direct comparison of the unit costs of different institutions is difficult, if not impossible.

As shown in paragraph three above, the institutions do not have the same range of faculties/departments. Even for the same faculty/department, the unit cost varies from one institution to another. The apparent discrepancies are accounted for by a variety of factors, such as:

(a) different mix of subjects -- the range of subjects for a particular faculty/department varies from institution to institution (for example, Geography is under the Arts Faculty in HKU, but subsumed within the Social Science Faculty at CUHK). Moreover, the number of students taking the same subject varies in different institutions (for example, the number of students for English Language at CUHK is not the same as the number at HKU);

(b) different levels of studies -- the mix of different levels of studies also varies from institution to institution. A course at sub-degree level is cheaper than the same course at first-degree level which, in turn, is cheaper than the one at postgraduate level. This contributes to the relatively higher unit costs at the universities which focus on first-degree and postgraduate studies;

(c) different staffing costs -- the salary scales for university staff are currently more favourable than those being applied to the Polytechnics and HKBC; and

(d) different staffing structures -- student: staff ratios and senior: junior staff ratios applied to the universities generally are more favourable, commensurate with their stronger emphases on higher degrees and research. At a micro-level, an older faculty/department usually has more "senior" staff remunerated at higher salary points than a younger faculty/department. The situation can be further complicated by the fact that newly-established faculties/departments have different requirements for front-end loading.

The above examples are intended to be illustrative, rather than exhaustive. This demonstrates that unit cost figures are affected by a variety of factors in different

ways. The UPGC does not assess the recurrent grant requirements on the basis of unit costs. Instead, the Committee adopts a zero-based assessment methodology which is based on a set of uniform resourcing factors for different levels of studies, modes of attendance and programme areas. In the interest of institutional autonomy, the Committee does not disclose its own resourcing factors to the institutions nor does it give guidance on factors to be used internally. Each institution exercises its own discretion in respect of internal allocation of resources (paragraph one above refers) and its unit costs for different programmes are bound to be different from those of other institutions.

The student number targets approved by the Government for the seven UPGC-funded institutions, for the current and the next three academic years, and the corresponding recurrent grants approved by the Finance Committee of the Legislative Council are set out at Annex C. In accordance with normal practice, the institutions will report on their actual expenditures and the distribution thereof after the close of each academic year. Based on the information provided by the institutions, the UPGC will then be able to work out the unit cost figures at major faculties/departments.

The capital grants released by the UPGC in the past five financial years to the five UPGC-funded institutions are set out at Annex D. The capital grants are provided to the institutions to finance new building projects. When assessing the requirements, the UPGC takes into account the total space already made available in an institution, the lead time required to construct the new buildings and the Government's budgetary situation. In all cases, an institution has to start work and incur expenditure on new projects in advance of, and in anticipation of, planned student growth in the future years. Since capital expenditure of the institution is not tied to the student numbers in the same financial year, it is not practicable to derive unit cost per fte student. As many buildings are shared by different faculties/departments (for example, Library, Canteen, Computer Centre, and so on), it is also not possible for the institution to disaggregate its capital expenditure between different faculties/departments or between different types of students.

As regards recurrent expenditure for the schools sector, the unit costs for different types of schools at various levels are set out at Annex E.

The higher cost per student in government schools when compared to the aided sector is due mainly to the following reasons:

(a) Government teaching staff are, on average, more experienced and have reached a higher salary point on the master pay scale; and

(b) Government teaching staff, who are civil servants, are eligible for fringe benefits, for example, pension, housing allowance, medical and education allowances, and the staff on cost for these benefits is higher than the average provident fund contribution made by Government for aided teachers.

The cost per student in Bought Place Schools is lower than in aided schools prior to 1991-92 due mainly to the lower salaries of staff employed in the former. The projected costs of such schools for 1992-93 and beyond include the phased implementation of various improvement measures, such as the conversion and equipping of special rooms, improvements to the teacher class ratio and teachers' promotion prospects. These explain the relatively large increases in the projected unit costs.

The amount of subsidy payable in respect of students attending Direct Subsidy Scheme schools is based on a banding system. Schools charging fees not exceeding the standard fee of an aided school together with an additional fee up to the equivalent of two-thirds of the unit cost of an aided place would receive the full subsidy; these are termed Band I schools. Schools which charge additional fees equivalent to or more than one and five-twelfths of the unit cost of an aided place (in addition to the standard fees charged for aided schools) would receive one-quarter of the maximum subsidy (Band III schools).

The unit costs/subsidy for kindergartens and child care centres are strictly not comparable because the purpose for which funds are provided by Government to each type of institution is different. The Government subvention for kindergartens comprises the refund of rent and rates to non-profit making kindergartens and, since September 1990, fee remission for eligible kindergarten children, which replaced the previous fee assistance scheme. In 1991-92 the average fee remission for successful applicants is \$1,893 per annum. The figures for Child Care Centres represent the weighted average of both day nurseries and creches. Day nurseries provide full-day care, and Government provides fee assistance equivalent to \$697 per month, whereas creches, which provide for babies between 0-2, receive government subvention covering 65% of the operating cost.

Annex A

Recurrent Grants Disbursed to the
UPGC-funded Institutions, 1986-87 to 1990-91

	1986-87		1987-88		1988-89		1989-90		1990-91	
	Total grant grant	Unit grant	Total grant grant	Unit grant	Total grant grant	Unit grant	Total grant grant	Unit grant	Total grant grant	Unit grant
	\$m	\$	\$m	\$	\$m	\$	\$m	\$	\$m	\$
HKU	578.794	79,113	638.873	83,535	714.247	91,289	836.814	105,725	971.994	120,475
CUHK	445.487	67,621	493.367	71,193	581.003	80,271	698.439	90,648	840.302	101,192
HKP	514.858	39,911	553.782	41,795	646.554	46,787	746.033	52,649	858.059	60,756
CPHK	171.648	58,503	202.273	55,846	313.650	65,439	455.847	70,938	601.141	73,507
HKBC	87.654	37,717	102.430	39,872	142.895	52,323	181.561	60,299	224.114	68,223

Annex B

Unit costs for full-time equivalent student
at the UPGC-funded Institutions, 1988-89 to 1990-91

(A) HKU

1988-89 1989-90 1990-91
\$ \$ \$

Arts	92,152	100,645	111,289
Education	100,198	117,297	131,595
Social Sciences	83,497	85,702	92,639
Law	85,587	89,984	96,267
Science	123,560	124,458	138,170
Engineering	98,628	103,455	124,105
Architecture	114,822	117,904	122,956
Medicine	251,273	250,419	272,013

--

Overall 121,791 131,412 144,274

=====

(B) CUHK

1988-89 1989-90 1990-91
\$ \$ \$

Arts	69,519	70,018	77,048
Education	84,350	90,323	95,298
Business Administration	59,804	65,281	73,357
Social Science	72,900	76,391	83,559
Science	93,806	82,492	109,961
Medicine	243,268	279,165	291,722
Engineering	-	-	103,979

Overall 89,560 95,955 104,319

=====

(C) HKP

1988-89 1989-90 1990-91

\$ \$ \$

Applied Science & Textiles 47,511 59,716 69,823

Business & Information System - - 61,531

Construction & Land Use 50,586 60,091 60,680

Engineering 50,310 58,972 60,842

Health & Social Studies 58,283 68,457 68,346

Communication 65,091 76,089 80,691

Overall 52,356 64,420 67,958

=====

(D) CPHK

1988-89 1989-90 1990-91

\$ \$ \$

Accountancy 55,579 74,978 73,764

Applied Linguistics - 109,388 103,561

Applied Mathematics 87,973 100,067 91,613

Applied Science 74,360 92,455 80,024

Applied Social Studies 88,775 125,291 136,050

Bldg. & Construction 60,344 75,755 74,709

Business & Management 58,355 68,806 70,029

Computer Studies 59,168 81,099 73,108

Electronic Engineering 65,746 76,896 78,383

Information Systems - - 390,362

Law	128,260	115,800	101,694
Manufacturing Engineering	86,509	83,329	77,060
Public & Social Admin.	54,781	74,154	71,562
	-----	-----	-----
Overall	66,474	84,809	83,880
	=====	=====	=====

(E) HKBC

	1988-89	1989-90	1990-91
	\$	\$	\$
Arts (incl. Pre-music)	56,062	62,877	68,543
Business	50,886	58,683	60,891
Science	74,921	105,637	111,941
Social Sciences	53,006	61,718	72,062
	-----	-----	-----
Overall	57,669	70,170	76,111
	=====	=====	=====

Annex C

Approved Student Number Targets and Recurrent Grants
for the UPGC-funded Institutions, 1991-92 to 1994-95

	1991-92	1992-93	1993-94	1994-95
	Numbers	Grants	Numbers	Grants
	(fte)	\$m	(fte)	\$m
	Numbers	Grants	Numbers	Grants
	(fte)	\$m	(fte)	\$m
HKU	8 899	1,123.928	9 690	1,317.249
			10 588	1,393.945
			11 500	1,438.154

CUHK	9 038	973.224	9 887	1,206.359	10 700	1,248.022	11 535	
		1,259.190						
HKUST	700	302.471	1 840	621.794	3 450	836.241	5 070	995.741
HKP	13 881	922.527	13 785	1,067.323	13 606	1,009.633	13 544	927.772
CPHK	9 074	720.414	9 910	757.860	10 835	790.922	11 700	779.997
HKBC	3 306	254.243	3 532	302.945	3 776	303.891	4 023	292.030
LC	1 350	84.320	1 504	113.244	1 657	119.141	1 806	115.563
Earmarked Research Grant		100.000		122.000		144.000		144.000
UPGC Central Allocation		4.750		20.255		277.205		595.524
	-----	-----	-----	-----	-----	-----	-----	-----
Total	46 248	4,485.877	50 148	5,529.029	54 612	6,123.000	59 178	
	6,547.971							
	=====	=====	=====	=====	=====	=====	=====	=====
	=====							

Annex D

Capital grants released to the
UPGC-funded Institutions, 1986-87 to 1990-91

1986-87 1987-88 1988-89 1989-90 1990-91

(ii) Band II	N.A.	N.A.	N.A.	N.A.	N.A.	3,399	3,372
	3,361	3,331					

PRIMARY

a) Government	6,663	7,321	7,960	9,298	10,902	12,412	12,396	12,371
	12,343							
primary schools								

b) Aided primary	4,898	5,208	5,805	6,843	8,034	8,974	8,955
	8,922	8,887					
schools							

PRE-PRIMARY

a) Kindergartens	194	227	261	318	407	487	487	487
------------------	-----	-----	-----	-----	-----	-----	-----	-----

b) Child care centres	2,564	2,653	2,648	2,950	3,470	3,961	4,059
	4,025	4,016					

Note (1) All figures are on a financial year basis.

(2) The figures for 1986-87 to 1991-92 are actual figures while those for 1992-93 to 1994-95 are projected figures based on 1991-92 price levels.

Oxygen injection scheme

14. MR FRED LI asked: The Environmental Protection Department has recently revealed that the oxygen injection scheme was not effective in bringing about improvement to the long-standing problem of water pollution in the Kowloon Bay Typhoon Shelter. Will the Government inform this Council:

(a) why public money should continue to be spent on implementing this scheme although environmental protection bodies and district board members had expressed reservation about the effectiveness of the scheme;

(b) whether it has examined the causes for the failure of the scheme, and if so, whether the relevant details can be provided to this Council for information; and

(c) how much money has been spent on the oxygen injection scheme and when the scheme has ceased to operate?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President,

(a) The oxygen injection scheme ceased operation in July 1991.

(b) Yes, Mr Deputy President. The Government has examined the causes, and I will ensure that members of this Council receive the relevant details.

(c) The project cost of the oxygen injection scheme was \$6.2 million and the annual recurrent cost was \$4.3 million. The project ceased in July 1991.

Security installations in public housing blocks

15. MR FRED LI asked: Will the Government inform this Council:

(a) what factors the Housing Department had taken into account in making its earlier decision to allocate funds for security installations in Trident II blocks;

(b) of the reasons for the recent decision to reject the allocation of funds for security installations in Trident III and the linear rental blocks; and

(c) whether the Housing Department had taken into consideration the prevailing crime statistics of the two types of blocks in making both decisions and if so, whether this Council can be provided with the statistics and a comparative analysis?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the security installations referred to in part (a) of the question are additional grilles. They were fitted not only to Trident II blocks but also to Trident III and Linear blocks at the same time in 1988. The reason for the improvement works to all these three block types was to enhance their safety and security.

The design of the subsequent Trident III and Linear blocks was improved, and

according to tenants' feedback, became no longer as prone to easy external access as before. The Housing Authority's recent decision not to allocate a further \$15 million to install additional grilles in the latter two block types took into account the improved block design and the relatively low number of burglary cases there, as well as the fact that all windows are already provided with anti-burglary bars. It has, however, agreed to provide a standard drawing for tenants who may wish to install additional metal grilles outside the flower box at their own expense.

In reviewing the adequacy or otherwise of anti-burglary measures for these three block types, the Authority has taken account of the recorded burglary cases arising from entry through windows. Since 1986, there have been a total of 293 such cases in the 107 808 flats in the three block types, or 0.27% of the flats. 146 cases have been recorded in the 49 473 Trident III flats, or 0.30%. 52 cases in the 23 447 Linear flats, or 0.22%, and 95 cases in the 34 888 Trident II flats, or 0.27%. It can be seen that the crime rate is low overall and there is no significant difference between the block types.

Controls to limit energy loss through building fabric

16. DR SAMUEL WONG asked: Will the Government inform this Council of the progress or result of the feasibility study that it commissioned about a year ago on the introduction of controls to limit energy loss through the building fabric?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, a consultant was commissioned to conduct a feasibility study on the Introduction of Overall Thermal Transfer Value (OTTV) to Air-Conditioned Buildings in Hong Kong. The study, which was confined to commercial and hotel buildings, was completed in August 1991, with the production of a Final Report, together with a Draft Code of Practice on Calculation of OTTV to Building Envelope in Hong Kong. A Government in-house study was also carried out to examine the proposed OTTV control values and produced a Study Report in November 1991 which outlines an OTTV implementation plan.

The Energy Efficiency Advisory Committee, which is the advisory committee set up to advise Government on measures to promote energy efficiency in Hong Kong, discussed the report findings recently and has recommended that:

(a) OTTV controls should be introduced for new commercial and hotel buildings in Hong Kong. A handbook on OTTV calculations should be published initially, for a reasonably lengthy trial period, to refine the OTTV standards before any statutory control is introduced.

(b) The proposed OTTV control should be introduced as a first step to improve energy efficiency in new buildings, with a view to the eventual establishment of a comprehensive building energy code, of which OTTV controls would form but a part.

The above proposals will be put to the Executive Council shortly.

Bus franchise on Hong Kong Island

17. MR LEE WING-TAT asked: In respect of the consultation being conducted by the Transport Branch on the bus franchise on Hong Kong Island after August 1993, will the Government inform this Council of the following:

(a) the information that will be provided by the Government to the public; the manner in which the information will be provided; and the places where citizens can obtain such information;

(b) whether it is possible for the Government to extend the consultation period to the end of March 1992; if not, please explain why;

(c) whether the Transport Branch will consult the district boards on Hong Kong Island; if not, please explain why; and

(d) whether the Transport Branch will conduct public hearings in various districts on Hong Kong Island to collect directly the views of citizens; if not, please explain why?

SECRETARY FOR TRANSPORT: Mr Deputy President,

(a) A paper giving CMB's performance records since 1986 was sent to the district boards of Hong Kong Island on 28 January 1992. Contents of the paper were also

disseminated through the printed media, including two press releases highlighting the key issues on which public views would be sought. The consultation exercise has been the subject of extensive media coverage both before and after the Lunar New Year holidays. As already reported in the press, members of the public who wish to obtain the paper on CMB's performance records or the text of CMB's profit control scheme may contact the Transport Branch either by telephone or by mail.

(b) It would not be desirable in this case to extend the consultation period. To keep open the option for a further opening up of the bus market on Hong Kong Island through competitive tendering of routes, enough lead time must be allowed for tenders to be called and assessed as well as for prospective contenders to line up buses and support facilities. We must also allow reasonable time for negotiations with CMB.

(c) On 11 February, the Transport Advisory Committee (TAC) met the Chairmen of the district boards and their Traffic and Transport Committees on Hong Kong Island to hear their views on the subject. The four district boards are now further collating local opinions, with a view to presenting them to the TAC before 25 February 1992.

(d) Many channels already exist for members of the public to express their views, including direct representations to Government/TAC, through the district boards or the mass media. Full and proper use of these channels is considered adequate, particularly in view of the time constraint as explained in (b) above.

Work safety at construction sites

18. MR STEVEN POON asked: In view of the importance of work safety at construction sites and the common practice of sub-contracting in Hong Kong, will the Government inform this Council:

(a) of the number of accidents at construction sites in the past five years and of these, how many were of workers employed by sub-contractors of government projects;

(b) what measures are being taken to ensure that workers employed by sub-contractors including those employed by the second or third sub-contractors, are properly trained in work safety; and

(c) whether the Government has a system to disqualify sub-contractors who have

poor safety records from undertaking government projects?

SECRETARY FOR WORKS: Mr Deputy President, I will reply to the question in the three parts.

(a) The total number of accidents on construction sites for the last five years (those requiring absence of work of more than three days) was:

Year	All Sites*	Government Sites
1986	20 970 (60)	not available
1987	23 846 (55)	not available
1988	27 125 (58)	not available
1989	26 399 (59)	4 873 (16)
1990	25 138 (58)	4 943 (21)

* Private + Government

Figures for 1991 are not yet available. Figures in brackets give the number of fatalities. For 1990 the most recent year for full statistics, Government's share of the total number of accidents was 20%. This compares with its share of total construction expenditure of 35%.

The Employees' Compensation Ordinance (Cap 282) holds the principal contractor liable for payment of compensation to employees of sub-contractors in respect of work-related accidents. This protects workers because of the better financial position of the main contractor. Accordingly government statistics do not make any distinction between employees of main and sub-contractors. However as background information approximately 90% of the construction workforce are employed by sub-contractors.

(b) In section 6A of the Factories and Industrial Undertakings Ordinance administered by the Labour Department, it is the duty of every proprietor of an industrial undertaking, which includes construction sites, to provide training on his employees to ensure the health and safety at work. The Labour Department is actively promoting safety training on construction sites as one of the measures main contractors can contribute towards improving construction site safety. Such

training should cover not only workers directly employed by the principal contractor but all those working in the site. The Labour Department is considering prosecuting contractors for contravention of the requirement to provide safety training to workers on construction sites.

Apart from this statutory requirement to provide safety training for employees, the Industrial Safety Training Centre within the Factory Inspectorate Division of the Labour Department also conducts safety training course to assist employers in the complying with the requirement. During the past five years, a total of 985 construction related safety training courses has been held with 29 671 participants from various sectors of the construction industry.

(c) The Government does not have any contractual relationship with sub-contractors and since the responsibility for site safety including that of sub-contractors rests with the main contractor, it does not have a system to disqualify sub-contractors who have poor safety records. However Government does have a system to disqualify main contractors from undertaking government projects who have poor safety records. If the main contractor fails to maintain a safe working environment this will be reflected in his performance reports and could influence his retention on the lists of approved contractors.

In conclusion, I, along with other members of the Administration, am very concerned at the continuing problem of construction site safety. In conjunction with the Labour Department, my works departments, other major construction authorities, the Hong Kong Construction Association and the unions, I intend to promote measures to improve the situation. The possibility of monitoring more closely the safety performance of individual sub-contractors is one such measure.

Medical service for Tseung Kwan O

19. MR ANDREW WONG asked: With the rapid development of Tseung Kwan O as a new town, the area now has a population of over 100 000 but has only one government clinic which opens from 9.00 am to 5.00 pm with one doctor on duty. Will the Government inform this Council:

(a) what is the rationale for setting such level of medical service for Tseung Kwan O; and

(b) what actions will be taken by the Administration to improve medical service in the area?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, the provision of one government clinic for Tseung Kwan O, which has a population of 108 000, is consistent with the guidelines stipulated in the Hong Kong Planning Standard of one clinic for every 100 000 population. In addition, the district is served by the United Christian Hospital in Kwun Tong and the Prince of Wales Hospital in Sha Tin.

In determining the level of medical services for a particular district or area, due account is given to the demographic pattern and size of population, the availability of alternative medical services from the voluntary and private sectors, the accessibility of such services, the utilization of existing facilities and availability of resources.

The requirement for additional medical facilities in Tseung Kwan O is constantly monitored. To cater for anticipated increase in population in Tseung Kwan O, a second government clinic is being planned for completion in October 1996. This is well ahead of the growth of the population in Tseung Kwan O to 200 000 in 1999.

Compensation for vegetation on resumption of Crown Land

20. MR TAM YIU-CHUNG asked: Will the Government inform this Council of the amount of compensation which has been paid in the past five years for plants cultivated by private individuals in the resumption of Crown Land and the criteria for the payment of such compensation?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, compensation paid for crops and fruit trees, including ex-gratia disturbance allowance paid to cultivators, in the five years from 1 April 1986 until 31 March 1991 as a result of the resumption and clearance of Crown Land is as follows:

New Territories \$217.999 million

Urban Area \$18.054 million

Total \$236.053 million

The criteria for payment are generally that:

(a) the crops existed at the date of the pre-clearance survey carried out by staff of the Agriculture and Fisheries Department; and

(b) the land concerned had been cultivated for at least two years prior to the pre-clearance survey.

The amount of payment in each case is assessed by staff of the Agriculture and Fisheries Department while the rate of payment is reviewed and updated periodically under delegated authority of the Finance Committee.

Statement

Liquidation of the Bank of Credit and Commerce Hong Kong

FINANCIAL SECRETARY: Mr Deputy President, I would like to inform this Council of the latest position on the takeover negotiations between the Provisional Liquidator of the Bank of Credit and Commerce Hong Kong (BCCHK) and the Hong Kong Chinese Bank.

As a result of the recent emergence of large unrecorded claims from the liquidators of BCC operations elsewhere in the world, I regret to inform Members that the takeover negotiations have now been frustrated, and have been brought to an end by mutual agreement between the Provisional Liquidator and the Hong Kong Chinese Bank. The Provisional Liquidator has conveyed this outcome to representatives of the depositors of BCCHK at a meeting this morning.

Ever since the closure of BCCHK, the overriding objective has been to secure the maximum payout for all creditors and depositors. A takeover offered the best prospects until the emergence of substantial new claims from other parts of the BCCI group in recent weeks. In the face of these new claims and the reluctance of the Abu Dhabi shareholders to provide a full guarantee against such liabilities, the balance has unfortunately now shifted in favour of liquidation.

As Members will recall, in July last year most BCCHK depositors received a first

payment of 25% of their deposits, subject to an upper limit of \$500,000. With liquidation, it is hoped that all depositors will receive within the next six months an interim payout of 35% to 40%, which would include the interim relief already paid. Although it is impossible to predict accurately the outcome of a liquidation, the Provisional Liquidator believes that it is not unreasonable to expect a total payout, in the longer term, in the region of 70% to 75%. Though I recognize the concern and disappointment that will be felt by depositors at this outcome, these percentages are at least far better than BCC depositors elsewhere in the world can expect.

I am disappointed that the takeover negotiations cannot be taken forward. I believe that the depositors will have the sympathy of every Member of this Council. But it is the considered judgment of the Provisional Liquidator and the Hong Kong Chinese Bank that in the light of these new claims, the negotiations for the takeover cannot succeed.

I would like to take this opportunity to thank the Provisional Liquidator and the Special Managers for their painstaking efforts over the last few months in securing and safeguarding the assets of the bank and in their complex task over the negotiations for a possible takeover. Over \$5 billion has since been recovered and a cash amount of over \$4 billion remains on deposit locally and is earning interest at prevailing rates. I would also like to pay tribute to the effort and sincerity of the Hong Kong Chinese Bank throughout the takeover negotiations. It is a great pity that things cannot be taken forward because of circumstances beyond the control of both parties.

Mr Deputy President, the Provisional Liquidator will now be applying to the Court for directions as to the further conduct of the winding-up petition.

At this point Mr Jimmy McGREGOR declared interest as Vice Chairman of the Hong Kong Chinese Bank.

First Reading of Bills

SECURITIES (CLEARING HOUSES) BILL

CONTRACTS FOR EMPLOYMENT OUTSIDE HONG KONG (AMENDMENT) BILL 1992

EMPLOYMENT (AMENDMENT) BILL 1992

EMPLOYMENT (AMENDMENT) (NO. 2) BILL 1992

FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) BILL 1992

EMPLOYMENT (AMENDMENT) (NO. 3) BILL 1992

FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) (NO. 2) BILL 1992

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

Second Reading of Bills

SECURITIES (CLEARING HOUSES) BILL

THE SECRETARY FOR MONETARY AFFAIRS moved the Second Reading of: "A Bill to empower the Commission to declare clearing houses to be recognized clearing houses for the purposes of this Ordinance, to provide for the approval by the Commission of the rules of recognized clearing houses, to make provision for safeguarding the operations and procedures of recognized clearing houses, and to provide for matters incidental thereto or connected therewith."

He said: Mr Deputy President, I move that the Securities (Clearing Houses) Bill be read the Second time.

The Securities (Clearing Houses) Bill seeks to provide a legislative framework for the operation of a central securities clearing and settlement system. The introduction of CCASS (an acronym for central clearing and settlement system) will increase operational efficiency, reduce market risk, lower transaction costs and enhance Hong Kong's status as a leading financial centre. The introduction of such a system was one of the core recommendations in the Securities Review Committee Report of May 1988 and the only major one which has yet to be implemented in whole or part.

The purpose of the Bill is to protect the netting and settlement operation of CCASS from the effect of the statutory insolvency rules which would otherwise apply to the affairs of a participant which became bankrupt or went into liquidation. As the clearing company, through the process of novation, will become a principal counterparty in each trade to both buying and selling brokers, any interference with the settlement process by a third party would cause serious disruption to the system and bring the netting process to a halt. Such claims could arise when a defaulting broker was involved in liquidation proceeding, as the liquidator would be able to demand that shares which had been put into CCASS for settlement be withdrawn. This would not only void the netting of trades and render the whole system unworkable, but also cause a chain reaction of financial defaults or even severe market disruption. It is therefore in the public interest that the smooth operation of CCASS be assured by appropriate legislation.

The Bill empowers the Securities and Futures Commission to declare clearing houses as recognized and to approve the rules of recognized clearing houses. A recognized clearing house is required to have "default rules" for the taking of action in the event of a participant being unable to meet his obligations entered into with the clearing house. The scope of the default rules and the broker's assets which may be subject to a market charge are prescribed by the Bill.

Under CCASS, securities certificates will no longer have to be physically transferred each time they are traded, but will be placed in custody with the clearing house depository for use in the settlement of transaction between brokers. Although these securities registered in the name of common nominee are held in fungible form, the Bill has expressly preserved shareholders' voting rights as well as any person's right to rectify a register of members under the Companies Ordinance.

Mr Deputy President, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

CONTRACTS FOR EMPLOYMENT OUTSIDE HONG KONG (AMENDMENT) BILL 1992

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Contracts for Employment Outside Hong Kong Ordinance."

He said: Mr Deputy President, I move the Second Reading of the Contracts for Employment Outside Hong Kong (Amendment) Bill 1992.

This is the first of six Bills the Second Reading of which I shall be moving this afternoon. Five of the six Bills are concerned, directly or indirectly, with safeguarding the interests of Hong Kong workers. Their introduction demonstrates the sincerity of the commitment which I gave in this Council on 29 January that the Government will not overlook the interests of the local workforce.

The purpose of the Bill before Members is to extend the protection of the Contracts for Employment Outside Hong Kong Ordinance to certain non-manual employees and also to clarify certain provisions of the Ordinance.

At present, the Contracts for Employment Outside Hong Kong Ordinance, which controls contracts of employment entered into in Hong Kong by workers proceeding to work wholly or partially outside Hong Kong, applies to manual workers only. It requires that the contracts be attested by the Commissioner for Labour before the worker proceeds to work outside Hong Kong.

In recent years, an increasing number of workers from Hong Kong have taken up non-manual jobs, such as technicians and supervisors, overseas. As no written and attested contracts exist for non-manual workers, they often find it difficult to claim their due entitlements in case of disputes. The Bill therefore proposes to extend the ambit of the Ordinance to give them protection. However, it is not proposed that the Ordinance should cover non-manual employees who work in professional or senior executive posts because they are generally capable of protecting their own interests by negotiating favourable employment terms. Bringing them under the control of the Ordinance will restrict their flexibility in negotiation and render attestation of their employment contracts mandatory.

The Bill proposes to empower the Secretary for Education and Manpower to set a monthly wage ceiling above which non-manual employees will not be covered by the Ordinance. Subject to the Bill being passed, I intend to set this ceiling initially at \$20,000 a month. This wage ceiling will be revised from time to time, by notice in the Gazette, to keep it in line with wage movements.

Another phenomenon in recent years has been the increase in the number of employees working for local employers outside Hong Kong. As the Contracts for

Employment Outside Hong Kong Ordinance is only intended to give protection to Hong Kong employees taking up employment outside Hong Kong with foreign employers, the Bill seeks to spell out such intent in the application clause of the Ordinance. This also serves to make clear that employees engaged by foreign employers to work outside Hong Kong are excluded from the coverage of the Employment Ordinance while all employees engaged by Hong Kong employers to work partially or wholly outside Hong Kong are protected by it. Such clarification will be in the interest of Hong Kong workers who work across the border in mainland China. An informal estimate shows that there are 50 000 to 60 000 workers in this category.

The Bill also proposes to rectify some minor inadequacies in the Contracts for Employment Outside Hong Kong Ordinance.

First, the Bill seeks to specify certain essential employment terms, such as paid holidays and annual leave, notice or wages in lieu of notice on termination and compensation for injury, for employees falling under the ambit of the Ordinance. This is to ensure that their terms of employment are no less favourable than those obtainable under the Employment Ordinance.

Second, the Bill proposes to remove the requirement for certification by the Commissioner for Labour of the status of persons migrating for employment. This provision is out-of-date as migration to other countries is now well-documented.

Third, the Bill proposes to extend the time limit for prosecuting offences under the Ordinance from six months to one year to facilitate prosecution work.

Finally, in line with the terminology used in other employment legislation, the Bill proposes to amend the term "workers" in the Ordinance to read "employees". It also seeks to make a consequential amendment to the Employment Ordinance to cover this point.

The Bill has the support of the Labour Advisory Board.

Mr Deputy President, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

EMPLOYMENT (AMENDMENT) BILL 1992

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Employment Ordinance."

He said: Mr Deputy President, I move the Second Reading of the Employment (Amendment) Bill 1992.

The Bill seeks to improve the control on employment agencies by introducing a number of amendments to Part XII of the Employment Ordinance.

In recent years, employment agencies have become more sophisticated and some of them are multi-national operations. They have introduced new modes of operation unanticipated by the existing regulatory provisions in the legislation. Some of the provisions have become out-of-date and are incompatible with modern-day operations of employment agencies.

The first proposed amendment is to remove the requirement for employment agencies to obtain separate local and overseas licences for dealing with employment within and outside Hong Kong.

Secondly, the Bill seeks to make provision that an application for a licence by a company must be made by a director of the company on its behalf.

Thirdly, the Bill seeks to make provision for the licensing of branch offices of an employment agency. The proposed amendment will enable an employment agency to operate with one licence for the main office and a duplicate licence for each branch office and display it at all times in a conspicuous place on the premises.

The fourth proposed change seeks to abolish the keeping of prescribed registers of job applicants and prospective employers and submission of returns on details of placements by employment agencies. Instead, agencies will be required to keep records of essential information on job applicants and employers and make such records available for inspection.

Fifthly, the Bill proposes to remove all restrictions on charges to employers. At present, an employment agency is not allowed to receive payment from an employer other than the prescribed registration fee before successful procurement.

Commission, which must be agreed upon beforehand, is payable only after the person introduced by the agency has been successfully employed. However, there is a practical need for employment agencies, in particular the so-called "head-hunting" companies, to charge a service fee as soon as the employer has placed a job order with the agency concerned in order to defray expenses incurred in recruitment. The existing restrictions on charges by employment agencies are out-of-date.

The sixth proposed change is to abolish the provision for charging of registration fee from job applicants. This is to protect job applicants from being charged by agencies which have no real intention or ability to help them procure employment.

Finally, the Bill proposes to permit an agency to share its commission with another agency to facilitate genuine business co-operation amongst agencies.

The Bill has the support of the Labour Advisory Board.

Mr Deputy President, I move that the debate on this motion be adjourned.

Question on the adjournment proposed, put and agreed to.

EMPLOYMENT (AMENDMENT) (NO. 2) BILL 1992

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Employment Ordinance."

He said: Mr Deputy President, I move the Second Reading of the Employment (Amendment) (No. 2) Bill 1992.

Loopholes have been identified in those provisions of the Employment Ordinance and the Factories and Industrial Undertakings Ordinance which are concerned with the protection of employees against discrimination or dismissal by employers on grounds that the employees have assisted in the enforcement of these Ordinances. Under section 72B of the Employment Ordinance, employees are protected for having assisted in the investigation or proceedings concerning breach of the Ordinance. However the protection against victimization in section 72B of the Employment Ordinance does not cover matters relating to accidents to employees or safety at work. At the same time, although occupational safety is covered by the Factories and Industrial Undertakings Ordinance, that Ordinance only applies to premises classified as factories and

industrial undertakings.

To close this loophole, the amendment Bill seeks to extend the remit of the protection in section 72B of the Employment Ordinance so that employees giving assistance in proceedings against employers in connection with matters concerning accidents to an employee or safety at work will be protected from victimization. Thus occupational safety matters in employment settings outside factories and industrial undertakings are brought under the remit of protection against victimization.

Mr Deputy President, I move that the debate on this motion be adjourned.

Question on the adjournment proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) BILL 1992

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Factories and Industrial Undertakings Ordinance."

He said: Mr Deputy President, I move the Second Reading of the Factories and Industrial Undertakings (Amendment) Bill 1992.

Earlier, in moving the Second Reading of the Employment (Amendment) (No. 2) Bill 1992, I said that certain loopholes in the protection against victimization afforded by the Employment Ordinance and the Factories and Industrial Undertakings Ordinance had been identified. The object of the Factories and Industrial Undertakings (Amendment) Bill 1992 is to plug one of those loopholes.

Section 6 of the Factories and Industrial Undertakings Ordinance prohibits employers from discriminating against or dismissing employees who have assisted in the enforcement of the provisions of that Ordinance. However, the Ordinance does not contain a sanction against contravention of this provision. The Bill now in front of Members seeks to introduce a sanction against contravention of the provision, namely a fine of \$20,000. This sanction is in line with that under a similar provision in section 63A of the Employment Ordinance.

Mr Deputy Present, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

EMPLOYMENT (AMENDMENT) (NO. 3) BILL 1992

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Employment Ordinance."

He said: Mr Deputy President, I move the Second Reading of the Employment (Amendment) (No. 3) Bill 1992.

The Bill seeks to increase the penalties under the Employment Ordinance for certain offences. Cases of unlawful deduction and underpayment of wages by unscrupulous employers have arisen under the labour importation schemes. In order to deter such malpractice, it is necessary to increase the maximum penalties under the Employment Ordinance for these offences.

The existing maximum penalty for late payment, underpayment or non-payment of wages is a fine of \$20,000. For unlawful deduction from wages, failure to comply with requirements by an officer of the Labour Department in regard to examination of employment records and collection of evidence of an offence, and giving false information or withholding information, the existing maximum penalty is a fine of \$10,000.

Since the implementation of the importation of labour schemes in 1989, a number of imported workers have not been paid their full wages. There has also been a number of complaints from imported workers who alleged that they were asked by employers to sign blank wage receipts or two different sets of wage receipts to cover up unlawful deduction or underpayment of wages.

During the first 11 months of 1991, the Labour Department received reports of 370 items of suspected irregularities concerning underpayment and unlawful deduction of wages and 48 of them were substantiated after investigation. Many of the remaining items are still under investigation. The availability and accuracy of the wage records and related documents kept by employers are essential in such investigations. As at 31 January 1992, five employers have been convicted for underpayment or unlawful deduction of wages in respect of a total of 14 summonses. The average fine imposed for these summonses was \$1,000 which is unlikely to be an effective deterrent.

The Bill seeks to increase the maximum fines for unlawful deduction of wages from \$10,000 to \$100,000 and underpayment of wages from \$20,000 to \$200,000. The Bill also seeks to introduce for both offences the additional maximum penalty of imprisonment for one year. The maximum penalties for related offences of giving false information, withholding information and failure to comply with inspection requirements will be raised from a fine of \$10,000 to \$100,000 and imprisonment for one year. The criminal liability of employers will be clearly set out under a new section provided for in clause 6 of the Bill, which provides that directors, partners and responsible persons of companies and firms shall also be guilty of the offences of unlawful deduction and underpayment of wages or the related offences of giving false information and so on, where such offences are committed by their companies or a partner of the firm with their consent or connivance, or as a result of their negligence. This is in line with section 14 of the Factories and Industrial Undertakings Ordinance passed by this Council in December 1990. Clauses 5 and 7 contain consequential and technical amendments.

Mr Deputy President, I move that the debate on this motion be adjourned.

Question on the adjournment proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) (NO. 2) BILL 1992

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Factories and Industrial Undertakings Ordinance."

He said: Mr Deputy President, I rise for the last time this afternoon to move the Second Reading of the Factories and Industrial Undertakings (Amendment) (No. 2) Bill 1992.

The Bill seeks to extend the coverage of the Factories and Industrial Undertakings Ordinance by expanding the definition of "industrial undertaking" to include container handling activities. It also provides for a definition of "container", which follows closely that used in the International Convention for Safe Containers adopted by the International Maritime Organization.

At present, places used for loading, unloading and handling containers such as

container terminals and depots are within the ambit of the Factories and Industrial Undertakings Ordinance. However, open grounds used solely for storage of empty containers are outside the ambit of the Ordinance. Many of these are operated on uneven land in the New Territories. Empty containers are stacked one over another, often to a considerable height, in order to save space. Workers working on the roof of such containers are exposed to the same risk as other workers working at height.

Following a number of serious industrial accidents, an inter-departmental working party was set up to review the safety aspects of the existing system of control on container handling. The working party recommended, among other things, that suitable amendments should be made to the Factories and Industrial Undertakings Ordinance and Regulations in order to bring all container handling activities under control. The Bill seeks to achieve this.

For the proposed safety provisions to be effective, we shall also amend the Factories and Industrial Undertakings (Cargo Handling) Regulations concurrently to extend the coverage of the regulations to include container storage yards. The regulations will be submitted to this Council for approval upon passage of this Bill.

Mr Deputy President, I move that the debate on this motion be adjourned.

Question on the adjournment proposed, put and agreed to.

MAGISTRATES (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 15 January 1992

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).

TELEVISION (AMENDMENT) (NO. 2) BILL 1991

Resumption of debate on Second Reading which was moved on 15 January 1992

Question on Second Reading proposed.

MR ALLEN LEE: Mr Deputy President, the purpose of the Bill is in the main twofold. First, to give the Broadcasting Authority discretion in applying the residence requirement for principal officers of a television company and secondly, to allow advertising material to be broadcast during a programme (by the use of "teloping") where the licensee concerned has the permission of the Broadcasting Authority to do so.

After careful consideration of the provisions in the Bill and the explanations given by the Administration, the ad hoc group set up to study the Bill has recommended that the Bill be supported subject to the Administration's undertaking to formulate a set of guidelines for the Broadcasting Authority in exercising its discretion over residence requirements of principal officers of television companies.

Mr Deputy President, I would like to take the opportunity to briefly highlight the five major points which have been considered by the ad hoc group. The first involves the rationale for the proposed change with regard to the residence requirements of the principal officers of television companies. The Administration has explained to the group that the residence requirements were originally imposed on the off-air television companies because it was thought that local control was advantageous for such an influential medium. The proposed change in the Bill is purely to empower the Broadcasting Authority to waive the residence requirements of the principal officers of television companies, if necessary. Without this amendment, the law will remain unduly restrictive and overseas staff will continue to be excluded from the key posts even if there is a very strong case for them to be employed to contribute to the innovative programme concepts and techniques. The ad hoc group agrees with the Administration that the proposal will add flexibility by specifically empowering the Broadcasting Authority to give approval in the case of persons not fulfilling the residence requirements.

The second point concerns the statutory definition of "Principal Officer". The Administration has pointed out that as different television stations may have different senior management structures, it would be difficult to define the term "Principal Officer" in the legislation. The licensees understand that they should include the officer responsible for the selection of programmes as stated in section 10(e) of the Television Ordinance. The list of principal officers provided to the

Broadcasting Authority by the licensees on an annual basis, as required under section 40(1)(a) of the Ordinance, has always contained sufficient information. The ad hoc group is satisfied with the explanation provided by the Administration.

The third involves residence requirements imposed on television companies. According to the Administration, residence requirements apply to the directors of the Hong Kong Telephone Company Limited. However, there appear to be no statutory residence requirements imposed on any other utility or newspaper companies. Nor are such requirements imposed on the Star TV. There are also no statutory residence requirements on the principal officers of radio licensees in Hong Kong though the licences of Commercial Radio and Metro Broadcast require the chairman and managing director, and the majority of the directors, to be ordinarily resident in Hong Kong and to have been so resident for seven years, and for "the control of the licensee to be bona fide exercised in Hong Kong". In the Metro's case there is provision in the licence for the Broadcasting Authority to exercise its power to waive the requirement. The ad hoc group also notes that the Administration is conducting a comprehensive review with a view to consolidating the current legislation relating to television, radio, satellite television and subscription television into the Broadcasting Ordinance. I do hope that the Administration could complete the task as soon as possible.

The fourth is about guidelines for the Broadcasting Authority to exercise its discretion to waive residence requirements of the principal officers of television companies. Having regard to the original intention of residence requirements under the principal Ordinance, the ad hoc group considers that there should be a set of parameters for the Broadcasting Authority to exercise its discretion so as to ensure that the production of television programmes can best serve the interest of local people. In response, the Administration points out that the Broadcasting Authority would consider each application on its own merits. Besides, there are also other provisions in the existing legislation which would help ensure that the television companies serve the interest of the local people. Notwithstanding the explanation provided by the Administration, the ad hoc group remains of the view that the Administration should be requested to undertake to inform Members of this Council of the guidelines for exercising such discretion by the Broadcasting Authority. I trust the Administration would accede to the request of the ad hoc group.

The last deals with the advertising during programmes on television. The Administration points out that the intention of teloping is not to enhance the

revenue-generating capability of the licensees. While teloping would help maintain the continuity of the programme, it would still cause minor disruption to viewers. To allow teloped advertising without any quantity restriction would thus not be in the interest of viewers. It is therefore necessary to count the teloped advertising towards the 10-minute restriction on advertising in a clock hour. In endorsing the use of teloping as a form of advertising, the Broadcasting Authority has planned to review its operations in 12 months' time. The ad hoc group is satisfied with such arrangements.

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

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, I am grateful that after consideration of the various points outlined by Mr Allen LEE, the ad hoc group headed by Mr LEE is in support of this Bill. On the point about residence requirements for the principal officers in television companies, the Administration has noted the concern of the ad hoc group that the Broadcasting Authority, in exercising its discretion to waive these requirements, should have reference to a set of guidelines. We have reflected this concern to the Broadcasting Authority which has agreed to this approach. We will, of course, inform Members of these guidelines once they are adopted by the Broadcasting Authority.

If I may now turn to the second amendment in this Bill, that is, to allow teloping as a form of advertising, I can confirm that the Broadcasting Authority will be reviewing the situation in 12 months' time. Naturally, any improvements required can be considered at that time.

As regards the consolidation of all our broadcasting legislation into one Ordinance, I can assure Members that we are proceeding with this exercise and will complete it as soon as we can.

With these remarks, Mr Deputy President, I commend this Bill to the Council.

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).

CRIMES (TORTURE) BILL

Resumption of debate on Second Reading which was moved on 18 December 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).

Committee stage of Bills

Council went into Committee.

MAGISTRATES (AMENDMENT) BILL 1991

Clauses 1 to 5 were agreed to.

TELEVISION (AMENDMENT) (NO. 2) BILL 1991

Clauses 1 to 4 were agreed to.

CRIMES (TORTURE) BILL

Clauses 1 to 9 were agreed to.

Schedule was agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

MAGISTRATES (AMENDMENT) BILL 1991

TELEVISION (AMENDMENT) (NO. 2) BILL 1991 and the

CRIMES (TORTURE) BILL

had passed through Committee without amendment. He then 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.

Member's motion

REVIEW OF THE TAXATION SYSTEM IN HONG KONG

MR FRED LI moved the following motion:

"That this Council urges the Government to set up a committee, with members representing a wide cross section of the community, to conduct a comprehensive review of the taxation system in Hong Kong."

MR FRED LI (in Cantonese): Mr Deputy President, I move the motion standing in my name that this Council urges the Government to set up a committee, with members representing a wide cross section of the community, to conduct a comprehensive review of the taxation system in Hong Kong.

Mr Deputy President, if the motion debate on a review of the taxation system was conducted on 4 December 1991 as scheduled then I believe the result would be rather different. It is a pity that my motion has been politicized as the Budget Speech draws close. Undoubtedly, it has become a warm-up to the Budget debate.

I would like to clarify that what I am asking for is a taxation review for the development of the coming decade -- not for the Budget of 1992-93. Like my colleagues, Mr WONG Wai-yin and Mr TIK Chi-yuen, I am not going to make any proposals to the present taxation system nor any concrete proposals to the 1992-93 Budget. I urge Members

of this Council to adopt an open attitude in discussing the matter and also to put forward your precious views. We should not tangle over the rise of any particular tax item or tax concession.

First of all, let us discuss why we should review our taxation system. The present Inland Revenue Ordinance was enacted hastily after the Second World War. Since then there have been no major changes. Apart from some slight modifications of tax rates, there have not been much changes to the tax items. Our taxation system is characterized by its simplicity, low tax rates and high efficiency. Over the decades we have had three reviews on the Inland Revenue Ordinance, in 1952-54, 1966-67, and 1976. The reviews were conducted by the appointed Review Committees to look at the technical matters relating to direct taxes under the Ordinance. The ambit of the reviews was subject to many restrictions. The direct taxes under the Inland Revenue Ordinance only include profits tax, salaries tax, interest tax (which was abolished) and property tax. Indirect taxes like betting duty, entertainment tax, stamp duty, hotel accommodation tax, air passenger departure tax, rates, and so on, are within the ambit of other ordinances. The estate duty which is a direct tax is governed by another ordinance. So we can see that the Inland Revenue Ordinance reviews merely touched upon a few direct taxes and were very limited in scope.

Furthermore, the Financial Secretaries in the past regarded the Inland Revenue Ordinance reviews as only a technical review and not related to any fiscal policy. But this does not mean that the Government feels that our taxation system is satisfactory. When he appointed the Third Review Committee, the former Financial Secretary, Sir Philip HADDON-CAVE said in his Budget Speech that the problem was that the basic principles of enacting the Ordinance then were formulated 35 years before during the war and it was the time to consider whether the principles could still meet the needs of modern Hong Kong. Please remember the remark was made in 1976. But unfortunately since then the Government has not discussed these principles. Other Financial Secretaries adopted a similar attitude. Sir John BREMRIDGE, in his Budget Speech in 1986-87, rejected the proposal made by some Legislative Councillors to set up a Fourth Review Committee. He thought that the Government had the responsibility with regard to taxation and this responsibility should not be shared with others. Although he refused to establish the Review Committee, Sir John BREMRIDGE set up a Joint Liaison Committee on Taxation, serving as an advisory body to the Financial Secretary. It comprised representatives from the accounting profession, the legal profession, and the business circles. They did not have any statutory status. The meetings were held behind closed doors and the public had no

participation. Over the 15 years since 1976, there has been no public review of the Inland Revenue Ordinance.

Many of our colleagues and people from the business sector feel that we should continue our simple and low tax policy and that there should not be any changes because everything has been going well. I believe that this argument has ignored the significant economic, political and social changes in Hong Kong over the past decades. The taxation system should go hand-in-hand with the changes in our society and corresponding amendments should be made. Hong Kong witnessed a double-digit economic growth in the 1970s and early 1980s. Furthermore, apart from 1974 and 1983, when we had deficit budgets as a result of global recession, our tax revenue could basically meet the public expenditure. But in the 1990s the situation is different. The Government and the private sector expect that our economic growth in the 1990s will be only in the range of 5%. Hong Kong has entered an era of low growth. In fact, this is similar to that of the developed countries. During the years of low growth, we know that Hong Kong will still have to shoulder the enormous expenditure on infrastructure projects and it becomes an immense pressure on our fiscal strength. The Secretary for the Treasury, Mr K Y YEUNG, said on a public occasion that if there was no change to the taxation system, the deficit would be 6.44 billion in 1992-93, 14.16 billion in 1993-94, and 13.17 billion in 1994-95. The persistent high inflation, together with the low economic growth rates in recent years, means that the living standard of the lower income group has been declining. The Gini Coefficient, an indicator to gauge the distribution of social wealth, was 0.409 in 1976 and reached 0.48 in 1991.

An important principle is that the taxation system, apart from yielding adequate revenue to the Government, should be designed to perform a redistribution function. I must stress that it is one of the functions, not the only function. But this function has not been fulfilled over the past nine years because the increase of income tax allowance has not pegged with inflation. Admittedly, this is not a policy. But the Government has failed to listen to such pleas made by many people. I think that the Government should take a serious look at the taxation system. The fact is the Government will have to meet enormous expenditure. We have a rather narrow tax base: 8% of the salaries taxpayers pay 56% of the salaries tax, and the tax paid by less than 0.1% of the entrepreneurs accounts for one-third of the total profits tax. The narrow tax base cannot ensure a stable source of revenue. In times of recession the Government revenue will be jeopardized. This prompted the Government to study the feasibility of levying a sales tax some years ago. To promote our economic

development, we must also take into account the effects of any new tax or tax concession on industrial investment. In the past, taxation reviews were very limited in scope and could not go hand-in-hand with our economic development.

There is an urgent need to conduct a comprehensive review of our taxation system. We believe such review should be conducted in a comprehensive manner. What I mean by comprehensive is the wide scope of the review and the necessity to enlist representatives from a wide spectrum of the community to sit on the Review Committee. The scope of the review should cover the taxation principles employed; the taxation philosophy; the concrete measures to be taken to broaden the tax base; the burdens imposed by different tax items on the different strata of our society; the effects of the taxation system on our economy; the possibility of using the taxation system to achieve certain social objectives, such as increasing tunnel toll to reduce traffic congestion and raising tobacco tax to improve the health of the public; and the ways to plug the loopholes with regard to tax evasion and tax avoidance.

The Joint Liaison Committee on Taxation is not representative enough to conduct a comprehensive review of the taxation system. The taxation system involves different sectors of our society and we should not rely on a handful of professionals to find the answer. Even people from the business sector may have different interests. To take sales tax as an example, in the Budget Debate on 27 March 1991, Mr Allen LEE supported the introduction of the sales tax at wholesale level. If Mr Allen LEE's position remains unchanged, I believe many of Mr LEE's friends or CRC members, such as Mr Howard YOUNG and Mr Martin BARROW, will be opposed to Mr LEE's view. As such, it is essential for the Government to appoint people with representativeness to the Review Committee. It will then be able to reconcile the different interests otherwise the Joint Liaison Committee will only be doing piecemeal work. I understand that the review of the taxation system is a very technical job and that the general public may not be able to understand it, but the social impact brought about by the outcome of the review would affect many people. Therefore we cannot leave the matter to a small group of experts. Through this motion debate, I hope that the Government will change its closed-mindedness in its decision-making process.

With the opening up of the Government, we should increase the transparency of the system in terms of the formulation of the tax policy, which affects the lives of the men in the street. A taxation review involves social, economic and political aspects. I think that we should set up a committee with its members coming from all walks of life. It should comprise Legislative Councillors and professionals while

including lawyers, accountants, representatives from the Taxations Institute, economists specialized in public finance, and people representing different social sectors. We should make it possible for such a committee to take different views into consideration and to look after different interests in order to establish a taxation system which can cope with our long-term development.

In the last few days I have read through the speeches of the Budget Debates in the past three years. I discovered that many Members in fact shared my views, but I wonder whether they will hold the same views when they vote on my motion. Let me quote a few of the comments from the Handards.

At the Budget Debate on 27-28 March 1991, Mr Andrew WONG, Mrs Peggy LAM, Mr Martin LEE, Mr TAM Yiu-chung, Mr CHUNG Pui-lam, and others, fully supported a taxation review by the Government. I do not wish to go into the details. Instead, I would like to quote particularly some remarks from other Members who made many proposals with regard to the reform of the taxation system. For instance, Mr Allen LEE was concerned about tax avoidance by companies. He supported a broadening of the tax base and the introduction of a sales tax at wholesale level. Mrs Rita FAN asked for a careful consideration of levying capital gains tax. Mr ARCULLI expressed concern about the heavy tax burden on motorists and smokers. These views were fully reflected in their speeches. Mr ARCULLI said and I quote, "The Government should explore new revenue measures that have a greater per capita nature or basis." My emphasis is on new revenue measures. He also proposed that varying tariff could be based on the length of pleasure crafts. I think these were very good proposals. Members also discussed the ratio between direct tax and indirect tax, and they expressed their worries that the Government would emphasize too much on direct tax.

These proposals which cover an increase of tax items and the ratio between direct tax and indirect tax mean that we need more than a review of the Inland Revenue Ordinance. What we need is a comprehensive review of the taxation system. I emphasize time and again that the Government should not carry out public consultation only about the introduction of a sales tax. I think the introduction of a sales tax will lead to a great change to our taxation system. To deal with the problem squarely, we should approach the taxation system comprehensively.

And if we look back one year further, on 25 April 1990, Mr NGAI Shiu-kit said and I quote, "It is wise of the Financial Secretary not to impose the sales tax. After all, our taxation system and its operation require a thorough review. Although there

is a need to extend the tax net, a comprehensive study has to be conducted to establish fair and effective taxation guidelines and to secure a creative environment in favour of our future economic prosperity."

To conclude, I would like to quote Mr Peter WONG's speech in 1991. I fully support his views and I think those of us from the liberal camp should learn from Mr WONG. As a member of the Joint Liaison Committee on Taxation (both Mr Peter WONG and Mr Eric LI are members of the Committee), Mr WONG said, "As a member of the Joint Liaison Committee on Taxation, I concur that the Committee is not the appropriate forum to do a comprehensive review of our tax structure. The fact remains that we have inherited the old colonial tax model which is meant for an unsophisticated economy. As we progress towards democratic government in the foreseeable future, it will be the voter that, in the final analysis, decide the taxation policy. The taxation policy that evolves will, instead of tinkering with revenue measures, meet the sophisticated needs as well as broad social objectives of our policy." These are also the words from my heart.

Mr Deputy President, I will comment on Mr Frederick FUNG's amendment later and will not do so now. I urge Members to put forward your views.

Thank you, Mr Deputy President.
Question on the motion proposed.

DEPUTY PRESIDENT: Mr K K FUNG has given notice to move an amendment to the motion. His amendment has been printed in the Order Paper and circulated to Members. I propose to call him to speak and to move his amendment now so that Members may debate the motion and the amendment together.

MR FREDERICK FUNG moved the following amendment to Mr Fred LI's motion:

To add the following after "Hong Kong":

"with one of its main objectives being to reduce the tax burden of the lower and middle income groups"

MR FREDERICK FUNG (in Cantonese) : Mr Deputy President, I rise to move my amendment

to the motion as set out in the paper circulated to Members. Before I come to my speech proper, there is something I would like to say which might not immediately relate to the motion before us but which I feel is of such importance that I cannot afford to let it go unmentioned. Yesterday and today many newspapers carried reports to the effect that the Executive Council had earlier discussed the need or otherwise of a tax review and had decided against setting up a committee to conduct a review. Up to the present moment, the Executive Council has given no formal clarification as to the truth of these reports. Its slowness to react contrasts sharply with the speed and efficiency with which the Financial Secretary has reacted in similar situations. The Executive Council's silence will easily lead people into thinking that either the Executive Council is slow to react to refute it or it is true after all. If there is truth in these press reports, it will easily lead people into thinking that the Executive Council is making use of these reports to influence the course of today's debate. These reports will also arouse suspicions as to whether the Executive Council is intent on nipping a tax review in the bud. I am also worried by these reports because we, Legislative Councillors, normally reflect our views to the Executive Council and the executive branch of the Government through motion debates, which indeed is one of the basic functions of this Council. I feel that these reports have spread a dark veil over today's motion debate. By dark veil I mean the black cap donned by judges when pronouncing the death sentence. As a matter of fact, the Executive Council a few days ago already pronounced -- indeed executed -- the death sentence on today's motion, be it Mr Fred LI's original motion or my amended motion. The reason I am saying this is that there are six non-government Executive Council Members and three ex officio Executive Council Members among us and I guess that these nine Members will, bound by the system of confidentiality and collective responsibility as they are, vote against a tax review. I very much resent this. I hope the reports are not true, but only rumours. I hope the six Executive Council Members among us will clarify this matter when they rise to speak.

Mr Deputy President, I am moving an amendment to the motion on four grounds:

(1) I am of the view that the original motion, in urging in general terms the Government to conduct a tax review, is devoid of substance and lacks direction. It is just like setting a scope within which to require a student to write an essay but not detailing the subject on which to write. Such an approach will only result in an essay focussing on form rather than content and written according to the fancy of the student. An essay of this sort, no matter how it is written, can never fall foul of the subject -- precisely because there is no subject to write on -- and will

be given high marks.

(2) The original motion urges the Government to set up a committee to review the tax system. I feel that even if the motion is endorsed by this Council it will have little driving force in launching the Administration in good earnest on a review. It only urges the Government to appoint a group of people to form a committee. No matter how abundant the expertise, no matter how large the membership, the element that would represent the middle and lower income people in the committee would be a minute fraction constituting no more than a lone, faint voice -- probably even far less than the present 20% element in the Legislative Council. The result of the review would be, as everybody would expect, a foregone conclusion; it would be an empty shell without a soul which the Government would hold forth as a decorative centrepiece to support the present taxation system.

(3) I feel that the original motion is no more than a work procedure proposal. In respect of this proposal, I believe many of my colleagues will later give their views on the taxation system. Some will express support for tax increases, some will not, and some will express support for a sales tax while some others will suggest an expansion to the tax base while yet some others will disagree. All these will be individual views of individual colleagues. I believe that many of my colleagues will dwell on the public's predicaments and urge the Government to take various measures to improve their lot. Yet these are individual views, not the collective view of the Legislative Council. Nothing short of the adoption of a motion in the form of a resolution by this Council will constitute the collective view of this Council. Members are free to take the floor and speak their mind but the Administration is not bound to listen and follow it because it is not the collective view of the Legislative Council. As a matter of fact, as far as the Administration is concerned, what individual Members say in this Council does not carry even a fraction of the weight it would otherwise have carried in a press conference.

(4) Many would say that the amended motion and the original motion both urge for a change of Hong Kong's taxation system from one of a low tax regime to another regime, which would affect business investments here. I would like to furnish some information to Members. Hong Kong's economy has all along developed on the basis of low tax, so the argument goes. The argument is valid when viewed from the perspective of Hong Kong's economic takeoff in the 1960s; it is again valid when viewed from the perspective of the 1970s when the large influx of immigrants and building of the physical infrastructure boosted economic development. But with the

advent of the 1980s, low taxation fell from its supreme notch to become just one of the principal reasons for Hong Kong's economic development, not the sole reason. According to findings of the annual questionnaire surveys on international investment companies conducted by the Industry Department, the level of taxation is only a factor of moderate importance; the principal attractions to foreign investors are the target territory's legal system, labour productivity, infrastructural facilities, and modernized production equipment. Moreover, a recent survey invited local and American companies to assess and identify among 15 factors in Hong Kong's investment environment. The findings indicated that in the 1990s, that is, from 1990 to 1997, the three foremost investment factors identified are free port, free exchange system and efficient banking system; for post-1997 years, the foremost factors are the China market, labour productivity and the banking system. Low taxation is not that important after all in the eyes of international investors.

I should like to explain why in my amendment I seek to lessen the tax burden on middle and lower income people. Some would say that in caring for the middle and lower income people I have neglected the interests of the business sector. I hope Members will understand my amendment which is in the following terms:

"with one of its main objectives being to reduce the tax burden of the lower and middle income groups"

Looking after the interests of the lower and middle income groups is only one of the main objectives, not the sole objective. I feel that we should not just conduct a review and leave it at that. We must improve the system. There must be a direction in which to effect improvements. In this regard, I think that one of the directions -- not the sole direction -- is care for the livelihood of humble and lowly citizens. I have not ruled out other directions. Indeed there may be many, such as encouraging investment by the investing community and the business sector, and making the tax system more equitable. If the Government is really willing to review the tax system, I can assure Members that the review will have a diversified objective in order to come up with a taxation policy that will cater for the needs of the overall economy. Certainly, the business sector will have their own needs to be catered for. Anyway, I am not at all worried that other directions will be overlooked. Neither am I worried that the business sector will have no avenues whereby to reflect their views to the Government in furtherance of their needs or requirements. Least of all am I worried lest the business sector should be incapable of mustering enough expertise to put forward their own proposals to the Government. Taxation policy is a complicated

matter. The general public can do no more than moan in agony where the policy hurts; I cannot possibly imagine them glibly and fluently making representations the way the business sector and professionals do. If this Council fails to endorse this amendment I am proposing, then the voice of the lower and middle income groups will be drowned out in this institutionized system of ours and tax reform will not have regard to the predicaments of the lower and middle income people. Successive Financial Secretaries and also the business sector have been stressing the need to expand the tax base by increasing indirect taxes and introducing a sales tax which are precisely aimed at the lower and middle income people. My amendment therefore is not against other objectives that a tax review conducted by the Administration may have; in proposing this amendment, I hope the powers that be will have genuine concern for the lower and middle income groups who are already bearing an onerous tax burden.

How heavy is the burden on them? Some are of the view that honourable and well-intentioned Members of this Council should trust the Administration who would, in conducting an overall tax review, balance the interests of various sectors and come to a fair and equitable decision. If the Administration really cares for humble and lowly citizens, it should have, in a proper and above board manner, incorporated the objective that I am proposing in its agenda; this would not have given rise to any contradictions, would it? If the Administration and the business sector really care, so far from creating contradictions, it will enhance public confidence in the Government and the business sector. This will be a good start in promoting the spirit of co-operation among various sectors. I would like to tell this Council that it would be difficult for the lowly citizens to believe that their interests are being safeguarded. One reason for the disbelief is that the gap between the rich and the poor is ever widening. According to information released by the Census and Statistics Department, in 1986 one-tenth of the population with the least household income earned no more than 1.55% of the total income in Hong Kong while at the other end of the scale another one-tenth with the highest income earned 35.7% of the total income. The earning of one group was therefore 23 times that of the other. Furthermore, the Gini Coefficient has risen from 0.45 in 1981 to 0.48 in 1991, the highest among the four little dragons of Asia. Hong Kong has an imperfect system of social security and this, coupled with high inflation and relaxation of labour importation, has had a serious impact on the livelihood of the lowly citizens. On top of this, taxation is giving them no respite. In recent years, indirect taxation has been rising and 450 000 low income people have fallen into the tax net boosting the number of payers of salaries tax from 750 000 in earlier years to the present

1.2 million. The Administration has explained that this is the result of separate assessment for married people. Nevertheless high inflation has driven those who would not otherwise be liable to salaries tax into the tax net. The sandwich class are in direr straits. They have to pay salaries tax on a graduated scale and at the same time are not eligible for public housing. They have to pay high rents at the going market rate. Their income has not yet reached a level to entitle them to the standard tax rate. Such being the case, they have to pay \$25 tax for every \$100 they earn. In contrast, entrepreneurs and large business groups whose income level entitles them to the standard tax rate pay only \$15 for every \$100 earned. The sandwich class are therefore the hardest hit group. My purpose of proposing this amendment is not to encourage lowly citizens to ask for more nor to ask for free lunch; the purpose is to stop and rectify the worsening situation where the tax burden on lowly citizens is getting heavier and heavier.

I have a number of suggestions:

(1) Tax allowances should be inflation-adjusted.

(2) As far as salaries tax is concerned, because of rising inflation and growing wages the taxpayer will be pushed into higher tax brackets resulting in a bigger tax bill. This is most unfair to those who are paying tax according to the standard rate, particularly the sandwich class. I therefore suggest that the standard rate should be abolished and replaced by a graduated system with the uppermost ceiling fixed at 19% so that whoever earns salaries notching the 19% mark would pay tax at the rate of 19%. The merit of this suggestion is that the tax burden on the lower and middle income group would be lessened, particularly the sandwich class. It is estimated that among the 1.2 million taxpayers 1.1 million would pay a little bit less tax while 100 000 would pay a little bit more. In overall terms, the Treasury would still get \$1 billion in salaries tax revenue. As far as profits tax is concerned, the business sector has all along been applauding Hong Kong's simple tax system and low taxation. Whatever its size and however substantial or meagre its profit, a company pays tax according to the standard rate. In a stable economic environment with no speculative or monopolistic elements this may be viable or equitable. But society is in a continuous process of change and evolution and this unitary policy is now outmoded. Therefore I propose adopting a mild, graduated system of taxation with the present ceiling raised by three percentage points so that the more profit a company makes or the more money a taxpayer earns the more will be repaid to society in the form of tax.

Finally, I hope Members will make an assessment as to what would happen should my amendment be turned down by this Council. Faced with high inflation and huge expenditures from infrastructural projects, the Government must explore and find revenue sources and the public must be psychologically prepared for lean days ahead. Yet lean days must be endured by all in society; every sector must hunker down to weather it through. If the burden on the public increased incessantly, their living standard deteriorated and there were no avenues in the institutionized system whereby to reflect their views, the public would have no alternative but to turn to avenues outside the institutionized system and to bring the pressure of the masses to bear by organizing various sorts of activities. This would naturally affect social stability. The eventual outcome might be that all sectors would have to pay a price. Generally speaking, I support the proposal that the Administration should immediately set up a tax review committee with broad representation; it would be best if the majority of members of the committee would be Legislative Council Members, directly elected Members preferably. It is because the outcome of a tax review would be debated in this Council who would be more readily disposed to accept it if membership of the review committee comprised largely of Members of this Council. (But we all know that the Executive Council is against a tax review).

Another point is that a tax review committee should have regard to the tax burden of the lower and middle income groups and one of its main objectives should be to reduce the tax burden of these people.

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

Question on the amendment proposed.

FINANCIAL SECRETARY: Mr Deputy President, Mr LI's motion calls on the Government to set up a committee, with members representing a wide cross section of the community, in order to conduct a comprehensive review of the taxation system in Hong Kong.

The phrase "comprehensive review" has superficial attractions. It suggests a fresh start, with new ideas being brought to bear on old problems. But these superficial attractions should be resisted if the area to be reviewed is one where existing policy is working well. If it is not broken, do not fix it.

The question to be asked about Hong Kong's system of taxation is whether the fundamental principles on which it is based continue to serve us well. I would highlight four such principles. First, we must maintain a simple, low tax regime. Secondly, our system of taxation must be as productive as possible, and must provide certainty to taxpayers in determining their tax liabilities. Thirdly, we must provide a fiscal environment that encourages investment and re-investment. Fourthly, we must continue to tackle tax avoidance and evasion.

There is no doubt that our present system operates in accordance with all four of these principles. Both indirect and direct taxes are low by international standards, and a very large number of people pay little tax. Calculating tax liability is straightforward and gives certainty to businessmen and investors. Hong Kong's status as an international trade and financial centre has grown enormously over the last 20 years, helped by a framework of legislation which ensures a level playing-field, but does not over-regulate. Measures to counteract avoidance of tax are brought forward to this Council as necessary. Following these principles has enabled our tax system to achieve consistently its primary objective, which is to raise revenue sufficient to meet our expenditure requirements both now and in the future.

Any system has limitations and constraints. Hong Kong is of course no exception. There is, for example, increasing consensus about the desirability of broadening the tax base to protect our revenue against an unforeseen economic downturn. At the same time, we must be pragmatic about this. I have made it clear, for example, that further consideration of the desirability of a general sales tax must await a time when inflation no longer poses a significant threat to the livelihood of ordinary families. Similarly, the Government is well aware of the need to plug avoidance loopholes created by the increasing complexity of modern business practice. In short, our system of taxation is basically working well. Under these circumstances, a new, general review does not seem necessary.

However, my concern is more fundamental than this. I believe that a review at the present time would have real disadvantages for Hong Kong. Investor confidence in Hong Kong is now high, and it is critical that it remains so as we develop our social and physical infrastructure in the years leading up to 1997. Any new review committee would take at least a year to formulate its conclusions. This would take place amidst continuing public debate, and would almost certainly then need to be subject to public consultation. Several years could elapse before final decisions

were made. It would be irresponsible of any government to create such a protracted period of uncertainty over an issue crucial to investor confidence, in the absence of clear indications that there are major flaws in the existing system. As I have explained, the reverse is the case.

I turn now to Mr FUNG's proposed amendment to Mr LI's motion. Mr FUNG suggests that one of the objectives of the review should be to reduce the tax burden of the lower and middle income groups. To talk of them as (victims) in relation to our tax system seems to me to stretch poetic licence to its limit. Once again, it may sound unexceptionable on first hearing. But a more careful examination of the present position brings Mr FUNG's suggestion into serious question.

Looking at direct taxation first, well over half of the working population of Hong Kong in fact pays no direct tax at all. Of those who are liable for salary tax in 1991-92, only 100 000 pay tax at the standard rate of 15%. This small group of taxpayers will contribute 56% of all salaries tax yield this year.

Similarly, indirect taxes are now imposed on some mainly luxury products, on certain government services and on property. The total indirect tax burden, including rates, now makes up only a few percent of the income of an average household. Thus it is clear that, far from discriminating against lower or middle income groups, our present system of taxation principally affects the most prosperous section of the community.

Mr LI has suggested a "broadly-based" review committee. The implication may be that, however successful the Government's taxation policy may be in fiscal terms, the channels for reflecting opinion to the Government are inadequate.

Once again, this assumption does not stand up to close examination. We receive first class advice on a wide range of issues from the independent Joint Liaison Committee on Taxation. And there are many other channels through which individuals and interested groups, including those with grass-roots support, can, and do, present their views to the Government, whether on matters of principle or of technical detail. These include the OMELCO Panel on Finance, Taxation and Monetary Affairs. The Finance Branch, the Inland Revenue Department and I myself regularly receive written representations and hold face-to-face meetings with concerned parties on all aspects of the taxation system, particularly during the Budget season. Indeed, I was handed some tax proposals as I entered this building today. Mr LI himself has referred to a number of specific proposals made by Members of this Council on previous occasions.

These were subsequently considered by the Administration. And of course I will be listening with great interest to any suggestions or ideas that emerge in the course of this debate.

In conclusion, we have in place a taxation system which is perhaps unique in its ability to raise revenue, whilst maintaining a simple system of collection and low levels of tax, particularly for the less well-off. We are in no sense complacent, and we will continue to bring forward to this Council measures to tackle problems as they are identified. In doing so, we will adhere to the four basic principles which I outlined at the beginning of my speech. Under these circumstances, Mr Deputy President, I cannot support the motion either in the form proposed by Mr LI or in the amended version proposed by Mr FUNG, and I and my official colleagues will vote against.

MR HUI YIN-FAT (in Cantonese): Mr Deputy President, this is the Year of the Monkey. According to information available, monkeys now being kept in Urban Council parks each cost about \$28,000 to feed and manage every year, which is higher than the allowance for supporting two elderly dependent parents (that is, \$24,000). To the taxpayers, the fact that monkeys are more costly to keep than one's parents is not only a gross mockery but also an illustration that the existing taxation system is unrealistic and scornful of human dignity, which runs counter to the Government's policy of encouraging young people to look after their parents.

As we all know, the low taxation system in Hong Kong cannot ensure a fairer redistribution of social resources and this situation has now assumed alarming proportions. Hong Kong's Gini coefficient rose from 0.31% in 1971 to 0.48% last year, which is the highest in Asia. This reflects the widening gap between the rich and the poor in Hong Kong. It is generally considered by economists that once the coefficient is up to 0.5%, there will be social turbulences. In view of the foregoing, I believe that the taxation system in Hong Kong needs revamping.

As a matter of fact, the Government's policy on direct taxes has always been criticized as "robbing the poor to pay the rich". Take salaries tax as an example. I think that the Government must take into full account economic growth and real income when setting the allowance levels. According to figures available, the median income of \$5,170 in 1991 was 100% higher than the \$2,573 level in 1986. Unfortunately, the tax allowance of \$41,000 in 1991 was only some 40% more than the \$29,000 in 1986.

In other words, real income for the working classes in general has diminished instead and local workers are thus unable to share the fruits of economic growth. I consider that it is only reasonable for personal allowance to be increased to \$60,000. The Government should also revise the progressive taxation system for salaries tax so that people are taxed according to their means.

As to corporate profits tax, the present 16.5% is indeed on the low side, which is lower than the other three "small dragons" in Asia -- Singapore, South Korea and Taiwan -- by 8.5% to 27.5%. This shows the Government is overly protective of the interests of investors. In times of financial stringency and the widening gulf between the rich and the poor, the Government should raise the profits tax rate to 18% which it has adopted before. I wonder whether a low taxation rate will virtually mean local taxpayers subsidizing overseas investors. Take for instance Japan where profits tax is as high as 37.5%. Japanese-financed companies in Hong Kong will have to pay to the Japanese Government the remaining 21% in the form of profits tax when transferring after-tax profits to their parent companies. This, undoubtedly, is a loss to both the Government and the public. In this regard, an increase of 1% or 2% in profits tax should not have frightened foreign investors away as one chamber of commerce has suggested. Therefore, the Government should no longer be over-cautious in this issue.

In fact, in tapping new revenue sources, the Government still has much room to manoeuvre. An example is the levy of a capital gains tax in property transaction. I believe that the new tax will in no way hit the property market, but will help crack down on raging speculation as long as the rates and application of taxation are properly drawn up. Meanwhile, the Government should refrain from increasing the charge to property rates as well as other taxes which affect the people's livelihood because such a move will only make the Government the culprit for fuelling inflation. It is likely that the actual gain cannot make up for losses.

Mr Deputy President, what I am getting at is that many areas in the existing taxation system do need revamping in order to redistribute our limited social resources more equitably and to avert the occurrence of any unnecessary turbulences in the community in the future. And opinions differ as to how to go about it. I think it is better to entrust the task to the Joint Liaison Committee on Taxation under the Financial Secretary than to set up an independent tax committee because the latter would become redundant and it is hard to predict what can be achieved as it will inevitably be turned into another forum for political tussle. Moreover, as

the former committee has operated for some time, it will function more cost-effectively by saving more time and operating with existing facilities. However, the committee's terms of reference should be broadened and its composition so enlarged as to include representatives of public opinion and professionals in the relevant fields if its study reports are to gain credibility in the future.

Mr Deputy President, with these remarks, I oppose both the original and amended motions because I do not support the setting up of an independent tax committee.

MR MARTIN LEE (in Cantonese): Mr Deputy President, I would like to follow in the steps of Mr Frederick FUNG and, before making my speech, comment on the news about the recent decision of the Executive Council to reject the setting up of an independent and widely representative committee to review the taxation system.

According to the press, the Executive Council is of the opinion that the task of reviewing the taxation system should be given to the existing Joint Liaison Committee on Taxation. Mr HUI Yin-fat, who has just spoken, seems to be more or less of the same view.

In the first place, the existing Joint Liaison Committee on Taxation is only an informal advisory body which makes recommendations on the technicalities of the tax regime. Its members consist of representatives from trade associations, the Association of Banks, the Society of Accountants and the Law Society while the public are not represented. The decision of the Executive Council to leave it to this Committee to make recommendations on the reform of the taxation system illustrates the Executive Council's complete lack of concern for the progress of democratization in Hong Kong and total disregard of public opinion. Then as most of its members are directly involved with taxation matters in their own work, asking them to suggest ways to plug loopholes in the taxation system will create conflict of interests. As regards Mr HUI's suggestion of strengthening the set up of the Committee to include members representative of public opinion and broadening its terms of reference, he is actually supporting this motion. For the end result would be a committee identical to the one suggested by this motion.

The Executive Council's hasty decision to reject the setting up of a committee before this Council has a chance to discuss about it today is totally disrespectful of the Legislative Council as well as being irresponsible. The Executive Council's

decision has rendered today's debate meaningless and destroyed the "partnership" as mentioned by the Governor in his Policy Address.

I wonder whether the Executive Council's hasty decision reflects that it does not want to conduct a comprehensive and serious review of the taxation system, or that it would not dare to. The United Democrats of Hong Kong are not at all satisfied with this decision and hope that an explanation would be provided for this Council.

Mr Deputy President, a lot of different factors, such as opportunities, favourable geographical position and efforts of our people, contribute to the economic success of Hong Kong. Throughout the years, under our free economic system and stable political environment, a group of diligent and hardworking people have striven incessantly for economic success and brought about miracles, one after the other. In order to maintain a favourable environment for the investors, the Hong Kong Government has been adopting a simple and low rate taxation policy. However, due to the increasing sophistication of our social and economic structure, especially being faced with the issue of 1997 and the related variables, there is really a need to review the overall taxation policy and the structure of the taxation system, so that in future, as Hong Kong's economic development flourishes, our society can maintain its stability and harmony.

In fact, since the Report of the third Review Committee was published in 1976, Hong Kong has experienced major political as well as economic changes. In the past 16 years, Hong Kong has changed from a light-industry-based city in the region to an international financial and entrepot trade centre. During the same period, the proportion of public expenditure of the Government in relation to GDP has risen from 12.4% to the estimate of 19.3% this year. And with the signing of the Memorandum of Understanding on the new airport by the Chinese and the British Governments, the amount of reserve and the amount of bonds to be issued are agreed upon. Together with the transformation of the economic structure of Hong Kong and a series of phenomena caused by the issue of 1997, such as an increasing number of local enterprises registered overseas and a lot of taxpayers emigrating to other countries, all these are bound to have an effect on the Government's financial situation and taxation policy.

The United Democrats have all along insisted that the Government should make more efforts to improve our investment environment. We also believe that the prosperity of Hong Kong depends very much on our overall economic development, and that only with continuous economic growth would the livelihood of Hong Kong people be further

improved. We also firmly believe that a really stable and prosperous society should enable everyone of its members to enjoy the fruits of economic growth rather than developing at the expense of the sacrifices of a number of people.

Apart from safeguarding a stable income for the Government, a comprehensive taxation policy should also aim at the principles of "progressivity", "equity" and "effectiveness". We are not asking for an immediate and drastic reform of our taxation system; what we hope to see is that considering the changes that took place in the past 10 years or so, the variables that lurk behind our political, economic and social systems in the future and the three principles mentioned above, the Government would review our taxation policy. As a matter of fact, in the last two Budget debates, I have made the same suggestion and in the platform of the United Democrats, the importance of setting up an independent Review Committee has also been stressed.

What I cannot understand is that after such a long period of 16 years, even the suggestion of reviewing the taxation system would be met with such opposition, then does it mean that we can turn a blind eye to all the major events that happened within the period, including the reversion of Hong Kong's sovereignty to China and the financial constraints in the latter part of the transitional period. Even for a healthy society, after all those years of rapid economic development, the Government -- any responsible government -- would certainly conduct a comprehensive review of its taxation system to see whether it is still effective, and whether any improvements are called for, and make the necessary changes. Why do some people oppose to the mere suggestion of reviewing? All along, many large corporations and enterprises have been able to evade tax through various means. So it raises suspicion as to whether these vested interests object to changes and even the mere suggestion of a review exactly because of this.

Some people may be for the need of a review. But they think that such review should only be conducted by representatives of professional bodies relating to taxation, and that public opinion should be sought in the form of a consultative document. Basing on past experience, people at large are not very enthusiastic about such complex consultative documents, and what normally happens is that despite the findings contained in the consultative documents, the public, due to their lack of understanding of the complex documents, would demand something else. If we decide from the beginning to set up a different review committee with members coming from a wide spectrum, then problems would tend to resolve themselves within this mechanism. But, if a consultative document is merely meant as a tool to deal with the public

insincerely, the problem is not going to be really solved but only shelved.

Both inside and outside this Council, there seems to be a view that if a review of the existing taxation system is conducted, investment would be scared off to the disadvantage of Hong Kong. These people consider that the loopholes for tax evasion is all the problem that exists in the current system. All we have to do is to plug these loopholes and other fundamental questions need not be reviewed. I really cannot understand these people who are so against changes. Why are they so lack of confidence in the overall economic situation of Hong Kong and so scared that once a review is mentioned, the long-term economic interest would be in jeopardy?

I had intended to mention once again what Mr Peter WONG said a year ago on the issue of taxation. But as Mr Fred LI already touched upon this earlier on, I would not repeat here. I hope the Government and other colleagues would consider more carefully Mr WONG's expert advice.

The motion today asks the Government to set up a committee, with members representing a wide cross section of the community, to conduct a comprehensive review of the existing taxation policy. A review does not necessarily mean changes. If the present system really serves Hong Kong well in terms of existing environment and long-term development, then we do not have to change. But at least the public should know why we are keeping the system. On the contrary, if the review shows that our taxation system is in need of revision, we can make changes accordingly. Thus unlike our practice now, we need not juggle with the figures technically every year to cope with the current financial needs.

As to the amended motion, we consider it is in line with the spirit of safeguarding the livelihood of the lower class as stipulated in the platform of the United Democrats. Thus we support the amendment of the motion moved by Mr FUNG.

Mr Deputy President, as an elected Legislative Councillor, I have to be accountable to the people of Hong Kong. Neither could I turn a blind eye to the livelihood of the people at large nor be unaffected. On one hand, the people are suffering from the effects of high inflation and their standard of living has been lowered. On the other hand, they are also the victims of the double blow of the broadening of the tax base and the increase of tax items. We never object to the commercial and industrial sectors making money in Hong Kong, but we strongly oppose to any taxation policy which robs the poor to benefit the rich.

Just as Mr HUI has mentioned, the Gini Coefficient of Hong Kong has reached 0.48, a figure which is higher than many countries in Europe and the United States. It shows that the gap between the rich and the poor in Hong Kong has been growing wider, and this reminds me of an old Chinese saying, "The rich with fields too many, the poor with abodes too tiny." I hope that this will not come true in Hong Kong.

Dr HUANG Chen-ya, Mr James TO and Dr YEUNG Sum of the United Democrats will speak on the motion later on.

In Chinese New Year, we greet each other with "Kung Hei Fat Choy". The United Democrats wish that Hong Kong will still be a place where the rich can continue to prosper but never at the expense of the poor.

I agree to all the four principles that the Financial Secretary has mentioned. But that does not mean the present system does not have to be reviewed. Actually, he has not answered the question yet. He has also said that as there are no major flaws in our current taxation system, a review is not needed. It is analogous to one saying, "As I am fit and healthy, I do not need a checkup." I think the Financial Secretary may well have passed his 40th birthday. I hope that he would not apply this logic to his own health.

Mr Deputy President, with these remarks, I support Mr FUNG's amended motion and so will other members of the United Democrats. In the event of Mr FUNG's amendment of the motion being negatived, members of the United Democrats will support the original motion moved by Mr LI.

MR DAVID LI: Mr Deputy President, Hong Kong's current taxation system serves the territory well. It is simple and straightforward, and the rates are low by world standards. It plays a key role in attracting investment -- investment which promotes the local economic growth and creates jobs for the people of Hong Kong.

The current system also places few constraints on the rewards for personal or corporate success. It therefore encourages both social mobility and entrepreneurship. Equally important, it has historically provided more than adequate revenue to meet the Government's expenditure needs.

The present system strikes a good, healthy and comfortable balance among the needs of the Government and of the people and the businesses of Hong Kong.

So why has this motion debate been called?

There are those who complain that the system is not as equitable as it could be. Others would like to see a general trend towards reducing the overall burden on all taxpayers -- individuals and corporations alike.

Among the specific shortcomings of the current system, members of my constituency cite the inability to file consolidated returns for related companies and to deduct general provisions for bad debts.

The Administration, for its part, argues that the system is overly dependent on direct taxes and is therefore vulnerable to swings in the territory's economic cycle.

Hong Kong's current system may not be perfect, but it is nevertheless structurally, socially and economically sound. This is highlighted by the fact that complaints typically focus on specific aspects of the system, rather than on the basic structure.

The system does need "fine-tuning" from time to time. But it is hardly in need of a "complete overhaul", as the motion before us implies.

Rather than advocating a broad, dangerously unfocused review of the territory's taxation system -- a review whose terms of reference and goals are unspecified -- this Council should encourage those with specific suggestions for improving the current tax structure to put them forward for scrutiny and discussion.

Do we need an independent review committee to accomplish this? No. Hong Kong already suffers from a surfeit of public and private-sector consultative committees.

If genuine inequities exist in the current taxation system, it is our task as Members of this Council to make the specifics known to the Administration and to encourage appropriate action. We should not "pass the buck" to someone else.

This Council currently comprises a good cross-sectional representation of the people and businesses of Hong Kong. We are therefore well-placed to reflect the views of all sectors of the community on this and any issue affecting Hong Kong.

Hong Kong's current taxation system may need some "fine-tuning" here and there. But, at its core, it is a good system -- a system which works well for Hong Kong, a system which attracts international envy.

The situation does not merit an establishment of yet another independent review committee. Ironically, the financial burden of such a move would ultimately fall on Hong Kong's taxpayers -- on whose behalf this motion has been put forward.

With these remarks, Mr Deputy President, I respectfully oppose the motion.

5.09 pm

DEPUTY PRESIDENT: We will take a break for 20 minutes.

5.32 pm

DEPUTY PRESIDENT: Council will resume.

MR NGAI SHIU-KIT (in Cantonese): Mr Deputy President, the on-going prosperity of our economy hinges upon a simple taxation system and a low tax rate. The existing taxation system in Hong Kong is simple in operation and the administrative cost involved is low. One of the important features of our tax regime lies in its confinement to locally derived incomes, thus creating a favourable environment for investment. As things stand, we have not reclined on luck to have been able to develop into an internationally renowned trade and financial centre. The taxation system has provided us with effective support to achieve the goal.

Ever since 1976, Members of this Council have made repeated requests to the Government for a review of the taxation system. As the request is brought up again today, it is high time that the Government should consider conducting a proper review of its taxation policies. Nonetheless, the objectives of any of these reviews should follow the above-mentioned principle to improve the existing taxation system to further enhance a favourable environment for investment, whereby the overall prosperity of our society may be maintained and the standard of living of the general

public may be upgraded. There is no need to overhaul the foundation of the existing system. Neither should the review become a weapon in the struggle for power or stir up social conflicts.

Mr Deputy President, taxation is a science that requires expertise. A review of the kind is even more technical. If any of such a review committee is to be established, we have to ensure that its members possess the necessary professional knowledge and experience. In view of the above reasons, I categorically oppose to the Honourable Fred LI's motion. We need not set up another committee that is widely represented to conduct a comprehensive review of the taxation system. We cannot and should not assume arbitrarily that professional people do not understand as much the need of the general public as the so-called people representing a wide cross section of the community, for they live in the same community, facing the same taxation problem.

As a matter of fact, some professionals have acquired for themselves a considerable degree of representativeness. For instance, some professionals are returned to the Legislative Council by direct election. In appointing these professionals to certain committees, the Government however is concerned with their professional calibre and not their representativeness. Hence, the motion put to debate today is in fact an attempt to drive a wedge between "professionals" and "people representing a wide cross section of the community", or what is more, to polarize them. This is an incorrect move that misleads the general public.

Mr Deputy President, to review the taxation system is not tantamount to striking a balance between the interests of different strata of our society. Thus, any hard and fast rule requiring people representing a wide cross section of the community to sit on this committee will simply defeat the purpose of a tax review and bring about another element of uncertainty during the transitional period before the advent of 1997. Investors may be discouraged. Entrepreneurs may lose their confidence in the face of an unforeseeable future. Or worse still, in view of the uncertainty of our tax system, places or countries in our neighbourhood will seize this opportunity to compete with us as well as to attract capital and investors from other parts of the world.

I would like to take this opportunity to respond to the arguments put forward by Mr Fred LI a while ago. Mr LI has quoted in his speech remarks by many Members. It seems as though Mr LI had turned the debate into a political forum. But

unfortunately Members' views on taxation, which were quoted out of context by Mr LI some moments ago, appeared somewhat unreasonable and unconvincing. This attempt by Mr LI is like political manoeuvring and the motive should be understandable. Take, for instance, my arguments, when put in this context by Mr LI, does not only appear specious but also gives the feeling of talking black into white. The remarks were made when I was expressing my views against the introduction of sales tax. I was concerned about the tax base being too narrow and therefore urged that careful consideration should be given to broadening of the tax base and that review on taxation should also be made. Up till now I still consider my view correct and will stand by it. Given this narrow tax base we can, with great care, identify ways to broaden the base. As to the taxation policy, in my view, the past practice is that we adjusted expenditure according to income; now we are adopting the principle of generating income to cater for the needs, which is a change that ought to be made. It would be very inappropriate for Mr LI to quote out of context remarks by other Members, as what I have said has nothing to do with today's motion on tax system but instead relates to review on taxation, that is to say, changes to tax matters and items. May I call Members' attention again: I referred only to tax system not tax matters. That Mr LI has given these examples in his speech for this motion does smack of irrelevance. The attempt by Mr LI to quote some of the Members' views on upward or downward adjustments to specific tax items and make them appear like views on a comprehensive review of our taxation system is, I should say, itself contradictory. It is because Mr LI, in moving his motion, seemed to urge Members not to confine the discussion to or be obsessed with adjustments made to a specific tax item, but to focus attention on the establishment of a committee with the aim of conducting a comprehensive review of our taxation system. But the examples Mr LI gave are all related to tax matters and have nothing to do with the setting up of such a committee or a comprehensive review of taxation system. This, I should say, is nothing but a typical example of self-contradiction.

To be more concrete, given that tax matters should fall within the responsibility of the Government, anything relating to tax should then be thoroughly scrutinized by the Government and, depending on needs, suitable tax measures be formulated by the Financial Secretary. We can of course put forth a whole lot of views and recommendations, for instance, adjustments be made instantly or in the future to specific tax items or an increase in personal tax allowance, which are all taxation matters. So I believe that most of the Members mentioned in Mr LI's speech do not intend to change the fundamental principle or philosophy of our present taxation system.

Mr Deputy President, in light of the above reasons and in response to Mr LI's arguments, I should say that I am opposed to the motion and the amendment raised today.

MR PANG CHUN-HOI (in Cantonese): Mr Deputy President, I support the setting up of a review committee to look into our laws and policies on taxation so as to ensure that our taxation system will keep pace with the ever changing Hong Kong society.

Hong Kong's economy has developed rapidly in the past decade. Facing us now are massive infrastructural projects, industrial transformation and the need to maintain social stability during the transitional period. All these call for the establishment of a review committee with neutral membership to review the present taxation system, examine the effects of taxation on different social strata and plug legal loopholes to prevent tax avoidance.

The approach we take in social welfare will have an important bearing on our economy and taxation system. May I appeal to the Government to carefully and conscientiously map out our future social welfare policies while reviewing our taxation system. I believe this will help us organize our economy effectively so that it will develop steadily upon a sound foundation during the run-up to 1997.

Based on the above reasons, I suggest that apart from accountants and taxation and legal professionals, the review committee should also comprise professionals from the sociology and related fields. This will enable the committee to examine and analyse matters from different angles and strike a balance between economic theories and social reality. I also hope that the experts will bear in mind that there are "people" behind the number games.

The gap between the rich and the poor in our society is widening. This is a signal forewarning of social instability. As we all know, poverty is the root of all evils. I am not suggesting that we should adopt the "free-lunch" welfare system. But I think it is only right that any affluent society should try to provide a better living condition for the disadvantaged. Competition and elimination are the driving forces behind social progress. But it is only with love and care that man will not lose their ways in the endless chase after material gains. I would not give any specific target as to how much we should achieve in narrowing the gap between the rich and the poor, but I think the Government should use the above principle as the objective

or perspective in formulating its taxation policy.

To address the problem of open and legal tax avoidance by large corporations, the Government should take prompt actions to plug existing legal loopholes. The Government should not "swat the flies but spare the tigers". I believe that the uncollected tax will make up a considerable sum of money. If this problem is solved, it would be unnecessary for the Government to target at the ordinary citizens when seeking new sources of income.

I support that personal allowance should be increased according to the inflation rate. I also hope that the Government will negotiate with the other party so that land sale can be increased as an additional source of revenue. This will help generate considerable income for the public coffers without affecting commercial and industrial investments.

Mr Deputy President, I am concerned about the livelihood problems faced by the middle and lower income groups in a society undergoing economic and political changes. The purpose of setting up a taxation review committee should be to alleviate the burden borne by these groups of people. However, as maintaining prosperity and stability is Hong Kong's general objective, I attach equal importance to the overall economic activities which encompass all social strata. For these reasons and with these remarks, I support the Honourable Fred LI's motion and also the Honourable Frederick FUNG's amendments.

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, this issue of reviewing the taxation system in Hong Kong has been raised by me in this Council on more than one occasion. At the 1990-91 Budget debate held on 26 April 1990, I urged the Government not to merely patch up the taxation system but should also have the courage to undertake a comprehensive review for the establishment of a taxation review committee to design a system more suited to our need. On 27 March 1991 at the 1991-92 Budget debate in this Council I again proposed that a taxation review committee comprising representatives from the lower class should be set up to find an equitable solution to our taxation problems. Nevertheless, the Government has turned a deaf ear to my repeated appeals.

Today Mr Fred LI, a new member of this Council, brought the case up again. At first I thought that perhaps time had changed and changes might be just around the

corner. But after listening to the Financial Secretary, I do feel that further debating has become meaningless. The Government has made it clear that it is against any establishment of a tax review committee and takes pains to reaffirm the merits of our present taxation system. This shows that the Government has no intention of introducing great changes which, I must say, is regrettable.

Whether or not today's motion or amendment will be carried and the taxation review committee be set up eventually, there are several principles the Government should take into consideration in a review of taxation:

1 A sound taxation system should be able to distribute wealth in an equitable manner so that the wealth of our society will not concentrate in the hands of a few, leaving a wide gap between the rich and the poor and deepening social crisis.

2 A sound taxation system should be fair and operated in a "progressive" manner, that is to say, the more you earn, the more you pay, and the less you earn, the less you pay. This is in line with the principle of social justice.

3 At a time of high inflation and high prices, the Government should keep its promise of protecting the disadvantaged members of our society and as far as possible lessen the burden of the lower class.

Mr Deputy President, these are my remarks.

MR MOSES CHENG: Mr Deputy President, I rise today to speak in favour of commonsense and a long-term vision of a better Hong Kong -- what is being recognized as in the best interest of the majority of the people living here. I am stressing these notions at the outset, because I believe that they are curiously missing in the motion and the amendment before us. I have tried very hard to understand or find logic in this seemingly harmless proposal. After even the most careful scrutiny, it is simply impossible to find the "dramatic flaw" in Hong Kong's taxation system that is implicit in this motion. By contrast, it seems to me that almost anyone using commonsense as his guide can only discover the relative benefit and strong merits of the current system. And I believe that we should be able to say the same of our taxation system through the remainder of this century and into the next.

Our Government is in the enviable position of maintaining such standards and

accruing more than enough public funds to meet and exceed needs. Some allege now, as they have time and again in the past, that we face imminent shortfall. Yet year after year the facts detail robust surpluses. Throughout the past 25 years, by adopting the very healthy attitude of spending what can be afforded, our Government should be commended for building a sufficiently comfortable cushion for our public finance through its simple but adequate taxation system. This year alone is expected to bring another windfall of around \$8 billion. But again the alarm bells are sounding. It cannot be alarm ringing for commonsense --for surely the numbers do not lie; facts are stubborn things! And alarmists do not appear to be awakening anyone to the sound and practical vision of our future, because it is obvious that hindering and tinkering with economic success and job creation are at the core of such vision.

What then could it be that motivates this assembly to flirt with unnecessary and impractical danger where success is already a standard? I believe that it was best summed up in a report in last Sunday's Morning Post that taxation was deemed by some of our honourable colleagues to be a "political exercise". I believe that taxation could be a lot of things, but politicizing is definitely not one that rises to the top. It should be those positive forces which I already mentioned exist, and I intend to see that the fairness, equity, simplicity and positive growth be maintained for the long term. These aspects have made Hong Kong great and in the immediate future, while the whole world is watching the territory to gauge our stability and prospects, we should rededicate ourselves to support our strengths and adjust our weaknesses. Unfortunately no matter how well is the intent, this motion has confused the two -- implying taxation is a weakness while asserting excessive politicking and uncertainty may be a strength. Let us not confuse ourselves, the individual citizen of Hong Kong, the business community and foreign investors without purpose. We all know what the facts are relating to the success and strength of our taxation system. With commonsense at the forefront of dealing with minor amendments we can enhance our system by abandoning political posturing and move toward purposeful practical and pragmatic considerations.

Rather than debating whether or not we should politicize and complicate that which is already simple and successful, I would like to see us devoting more energy to making tax collection in the status quo more comprehensive and convenient. That is to say, support continual refinement of the system, but not revolutionary reforms. There is no secret that there is a significant amount of revenue lost through avoidance, evasion and faulty enforcement. This is the proper starting point to strengthen our

successful system. Next we should be more innovative in approach by making tax payments convenient to taxpayers. A society as technologically-oriented as Hong Kong has little excuse of not incorporating greater convenience into collection. I wonder why suitable measures cannot be introduced to alleviate the hardships on a lot of taxpayers of having had to make a lump sum payment at the end of the year.

The Third Review Committee established in 1976 to review the Inland Revenue Ordinance has done a fine job in refining our tax code. The respectable results of the hard work of the committee, which has maintained the positive character and integrity of our tax code, pre-empt the need for another review committee to solely satisfy political purposes. Any committee designed to keep tabs on our tax code must be oriented to its tasks, not to its "political task-masters". There was commonsense, logic, and long-term vision amongst our predecessors when they devised the committee as a living and progressive mechanism 16 years ago so that it could serve Hong Kong's best interests well into future generations. They sought to staff that task with the best and brightest experts they could draw from our community -- balancing public welfare with job creation and economic growth. Their results are clear, their record is admirable. One only needs to silence the rhetoric long enough to look around and appreciate Hong Kong's unique effectiveness in public as well as private sectors achievements working harmoniously in balance to the benefit of all the people.

The Joint Liaison Committee on Taxation appointed by the Government in recent years continued the good work by updating and adapting the code. This is a shining example of what the Government can and should achieve in terms of professionalism and forecasting. And yet even with an enviable record of impeccable success attracting investment, growth, budget surpluses, job creation, preserving fairness, equity, and low tax burdens simultaneously, an inclination to serve special interests seeks to displace them. This is an unworthy precedent in how we as an assembly manage our affairs, as we should be dedicated to the whole of Hong Kong rather than selected corners. What works best for all our citizens in both the long and short term is what I propose we make our concern. And we know what works from the past of building prosperity from the ground up -- facts are stubborn things!

I have always sought to approach our dilemmas and problems with a positive chord and have on many occasions pleaded for this Chamber to come together in a consensus of common cause. On this occasion, however, the wide-eyed view that a problem exists at all is such a faulty premise that I find it difficult to comprehend that it is necessary to devise a new and disastrously counter-productive means to correct it.

The means and motives of this motion are unsupportable in both principle and practice. It is my hope that the level of this discussion does not begin a greater trend towards politicizing of that which is already effective, reliable and efficient.

Commonsense tells us that at a time when the world is waiting to measure our stability we should forge ahead with a self-refining, proven system which gleams with success, instead of political experimentation with our children's fortune. Simply put, "if it is not broken, do not fix it". Long-term thinking dictates that we do not administer our public finance by radical, short-term shifts in policy. We owe it to the future generations to build upon, strengthen and refine that which works.

Mr Deputy President, using these standards as my guide, I cannot support this motion or any that resembles it. It is my sincere hope that such standards would prevail over political posturing for the sake of all of Hong Kong. Thank You.

MR RONALD ARCULLI: Mr Deputy President, whilst the motion before the Council today does not raise a new topic it does however raise an extremely important issue for it affects everyone and indeed every business in Hong Kong. I would therefore like to stress at the outset that I believe, whether one supports the motion or not, that the overriding factors we must not forget were put succinctly by my honourable and learned colleague Mr Martin LEE in one of his speeches in the following terms and I quote:

Mr LEE says

".....I have said in this Council on many occasions before that Hong Kong must remain a city that encourages hard work and free enterprise and allows those who make their money to keep it."

A little later in the same speech he continues and I quote:

"Few would contest that Hong Kong owes much of its economic success to its simple system of low taxation, the spirit of free enterprise and the overseas investment fostered by our low-tax system. Indeed, there are few, if any, developed economies in the world that can match Hong Kong's low tax rates. As we move towards 1997, it is imperative that we maintain these principles of low taxation and ensure that Hong Kong will remain an attractive place for overseas companies to invest in."

There are of course, other factors that have contributed much to our economic success and growth, one such is the Government's policy of non-intervention. There is, however, some doubt whether this is so for whilst the Government maintains that such a policy is still very much the order of the day the Government will intervene where it believes that there is an abnormality in the market place which requires correcting. We must nevertheless be vigilant to make sure that the exception does not become the rule. However, today's debate is not directly on this factor.

Mr Deputy President, returning to the subject before us today the motion moved by the Honourable Fred LI is rather simple. There are no terms of reference or remit for the committee. The only indications to the Government are that the committee should represent a wide cross section of the community and it is to do a comprehensive review of the taxation system in Hong Kong. Frankly, having read an article by Mr Fred LI, I am not sure what he wants. I know that he believes that taxation is not merely an accounting exercise as he says it is also a political exercise. Having heard his speech today I am none the wiser. On the other hand the Honourable Frederick FUNG's amendment is a little more to the point: he states that one of the objectives of this comprehensive review is to reduce the tax burden of the lower and middle income groups. What is not clear is what he means by lower or middle income group. We know he cannot be referring to that part of our work force that pays direct taxes. The irresistible conclusion that one draws from this objective is that unless the proposal is also to reduce expenditure the reduction in taxes will have to be made up somehow. Mr Deputy President, I could go on analyzing the motion and proposed amendment but I believe that is not a particularly helpful way of contributing to this debate although touching on them briefly does help to concentrate our minds on a number of questions such as: What do we hope to achieve? Are we to adhere to the principles of a low-tax Hong Kong source-based taxation system and to encourage free enterprise as a prerequisite to such a review? Or are we to depart from such established and valued principles? Are we to use such a review as a political exercise? Is such a review to examine how we broaden our tax base and look at a sales tax or a goods and services tax or do we rule them out straightaway? Are we to rule out the amendment proposed by Mr Frederick FUNG and if we do so what do we mean by that? Or much more to the point, should we ask ourselves whether such a review is necessary?

Mr Deputy President, I believe that we owe it to the people of Hong Kong and to the local and foreign business community to be forthright. We should call a spade a spade. If we want to increase personal allowances and to have these inflation-linked thereby reducing revenue we should at least attempt to provide an

alternative source of revenue. If we want to increase profits tax and then bring in tax incentives or tax holidays to encourage investments in Hong Kong we must ask ourselves whether this approach is sound. We in Hong Kong are the envy of most developed countries including the United States, the United Kingdom, Australia and Canada. We have no unemployment. We are not in a recession. We have a very respectable growth rate despite a pretty dismal picture on the economic front in most of our trading partner countries. We do not see able-bodied men and women holding out signs to say they are prepared to work for food. I suspect our Budget again will show a healthy surplus. We have reserves put away for a rainy day. The quality of life of our people has improved over the years and we are constantly trying to improve facilities for our schools and tertiary institutions, quality of public housing, and the environment, to name a few. We have a lot at stake. We have much that is worth preserving and defending. Should we do anything that might jeopardize the principles that have given us so many blessings?

All that having been said, I do not want to give the impression that our tax system is perfect. By definition it is not possible to have a perfect tax system. There are matters that should be looked at to see whether improvements are possible. Indeed, a number of matters have been reviewed and as a result have been changed particularly to plug some unintended loopholes. As my honourable colleagues appreciate we are currently examining one amendment to the Inland Revenue Ordinance which if passed by this Council will again close another loophole. There is no disputing that changes have been made over the years and there is a body of informed opinion that believes that much more can be done. Apart from reviews that can be carried out within the Administration there is the Joint Liaison Committee on Taxation (JLCT) which currently acts as an informal advisory body to the Administration. There have been suggestions that the JLCT should be made a formal advisory committee with an enlarged membership and greater transparency. The Administration should consider this but should not overlook three points: Firstly, if the JLCT is made too large then its efficiency will suffer. Secondly, transparency may be desirable but should not be at the expense of losing potential revenue nor be regarded as deciding taxation policy. Thirdly, one should not forget that the JLCT comprises largely of tax experts and that it may not be desirable to alter this but it should be allowed to receive representations or to solicit views. The terms of reference of such a revamped JLCT should clearly state that the principles that have served Hong Kong so well must be adhered to.

Mr Deputy President, I believe that our community understands our present low-tax

Hong Kong source-based system and the advantages it brings. Our community wants Hong Kong to continue to be economically successful. We have heard it said often in and outside of this Council that if we have stability in Hong Kong there is a good chance that prosperity will follow. In my view this must include stability in our tax system. A comprehensive review such as that proposed in the motion is likely to jeopardize such stability and before we embark on such a course a strong case should be made out. I do not believe it has been today. Mr Deputy President, I am unable to support the motion and the amendment.

MR MARTIN BARROW: Mr Deputy President,

Introduction

Hong Kong is a model of a successful capitalist economy, firstly, because of the Government's policy of positive non-interventionism and, secondly, because of the low-rate, source-based taxation system. It is essential to adhere to these principles if Hong Kong is to maintain its competitive edge and thus its prosperity. Both are threatened by any trend, however limited, towards higher and redistributive taxes.

As I said in a recent debate, the free play of market forces in a capitalist society and the economic prosperity which they generate is a far more efficient and effective way of improving living standards for all than intervention by the Government in economic activity in an attempt to divert those market forces towards particular social or political goals.

It is economic growth that will provide resources for the better public services that people want. This is recognized in the Joint Declaration which reaffirms that the Special Administrative Region will remain a capitalistic economy with a low-tax policy. Everything possible should be done to reinforce this, Hong Kong's greatest strength.

The proposed comprehensive review

Suggestions that there should be a comprehensive review of the taxation system in Hong Kong are not new. However, the motive for this debate is less clear. In reality, is this not the wolf of redistribution of wealth hidden in the sheep's

clothing of a review? However, there is every possibility that the review, if it led to a sales tax, could affect the very people about whom Mr LI and Mr FUNG may be concerned.

There has been talk recently about narrowing the gap between rich and poor. Surely, Mr Deputy President, that must be recognized as outdated dogma; long since discredited. What we should be doing is building economic prosperity that will bring up living standards for all; attempts to narrow the gap will only bring down the average of all. By way of example, I would point out that not only is the gap in the former socialist Soviet Union far larger than the gap in capitalist United States, but 50 years of redistribution of wealth have left many of the Russian people unable to feed their families.

Apart from the income gap, three other reasons are offered for a review of the tax system. None of them are compelling. Firstly, more progressive tax system, yet it is progressive tax systems which kill incentive and destroy tax simplicity. It is suggested profits tax is "exceptionally low". Given the myriad of tax breaks, tax holidays and tax write-offs offered by other jurisdictions this is far from true. Hong Kong needs a low and stable tax system to remain attractive to investors. And finally, it is argued that indirect taxes are too narrow. There is hardly a need for a wide ranging review of the tax system to look at that simple proposition. The stated reasons for a review fall down on all counts, exposing the real purpose of this debate -- merely to maximize political capital out of the tax issue.

The current taxation system

The key features of Hong Kong's current taxation system have been well rehearsed. But one needs to restate its great strengths of simplicity and clarity. They are the envy of our competitors, who are steadily reducing their tax levels.

The current Hong Kong source system is fundamental to the continued success of Hong Kong's entrepot role and as a centre of international business. A hint of change will only result in business moving away from Hong Kong. Furthermore, the high level of exemption means that many wage earners pay little or no tax as mentioned earlier by the Financial Secretary. There is no evidence, Mr Deputy President, that the present taxation system cannot cope with changing socio-economic conditions.

The sales tax

Recent media articles have implied that a review should focus on the indirect tax issue and it is worth restating some of the key points. The Government has suggested that when other sources of revenue decline, a sales tax would stabilize its revenue. This may well not be correct because earnings taxes and sales taxes are essentially drawn from the the same source. People's earnings are related to their expenditure and if their earnings are low, purchases of items targeted by the sales tax will also be reduced. Thus government revenue from both earnings tax and sales tax would go up or down at the same time.

Nevertheless, there are suggestions from those proponents of a tax review that a luxury tax should be a key element. Tourism expenditure is equivalent to 7% of our GDP and the tourism industry is, of course, strongly opposed to any such development. One of Hong Kong's biggest attractions is that it is a duty-free port. Introduction of a luxury or sales tax would destroy that image and at the same time enhance the competitiveness of other travel destinations. Once its competitive edge is lost, experience shows it is extremely difficult and expensive to correct any negative impression.

Past experience both in Hong Kong and elsewhere suggests that sharply higher taxation on luxury products may well end up in a lower level of income for the Government.

Conclusion

In conclusion, Mr Deputy President, a comprehensive review at this time will be time-consuming and expensive, and will be divisive. At a time when Hong Kong is being vigorously promoted overseas, a review will create an air of uncertainty over Hong Kong's future as an international business centre.

My recommendation is that the Government should resist the review and instead should concentrate on other areas:

(i) they should pursue increased efficiency in productivity throughout the Government to minimize costs. I welcome the recent announcement by the Secretary for the Civil Service that the Government is to set up a new "efficiency unit" and I look forward to hearing reports of its progress.

(ii) they should improve the mechanics of the existing system, especially in

the areas of tax avoidance and tax rulings.

(iii) they should vigorously pursue privatization as a potential major source of revenue. I hope the Financial Secretary will be referring to this during his forthcoming Budget speech. I urge him to look at the success of privatization in the United Kingdom and the fact that their example has been followed in other parts of the world. In 1979, nationalized industries accounted for 11% of the United Kingdom's GDP; they are now 3%. Privatization proceeds have amounted to 44 billion and if the current government continues in office, they hope to realize a further 20 billion by 1995. If Hong Kong could follow this pattern, perhaps we could even look to lower taxes!

With these words, Mr Deputy President, I oppose both the original motion and the proposed amendment.

MR JIMMY MCGREGOR: Mr Deputy President, the Hong Kong General Chamber of Commerce has submitted its views on the question of a major taxation review to the Government. I do not want to waste the time of this Council nor that of the Government by repeating the various assertions made in that submission. It is sufficient to say that the Chamber -- and it is my impression that the Chamber in this instance speaks for all business people in Hong Kong -- does not believe that a tax review is necessary, nor indeed advisable, at the present time. I agree with that view.

During the many years in which I took part in direct promotion of foreign investment in Hong Kong's trade and industry I travelled to many countries and interviewed senior officials of many large foreign companies stating an interest in locating in Hong Kong. One of their principal interests was Hong Kong's taxation system and the current levels of tax. Another was the established performance of the Hong Kong Government in maintaining a low tax base and in ensuring that changes within the tax system were neither radical nor substantial. Companies encouraged to come here could be sure that the tax system would remain attractive and would not change greatly as the years went on. Many, many foreign companies are in Hong Kong right now because of our tax system.

I therefore totally disagree on this point with the Honourable Frederick FUNG. These companies have hugely contributed to Hong Kong's rapid economic development over the last four decades. They have consistently reinvested their profits in

expanding their Hong Kong interests and their directly related operations in neighbouring countries.

During my government years I carried out several surveys personally to determine the relative attractions for foreign companies in operating in Hong Kong as opposed to Singapore, Taiwan, South Korea and other Asian countries competing for foreign investment. Repeatedly, I found that the Hong Kong tax system and structure was a major element in our attraction to these companies. That is one of the principal advantages which we have always enjoyed.

We have far more local companies than foreign companies, however. What do the local companies think? Every survey carried out by the Government and by other institutions in Hong Kong indicated corporate satisfaction with the general features of our tax system. There are screams of agony from those affected by small increases in tax from time to time but these are not against the tax system as such.

The Hong Kong tax system is geared to an expanding economy. It directly promotes expansion and the extra revenue that natural expansion will provide. There is abundant evidence over several decades that this principle is sound and that it has worked tremendously well. We have an economy second to none in the world. We have no national debt. We are financing a massive expansion of our infrastructural and institutional systems, preparing the way for an even larger expansion in future. Our overall standard of living has risen steadily throughout the years. Despite statement to the contrary, we have never had to depend upon foreign aid. This is just as well since we were unlikely to have got any.

Our economy is still expanding despite considerable worries and problems arising from 1997 and a transition to a Special Administration Region. With Chinese support, we will make the transition successfully and begin a new phase of our economic expansion.

The Financial Secretary, in his wisdom, has to adjust taxes now and again. In recent years, taxes have been adjusted downwards as well as upwards and it has been quite clear that he has tried to maintain a balance between economic expansion and social development. It is also clear that the government policy that economic growth must provide the wherewithal for social expenditure has not changed. In my view, there is no need for it to do so now.

With respect to some of my colleagues in this Council, I cannot see how the Financial Secretary can be asked to increase corporate tax when there is no apparent need for such an increase; when our tax system is producing enough revenue to provide a substantial surplus almost every year and a cumulative surplus of very large dimensions; and when our reserves are very healthy indeed.

If this situation changes then there may be some case for the Government to consider how best to increase revenue and/or reduce expenditure by the expansion of existing taxes or even the introduction of new taxes, although, here again, there are well established guidelines to follow, not the least of which is the ratio generally established between direct and indirect taxes.

I also want to remind the Financial Secretary that one of his predecessors placed an ad valorem tax on cosmetics in 1985, stating that it was a temporary tax and that it would be removed as soon as a balanced government account could be achieved. The Government has had a surplus almost every year since then yet last year Sir Piers JACOBS increased the tax from 25% to 30%. There is considerable evidence to show that the effect of the tax has been damaging to the cosmetics trade and industry in Hong Kong and to tourist purchases here. I ask that the Financial Secretary does a bit of fine tuning and either reduces or removes this "temporary" tax.

May I also ask him to have mercy on smokers. They are not enemies of society.

I must say also that it is evident that those who are deeply concerned with our grassroots citizens clearly believe that personal tax allowances and thresholds were not raised enough last year and did not provide adequate protection against inflation. I hope very much the Financial Secretary will do all he can to rectify this situation in his next Budget.

Mr Deputy President, I believe our tax system is fundamentally and basically sound. I therefore oppose the motion. I have only just heard of the most unfortunate illness of our colleague, the Honourable Stephen NG Ming-yum. This has resulted in his being unable to attend this debate today when he would have voted in favour of the original or amended motion. In order to show my own respect and sympathy for him and my wish for his recovery and since I had intended to vote against the motion, I will now abstain in order not to take advantage of Mr NG's absence.

MR LAU WAH-SUM (in Cantonese): Mr Deputy President, our tax system, as a matter of fact, has been subject to regular review and adjustment and the work is taken up by the Joint Liaison Committee on Taxation which is chaired by the Financial Secretary. Moreover, every year when the Financial Secretary submits the Budget, he will also take into account the social aspirations and the economic situation before making appropriate proposals for indirect and direct taxes. Of course these proposals must then be presented to this Council for debate and endorsement. I think this system is very flexible and working very well. We should not change it. I think it is the Financial Secretary's responsibility to frame the fiscal policy of the territory so that he can use direct and indirect taxes to facilitate further economic development in Hong Kong.

For many years we are able to prosper and have a stable society because we have got a reliable tax system which attracts investors. In fact there are three important elements in our tax system.

- (1) low tax;
- (2) the system is simple and efficient; and
- (3) we only charge taxes on income or profits arising from Hong Kong.

Over the past decade or so, Hong Kong has undergone a lot of social and economic changes but I think these three elements remain to be indispensable to our prosperity. Therefore we should preserve them, rather than changing them.

As to the technical changes in our tax system, I think we should leave the job to the experts and I do not think we should ask laymen to debate on such issues, otherwise they will seize the opportunity to talk about something else. Any proposal to change the tax system substantially with an aim of redistributing wealth will frighten off and discourage our potential investors, while the existing investors would become hesitant and may even transfer their capital out of Hong Kong. There are only five years to go before 1997. We should try to boost and shore up the confidence of the investors. We must not give them an impression that we are moving towards an egalitarian society. Over the past several decades, experiences of many countries have shown that egalitarianism is nothing but unrealistic ideal. The fact is that systems established on the basis of this school of thought have brought poverty rather than wealth to the people. This hard fact is plain for everyone to see.

The motion before us calls for the setting up of a committee to conduct a comprehensive review of the tax system, with its members representing a wide cross section of the community. But the motion does not state the objectives of the review, nor the justification for such a review. When we talk about wide representation, I am afraid that we have to take on board members who are not experts in financial or taxation matters. If so, we may turn a purely economic question into a political issue. This will waste resources and time. I do not think this will do any good for our tax system. We will only be sending a wrong signal to investors because they may think that drastic changes to our system are on the way. This will certainly undermine our stability and prosperity.

Of course our tax system is not perfect. The Financial Secretary will lay down budgetary measures every year and improve on our direct taxes regime. For example, we can adjust the personal allowance, determine the progressive rates leading up to the standard rate and introduce effective measures to tackle tax evasion and tax avoidance. All these are technical problems which should be left to the Financial Secretary. He would deal with them in line with the Government policy after taking into account different views expressed. I do not think that there is a need for a comprehensive review. If we think that the Joint Liaison Committee on Taxation cannot do its job properly, then we can expand its membership and include more financial experts. When the last Review Committee was set up in 1976, all the members were financial experts and its terms of reference were restricted to the review of the Inland Revenue Ordinance or, more specifically, the direct taxes.

Mr Deputy President, for these reasons I cannot support the motion and the amendment.

MR PETER WONG: Mr Deputy President, nobody likes to pay tax whether it is salaries tax or profits tax. I have been practising in the field of international taxation and in the course of my work, I have had to address the ethics of whether to pay tax. I have always been amazed at the ingenuity of those who invented the tax systems. But I am even more astounded by the skill and energy of those who wish to pay the minimum tax or none at all, and it is the latter that brings the whole question of tax avoidance into the public arena.

Australia tried to outlaw tax avoidance and evasion by putting on retrospective criminal sanctions and other equally draconian measures to try to stem this social

ill. Recent discussions with Australian entrepreneurs have shown that these measures must have accounted, to some extent, for killing off incentives to do business in that country. We only have to look at the bulk and complexity of the United States Internal Revenue Code and Regulations to see that if Hong Kong embarks on such a road, we will only benefit the tax specialists amongst the accountants and lawyers.

Technical review

I have repeatedly called for a technical review of our taxation system. This is because from my practitioner viewpoint, I have seen the departure of our manufacturing industries into Southern China and other parts of Southeast Asia in search of cheaper and more productive labour as well as land.

DEPUTY PRESIDENT: Now that you have made your point, Mr WONG, could I ask you please to revert to the use of a more conventional lectern (laughter) for the sake of consistency of practice in this Council?

MR PETER WONG: Our profits base for taxation has moved, while investors are juggling with the fine art of minimizing costs of transactions, of which tax is only one of the many variables. We have always placed great store on the commercial acumen of our entrepreneurs who are quick to look for profitable climes anywhere and will change their operating base as soon as they can see how to make a bit more money or to retain a profitable market. The previous Financial Secretary has been concerned for some time about the stability of our direct/indirect tax base and has carried out internal studies but to no avail. Therefore, a full technical review, in my opinion, could produce the right formula and a fine balance for raising adequate revenue for our expanding public service programmes.

I have pointed out the possibility of a diminishing profits tax base whilst our continued prosperity has brought ever-increasing demands for better medical, housing, education and other welfare benefits. There have also been urgent calls for transport and environmental improvements. I saw warning signals caused by such imbalance on the horizon and urged our executive-led Government to come up with the answers. I strongly reiterate my appeal for action now. The Government has the expertise and resources to work out a viable solution. But the Government must take

the views of all sectors into account and come to its own conclusions. Our budding political organizations, though not yet matured sufficiently to be able to think through economic and tax strategies, can also make their input.

Sandwich class

I have some sympathy for the Honourable Frederick FUNG's amendment because I have always felt that our sandwich class has been unjustly done by our taxation system. Their earnings are only sufficient to pay what is for them substantial amounts of taxes, but they give up their rights to free or subsidized social services either for the convenience or the justified pride of being independent. I would therefore like to see a study conducted on the income of Hong Kong people based on the different income bands and comparing the benefits they get against the taxes rates and charges that they pay. This should settle once and for all the claims made by different income groups.

One word about the so-called widening gap between the haves and have-nots of Hong Kong. It would worry me a great deal if our have-nots continue with or worsen their plight like some of our unfortunate neighbours. However, you only have to look around Hong Kong to see how everyone, including the lower income groups, have their living standards improved over the years. It is a comfort to me that they can aspire through hard work, and some luck, to become increasingly richer and to lead a comfortable life.

Broad perspective

Mr Deputy President, the motion calls for a committee, with members representing a wide cross section of the community to conduct a taxation review. In my view, it must be a necessary qualification that each member is well versed in economic affairs and have a good grasp of the workings and effects of taxation. But I have a problem with the sectional interests of the membership and their purpose within the committee. Is it not likely that they will only stand firm on their own political platforms and not yield to logic or reason? Further, the basic flaw in some of the arguments put forth is that it presupposes that the pie is only that of the public revenues. It forgets that the pie is really that of the whole economy, of which tax is only a slice. Only by making the whole economy grow, will there be a bigger slice for everybody.

I will support a taxation review committee which has full cognizance of the

problems, but have no preconceived ideas of the solution. It should keep an open mind so it can listen to all the concerns and ideas of the Hong Kong public, including political groups. It should be fully aware of the experience, both good and bad, of different solutions tried out in other countries. It should then recommend the best solution for Hong Kong, taking into full account all the unique circumstances of Hong Kong.

PROF EDWARD CHEN: Mr Deputy President, the foundation of Hong Kong's tax system as spelt out by Sir Philip HADDEN-CAVE in 1978 and 1980 consists of four main objectives, namely, generating sufficient recurrent revenue, neutrality, equity and efficiency. Besides the objective of equity which has been given too little attention, the other objectives were largely fulfilled and generally appropriate for the situation in Hong Kong during its earlier period of economic development. The question now is with all the changes in the past decade or so, should we undertake a comprehensive review of these objectives and the underlying philosophy of Hong Kong's taxation system? Despite the adequacy of the system at the technical and operational level, in my view there are prima facie circumstances in the face of rapid structural change and uncertainties related to the 1997 issue for such a review the scope of which should go beyond the purview of the existing Joint Liaison Committee on Taxation which, I understand, is entirely unofficial and focusses largely on legal and technical issues.

The drastic structural change in Hong Kong has resulted in some multidimensional changes in our economy and society. Structural change has given rise to some sectoral imbalances, inflation, and less rapid economic growth. There is some evidence that the rapid change from a manufacture-based to a service-based economy has made income distribution less equal. There should therefore be some consideration of whether Hong Kong's taxation system should now place somewhat greater emphasis on the objective of equity and income redistribution. Structural change also implies a rapid diversification and sophistication of Hong Kong's industries. As a result, the neutrality of the Government's role in resources allocation should be reassessed. Structural change had led to a higher level of economic development in Hong Kong and at the same time a need for more expenditure in building physical and social infrastructure. It may no longer be possible for the Hong Kong Government to generate sufficient recurrent revenue on the basis of its relatively narrow tax base.

The 1997 issue has brought about a greater degree of uncertainty to investors.

The tax policy of Hong Kong must be more predictable. This can be achieved by setting out a long-term, say 10 years, policy with regard to Hong Kong's fiscal system. Investors are less concerned about the present scope and rate of taxes, but more about how these will change in the run-up to and after 1997. If the Government can conduct a comprehensive review of Hong Kong's taxation system in such a way that some long-term objectives are stated, I think Hong Kong's business environment will be improved.

Let me take up three issues implied in the above analysis.

First, how can we broaden our tax base? The scope for generating additional revenue from indirect taxes is limited unless a comprehensive sales tax is to be introduced. I am in favour of a comprehensive sales tax at the wholesale level. However, it must be ensured that the rate of sales tax must be low and it should be structured in such a way that luxury items carry a higher rate. I do not agree with those who maintain that sales tax would be detrimental to the growth of our tourist industry which depends on many other important factors such as geographical location, transportation and telecommunication, quality and range of services, safety, and places of attraction. A carefully-designed comprehensive sales tax is not necessarily distortionary, regressive and inefficient. If a comprehensive sales tax is not to be introduced, the Government's alternative will be to further increase the present highly selective sales tax in a few consumption items resulting in a greater distortionary effect on the economy. The Government should take a second look at the possibility of introducing a comprehensive sales tax at a later date when inflation rate is lower.

As regards direct taxation, salary earners, especially those in the middle income range, should not be asked to increase their tax burden. The Government should examine the possibility of increasing the corporate profit tax rate. In doing so, the Government should however make clear to investors an upper limit of corporate tax rate for, say, the coming 10 years so that a more predictable business environment is known to investors. Almost all empirical researches I know of have come to the conclusion that investment is not sensitive to profit tax rates unless the existing rate is prohibitively high and the change is drastic. Of course when investors are asked whether they would accept a tax increase while everything else remains unchanged, few investors would say "yes" and some of them would claim that their investment will be reduced. However, when the responsiveness of investment to tax rate changes is studied in the context of including other factors affecting the level of investment, it is usually found that the significance of the tax rate factor is relatively small.

For example, in a survey conducted by the Industry Department of the Hong Kong Government in 1989, corporate tax rate ranked only 12th on a list of 20 investment factors: political stability, financial and banking facilities, infrastructure, and labour cost are far more important factors affecting the level of investment. The crux of the matter is not so much whether the current rate of corporate tax is high or low but the likely changes in corporate tax rate in the medium and long term. I am quite certain that the level of investment in Hong Kong would be little affected even if the Government increase the corporate tax rate to say 18-20%, provided that it will be made clear to investors that this increase will be gradual and this rate guaranteed for the coming 10 years or so. It is true that the global trend is for profit tax rates to fall. But one must bear in mind that the other countries and economies started with much, much higher corporate tax rates. Even if profit tax rate in Hong Kong is increased to 18-20% something which I may or may not support, Hong Kong will still be enjoying the advantage of being one of the lowest tax places. Many would argue that the economic success of Hong Kong in the past 30 years was based on our low tax system. This is questionable. The mechanism of economic development is much more complex than this. It must be borne in mind that many other economies which impose much higher corporate tax rates have been doing equally well. The beauty of the Hong Kong taxation system is its efficiency and simplicity rather than its low rate of tax. Moreover, even if a low tax system was appropriate for Hong Kong in the past, there is no reason why such a tax system should not be modified in the future. And, above all, today's motion is just to suggest a comprehensive review of Hong Kong's taxation system; there is no prejudgement that such a review will invariably lead to higher tax rates or even changes.

Second, the Financial Secretaries of Hong Kong have never spelt out clearly what is meant by equity, and have evidently placed a relatively low priority on achieving greater equity in Hong Kong's taxation system. The two generally accepted equity criteria are horizontal equity and vertical equity. Horizontal equity means equal tax burden on people in similar situations. Vertical equity means assigning the tax burden according to the varying ability to pay among taxpayers. These two criteria are hardly fulfilled in Hong Kong's taxation system. A full income tax system (instead of the present system of differentiating different types of income such as interests, profits and salaries) with a higher degree of progressivity of tax rates would achieve horizontal and vertical equity better than the present system. It cannot be equitable under the present system when for example lower income earners are pushed into a higher tax bracket and therefore pay a higher rate of effective tax while higher income groups would not be affected by inflation because they pay

the standard tax rate anyway, or when the middle income earners who do not yet pay the standard rate have to pay a 25% tax for their marginal dollar earned while the marginal tax rate for the higher income groups paying the standard rate is only 15%.

For salaries tax, the middle income group bears an out-sized burden. In 1990-1991, those earning HK\$120,000 to HK\$600,000 a year constituted 33% of all salaries taxpayers but paid 65% of the total salaries tax. The profits tax rate of Hong Kong is certainly low, but it is a misconception that the tax rate paid by the middle income people in Hong Kong is also low. Take the case of Singapore; people who earn a monthly salary of about HK\$12,000 in Hong Kong pay an effective tax rate of 12%, but only 8% in Singapore. For a monthly salary of HK\$16,000, a worker in Hong Kong pays an effective tax rate of 15% but a worker in Singapore pays only 10%. Now, in fact for taxpayers within the income range of HK\$9,000 to \$30,000 per month, Hong Kong has a higher tax rate than Singapore.

Inequity is not confined to those who pay salaries tax. Of even greater concern is the rapid increase in the relative share of salaries tax in total direct taxes, meaning that salary earners have suffered from an increasing tax burden relative to the profit earners. In 1980-81, profits tax accounted for 69% and salaries tax for 16% of all direct taxes. In 1985-86, it was 61% for profits tax and a significant jump to 32.3% for salaries tax. In 1990-91, the relative share of salaries tax had gone up to 36.1% while that of profits tax had gone down further to 56.5%. This is definitely not in line with the experiences of other countries and the nature of Hong Kong's economic and business development. There is a prima facie case to examine the vertical and horizontal equity under Hong Kong's present taxation system. Any direct tax increase in the future should be more directed at the profits tax. For the purpose of sustaining Hong Kong's long-term economic growth, we have to invest substantially in human capital (that is, education and training) and technological and physical infrastructure. It is justifiable in this case to raise some revenue to finance the increased expenditure. Where do we find the additional revenue? If the business sector opposes any increase in profits tax and also the introduction of a comprehensive sales tax, any additional revenue will have to come from the salaries tax, the existing highly selective sales tax, or increase in rates. It is however the business sector which derives relatively more benefits from the economy's better infrastructure and human capital endowment than the salary earners and lower income groups. If the business sector is not willing to chip in, is this fair? It is often said that free lunches are enjoyed by the lower income people. Sometimes, I wonder who are enjoying and want to enjoy free lunches, the poor or the affluent?

It is fortunate that not all businessmen have this mentality and there are businessmen in our society who care and have a sense of social responsibility. Mr Deputy President, what we are talking about here are some generally accepted criteria of fairness and equity only. We are not even talking about the worsening income inequality in Hong Kong in recent years and certainly not the consideration of income redistribution policies.

Lastly, we must recognize the fact the Hong Kong has changed significantly since we first started industrialization on the basis of labour-intensive industries.

We have now to reconsider our non-intervention or positive non-intervention policy no matter how successful such policy had been. Faced with a rapid structural change in the economy and within the manufacturing sector, the Government should no longer follow the strict rule that tax policy should always be neutral in resources allocation. Under the existing circumstances of structural change, tax incentives or concessions can be much more effective than Hong Kong's traditional emphasis on low profits tax in inducing long-term investment. In a recent study by a team of Harvard economists, spending by companies on R & D is found to be more sensitive to small changes in taxes than economists have generally assumed.

Mr Deputy President, I support the motion.

MR VINCENT CHENG: Mr Deputy President, I hope you will allow me a few seconds just to send my regards to our colleague, Mr NG Ming-yum, who is hospitalized. I wish him speedy recovery and sincerely hope he will be back with us very soon.

I am not opposed to periodic reviews of the taxation system. With structural changes in the economy, the Administration needs to refine and strengthen our taxation system to ensure an optimal policy which rewards hard work, encourages investment and at the same time generates sufficient revenue to meet our social aspirations. By and large, we have been doing so. In preparing the Government's annual Budget, the Administration revises the direct and indirect tax rates as well as government fees and charges, taking into consideration a whole array of social and economic factors.

The Joint Liaison Committee on Taxation which comprises a group of real rather than self-appointed experts also advises the Government on taxation matters which

are inevitably complex, technical and sometimes emotional. However, the economic success, the massive social and economic programmes we have been able to undertake and the Government's sound fiscal position are strong evidence that Hong Kong has got a very effective, efficient and simple tax system. The need for a comprehensive review is therefore not there. Of course, Hong Kong's tax system is not perfect and therefore periodic fine-tuning and refinement is necessary. But there is no such thing as a perfect tax system which can only be found in textbooks or political party platforms, the reason being that a tax system has to meet many conflicting goals. Just to quote a few examples, we want a system which generates sufficient revenue to meet society's aspirations, but we also want a system of low tax; we want to plug the tax loopholes but we also want a simple tax system; we want to have a stable and broad tax base less susceptible to economic cycles but indirect taxes are regarded as regressive: we want those with high income to pay more but a progressive tax system punishes those who work hard and reduces incentive which are essential elements for the success of this territory. We need to revise the tax system periodically but we also need to provide certainty to investors. I can go on and on.

Mr Deputy President, in my mind we already have adequate mechanisms in Hong Kong to assess public views and consider tax reform proposals from both the Government and the public. It is wrong to say that our tax system has been stagnant. Tax reforms have been introduced in the last few years with the help of the Joint Liaison Committee on Taxation; for example, we now have separate assessment for women; we have created the provisional basis of assessment; we have strengthened the Government's anti-avoidance powers. I understand that more proposals are in the pipeline. It would therefore be more appropriate for this group of experts to continue their good work instead of forming a new group with wide representation. A committee with wide representation is not the right approach to taxation matters. We need informed and professional input on taxation matters which could be highly technical rather than creating a political group to discuss taxation. I know some of us want to set up such a committee to achieve their social and political objectives. This is debatable and the forum inappropriate. We should debate our social and political agenda in this Council. Why do we need another structure?

I would recommend to the Administration that it should widen the scope of responsibility of the Joint Liaison Committee on Taxation to look at wider taxation issues instead of forming a new political body. I know there are a number of problems associated with our taxation system -- problems of equity and others. But there is no need for another body. I therefore oppose the motion and the amendment.

MR MARVIN CHEUNG: Mr Deputy President, the previous Financial Secretary stated on a number of occasions that Hong Kong's tax base is very narrow, that is, the majority of tax revenue is collected from a relatively small group of taxpayers. Because of this, there is a danger that if there is a major downturn in the economy at some time in the future and fortunes of the principal taxpayers suffer, the Government's revenue could be severely affected. In a letter dated 18 January 1992 replying to a question raised by the Honourable Peter WONG, the Secretary for the Treasury stated and I quote "As I explained to the Council, the problem is that for historical reasons the Hong Kong Government's revenue is overdependent on direct tax. In 1990-91 the ratio was 60% direct tax to 40% indirect. In past years our taxation system served Hong Kong adequately. But it has become less satisfactory as major developments in our physical and social infrastructure have required an increasing financial commitment from the Government. It is also inequitable in that a very small percentage of taxpayers shoulder most of the burden of paying for government services to an increasingly prosperous community and within that small percentage of taxpayers the burden will devolve increasingly on the sector without the resources to engage professional advice on how to minimize their tax liability." A suggestion that the tax base could be widened by the introduction of a sales tax was made by the then Financial Secretary a few years ago. This suggestion was not favourably received by certain sectors of the community. Recent statements by the present Financial Secretary seemed to suggest that the Government is not pursuing this idea, at least for the time being. If this is the case and assuming that the warning of the previous Financial Secretary of the risk to government revenue should be heeded, we need to return to the question of what measures should be adopted to safeguard the future revenue yield of the Government.

Since the Second World War, the Hong Kong Government has on three occasions, that is, 1954, 1967 and 1976, appointed a committee to conduct a review of the Inland Revenue Ordinance. Except for these three committees, there existed no means whereby a comprehensive and objective study may be made of the taxation system in Hong Kong. Accordingly, whilst various professional bodies or trade associations have made representations on specific issues to the Government from time to time, the inspiration for change has come, and almost entirely, from the Government's own resources.

Taxation is always an emotive subject. I understand from a reliable source that

most of the submissions made to Financial Secretaries on taxation matters over the years can be summarized in one sentence: Do not tax me, tax somebody else.

The choice of taxation strategy is always going to involve a question of policy because there can be no equity where taxes are concerned. I accept that under the present political structure in Hong Kong where it is enshrined in the Sino-British Joint Declaration that the Government will be an executive-led one, the choice of taxation strategy must rest with the Government. On the other hand, any changes in our tax structure will involve legislation. Unless the Government is content not to make changes in policy for the foreseeable future, it will require the support of a majority of Members of this Council to implement the proposed changes. For this reason, I suggest that it would be advisable for the Government to canvass the views of Council Members before deciding on changes in its taxation policy.

As I do feel that the warning of the previous Financial Secretary about the vulnerability of our tax base cannot be ignored, I support Mr LI's motion to urge the Government to set up a committee to conduct a comprehensive review of our tax system and I would suggest that the majority of its members should be selected from this Council. The review committee should look both at the policy and the practical application of various alternatives and thereafter make its findings available to the Government. The committee's role should be that of an adviser to the Government.

I am aware that there exists an informal group calling itself the Joint Liaison Committee on Taxation. It comprises members appointed by such bodies as the Hong Kong Society of Accountants, the Law Society and various chambers of commerce as well as the Commissioner of Inland Revenue and a law draftsman. While these appointees owe their membership to the various sponsoring organizations, they do not in any way represent the views of those organizations. Nevertheless, I know that all the members of this group are very experienced professionals and are knowledgeable about the practical application of tax legislation. Over the years they have made valuable contribution to the Government on tax matters.

I would urge the Government, firstly, to include members of the Joint Liaison Committee in the review committee and, secondly, to formalize the existence of this group by setting up a formal standing advisory committee on taxation to which most, if not all, of the members of the Joint Liaison Committee should be appointed ad personam. The standing advisory committee would be able to provide technical support to the review committee on the practicality of any proposed changes to tax policy.

It would also be able to advise the Government on tax-related matters on an on-going basis.

I now turn to the amendment to Mr Fred LI's motion proposed by Mr Frederick FUNG. I cannot help but wonder why Mr FUNG has come to the conclusion that one of the objectives of the review committee should be to reduce the tax burden of the low and middle income groups. As I said earlier, the prime objective of the review committee must be to identify means by which the future revenue yield of the Government can be secured. Of course the measures involved must at the same time be acceptable to the community. Unless there is compelling evidence to show that the tax burden on the low to middle income groups is disproportionately high, the adoption of the objectives cited in Mr FUNG's amendment will mean that the reduction in the revenue yield must be made good somewhere else. Whilst I do not rule out this possibility, I question how Mr FUNG can come to this conclusion before the commencement of the comprehensive review. Doing so is like saying "Do not tax me, tax somebody else" all over again.

I therefore feel obliged to reject Mr FUNG's amendment.

In closing I would urge the Government to proceed with care and not to make any fundamental changes to our tax system without a thorough evaluation of the consequences. Our present system is simple, cheap to implement and has served us well for a long period of time. It has also contributed to the success of Hong Kong as a business, financial and commercial centre. If it is abandoned in favour of a complex and bureaucratic system, Hong Kong's business activities will diminish. Ingenious devices will be adopted by the taxpayers to circumvent legislation. This will lead to more complex anti-avoidance provisions. And so the vicious cycle begins. Apart from tax practitioners --and I must declare interest as one -- there will be very few winners at the end of the day. With these cautionary remarks, I support Mr Fred LI's motion.

MR CHEUNG MAN-KWONG (in Cantonese): Mr Deputy President, regarding payment of tax, I am not asking for exemption or passing the tax burden on to others. I only would like to urge the Government not to levy heavy tax on me. In this motion debate on taxation system, both the original motion moved by the Honourable Fred LI and that amended by the Honourable Frederick FUNG are working on the common basis that the Government should set up a committee, with members representing a wide cross section

of the community, to conduct a comprehensive tax review. Representing the Hong Kong Professional Teachers' Union, I fully support the establishment of such a committee and conducting a review on the taxation system in Hong Kong.

According to government and private sector estimates, while there will be an average 5% growth in our economy, there is the likelihood of a sustained deficit budget in the face of enormous expenses from the airport and infrastructural projects, which is expected to deal a severe blow to social services that are closely related to the people's livelihood, including social welfare, education, health and security. In these circumstances, the Government is duty bound to conduct a new tax review on broadening the tax base, adjusting the tax rates, addressing the problem of tax evasion and avoidance and raising revenue so as to protect the livelihood of the lower middle classes.

Should a review be conducted, there is of course the need to set up a tax review committee. But some people are scared to death by the proposed establishment of this committee. When I come across such reports in the newspapers, I will very often study them carefully in order to find out what these people are afraid of. First, they are afraid that the committee will be widely represented. They would rather opt for the existing Joint Liaison Committee on Taxation under the Financial Secretary which, comprising mainly representatives from the business, accounting and legal sectors, has neither statutory status nor transparency in its operations. We do not know what recommendations have been put forward by this Committee to the Financial Secretary, but from events in the past, we are made aware that, while more and more grassroots citizens have fallen into the tax net, more "sandwich class" people are shouldering a heavy tax burden and there is greater emphasis on indirect taxation, the rate of profits tax has fallen from 18.5% in 1985 to the present 16.5%. It may well be said that the existing policy on taxation is unfair to the lower middle classes and needs improvement. As a first step, the existing Joint Liaison Committee on Taxation should become a Tax Review Committee and grassroots and union representatives be added to the existing membership so that the committee will be more widely represented and the interests of various sectors be reflected.

Besides, there are some people who are afraid that the review committee will conduct a comprehensive review on the taxation system. The Hong Kong Association of Banks and the Hong Kong General Chamber of Commerce have categorically objected to a comprehensive review of our taxation system. Why? It is because the existing system is very favourable to the business and financial sectors. Take profits tax

as an example. The business and financial sectors in Hong Kong are enjoying an exceptionally low tax rate, that is, 16.5%. When compared to the lowest rate in Southeast Asian countries (that is, 25% in Taiwan) and the lowest in the West (that is, 33% in New Zealand), it is obvious that Hong Kong is indeed a low tax paradise for investors.

Recently, news has it that profits tax will be raised by half a percentage point. Let us see what arguments have been put forward by the business and financial sectors against such an increase:

(1) Increasing profits tax by half a percentage point will deter investors and reduce competitiveness. May we ask whether investors will turn their back on Hong Kong just because of a half per cent increase in profits tax and switch to countries in Southeast Asia or in the West where profits tax is two times or even three times that in Hong Kong?

(2) Such an increase will yield only \$500 million. This will only frighten away investors while the gain is minimal. What I want to say is that should \$500 million be considered too insignificant a sum, then some labour bodies' proposal to increase profits tax by 2% should be accepted. To the people of Hong Kong, as this will yield an additional income of more than \$2,000 million, it is like offering them timely assistance in times of hardship.

(3) Some people are of the view that the rate of profits tax has been coming down in other parts of the world; why then should Hong Kong go against this trend? The reason is very simple. Mr ARCULLI said a while ago that Mr Martin LEE had in the past been in favour of a low tax rate; but here I would like to cite a Song poem to illustrate my point:

It is a ridge or a peak,
Depending on from which way one looks at it;
It may appear high or low,
Depending on how far one is away from it.

The message from this poem is that sometimes a tax rate which appears low to a person may be regarded as high by some others. As a matter of fact even though the United Democrats, which Mr Martin LEE represents, demand an increase from 16.5% to 17.5% of the profits tax, the rate is still low vis-a-vis the average world standard. We

do have the feeling that since the tax rate is already at its lowest, further lowering of tax rate seems implausible. Raising profits tax, in my view, should be a viable alternative, particularly in the event of a deficit.

But from this particular instance of raising profits tax, we can see the selfishness hidden behind the absurd arguments put forward by certain people in the business sector, and I stress "certain people in the business sector". While importing labour from overseas, they urge the local workforce to take the interests of the whole into account, but when facing financial difficulties, they are reluctant to take the situation as a whole into consideration. Considering this alone, there is a case for setting up a widely represented tax review committee to conduct a comprehensive review of the taxation system in Hong Kong.

Mr Deputy President, the Honourable Frederick FUNG has amended the Honourable Fred LI's motion in this debate by adding that in reviewing the taxation system, the proposed committee should set forth as one of its main objectives the task of reducing the tax burden of the lower and middle income groups. I notice that this is one of its objectives and therefore I am in favour of such an amendment. The proposed change will give a clear direction to the tax review and enable the taxation system to be used as a lever so as to equitably balance the interests of various sectors and to divide the financial responsibilities among different sectors accordingly. In this way, the lower and middle income groups can also share the fruits of social prosperity or at least maintain their quality of living. When the poor are not made poorer and the rich not getting richer, and voices of discontent are not heard everywhere, the stability of a society can be assured.

In order to reduce the tax burden of the lower middle classes, the first priority is to increase the personal tax allowance to \$64,000 and allowances for dependent parents and children should also be adjusted in line with inflation. Moreover, increasing the progressive tax bands for income tax and reducing the progressive tax rates will allow the lower middle classes a breathing space under the pressure of low economic growth and high inflation. In the meantime, the business and financial sectors should take on greater tax responsibilities during these difficult days and there should be a 2% increase in profits tax. Strictly speaking, the proposed increase will only bring profits tax back to its 18.5% level in 1985 which, in my view, is very reasonable. Even so, profits tax in Hong Kong is still much lower than in the neighbouring countries and Hong Kong remains a low tax paradise for investors. If anyone should seize on some pretext or other to allege that investors will be

discouraged to invest in Hong Kong, this can perhaps be taken as some sort of a joke or groundless intimidation.

Mr Deputy President, during the last debate on labour importation, I concentrated on depicting the experience and fate of aged workers who are most affected by the policy on importation of labour. This time, I shall highlight the hardships and sufferings of the sandwich class who are shouldering an overly heavy tax burden as a result of the unreasonable progressive tax bands and tax rates for income tax. Yet they are those who are not entitled to social welfare benefits such as public housing and home ownership. At a time of raging property speculation and skyrocketing home prices, the sandwich class simply do not have the means to acquire a flat after paying heavy taxes. Many young professionals are even forced to postpone their marriage when they cannot afford to purchase even a small flat in the private sector. What is more ridiculous is that, as pointed out in the latest Property Review of the Rating and Valuation Department, there were as many as 33 000 vacant domestic units in Hong Kong at the end of last year which is the highest figure for the past 10 years. The number of vacant units is very close to the total number of newly completed domestic flats for the whole of last year. Why are there so many vacant units? One of the reasons is that it is getting more and more difficult for the sandwich class to acquire a flat. I can only describe this phenomenon as the impoverishment of the middle class. Can we gain some enlightenment from this? Have we fairly treated the sandwich class who have made worthy contributions towards our economic prosperity? Has our taxation system shown consideration for this minority group in the political sense?

Therefore, I propose that the Government should broaden the tax base, introduce a capital gains tax, crack down on property speculation and curb the overheated property prices. Besides, the Government should consider providing home buyers with a "once-in-a-lifetime" tax allowance for purchasing their own accommodation. This will reduce the economic burden of the sandwich class, encourage home buying and enable the sandwich class to live and work in peace and contentment. The sandwich class are mainly made up of families with working parents who need help to look after their children when they go to work. Can the Government consider introducing a tax allowance for working parents so that more couples may be encouraged to go to work so as to take the pressure off the labour market?

Mr Deputy President, the voices of the sandwich class are often ignored because they are not many in number. However, as they are also part of our society, they absolutely have the right to share the fruits of their endeavours according to their

incomes and contributions and their interests should be duly taken into account in any future tax review in the same way as grassroots interests are being looked after. Mr Deputy President, with these remarks, I support the Honourable Frederick FUNG's amended motion.

DR HUANG CHEN-YA (in Cantonese): Mr Deputy President, the taxation system of Hong Kong is remarkable for its simplicity and low tax rates. But is it an equitable system? Is it good enough to help sustain our economic development and social well-being? Does it require any review or improvement? I think that we should carry out a review, and I would like to focus my speech on salaries tax, profits tax and the broadening of the tax base to highlight the areas where our existing taxation system are in need of improvement.

First, let us look at the equity of the salaries tax. In 1989-90, the population of our taxpayers increased by 37.9% over the year before, while the number in 1990-91 grew by 27%, a growth rate well outpacing the increase in people's income. It means that as the personal allowance failed to catch up with the inflation rates prevailing then, many more people were drawn into the tax net just because of an increase of their nominal income. But in fact, their real income saw no increase or only a slight increase. As required to pay tax, or to pay more tax, these people's take-home pay would certainly be reduced, making their lives even harder, especially for the inflation-plagued lower income group. In light of this, it is time to raise the personal allowance from \$41,000 to \$64,000 in order to cushion the inflation effect. Instead of engaging in arguments over the revision of the personal allowance in every February and March, it would be better for us to tie up personal allowance and dependent parent allowance with inflation rate and adjust them in line with the cost of living index. And the tax bands should be dealt with likewise. These are established practices in many countries such as the United States, Canada, Denmark, Holland and Sweden. I think that Hong Kong should do so as well. Just now some of my colleagues looked very excited when they spoke of the possible surplus in this financial year. But I wish to draw their attention to the fact that the surplus cannot be achieved without the hard work put in by the people in Hong Kong who should have been better rewarded. I hope that these Members will change their mind and support the proposal of carrying out a review. Besides, we should also review whether the progressive income tax system is equitable or not. The spirit of progressive tax is that the more one earns, the more tax one should pay. But the existing one in place is not a true progressive tax system. In 1989-90, about 100 000 taxpayers were

required to pay their salaries tax at the standard rate of 15%. Among them, both the wage-earners of the middle class and the well-heeled people paid at the same rate of 15%. Can we call this equitable? After all, we should conduct a review to see how the tax burden on the middle-income group, or the sandwich class could be eased.

With regard to corporate profits tax, there are two issues worthy of our consideration. First, how could our taxation system be designed to encourage investment on research and development? Hong Kong's economy is going through a process of transformation. The provision of appropriate tax incentives would go a long way towards encouraging manpower training and enterprise development. Another issue is our profits tax which has been touched upon by many colleagues this afternoon. If profits tax is too high, it would certainly discourage investment. The worse is that it would engender illicit activities. But profits tax is a major source of revenue for the Government. If the rate is too low, the public revenue will shrink and the Government will find itself short of funds to go ahead with the necessary infrastructure projects for the commercial and industrial sectors, nor is it possible for the Government to make sufficient allocation for education, manpower training, medical services, social welfare as well as housing. What is more, productivity will suffer as a result, and Hong Kong's commercial and industrial competitive edges will surely be rounded out. Recently, many people have been up in arms against the increase of profits tax by half a percentage point, claiming that it would make us less attractive to foreign investment and affect our competitiveness. I am astounded to see that they show so little confidence in Hong Kong's attractiveness and competitiveness. As a matter of fact, Hong Kong's commercial and industrial sectors have been enjoying a very good time. Our profits tax is set at 16.5% as compared with the OECD countries' 40% to 50%. The profits tax in Hong Kong also compares favourably with our neighbouring countries. Profits tax is fixed at 25% in Taiwan and above 30% in Singapore, Indonesia and Australia. In Hong Kong's case, an increase of 1% in profits tax will bring in about \$1 billion for our coffers, thus ensuring a balanced source of revenue for the Government. And I do not think this would significantly reduce the investors' profits. As such, I do not see why our competitiveness would be affected. The former Financial Secretary disclosed that one-third of our profits tax is contributed by 0.1% of the companies in Hong Kong. This remark seems to suggest that the tax burden is shouldered by a handful of companies and the system is unfair as far as the distribution of profits tax is concerned. But let us look at the situation in the United States where 66% of the profits tax is paid by exactly 0.1% of the companies liable to pay the tax. It shows that a heavier tax burden on a small number of companies which have made handsome

profits is not necessarily something to do with the tax base but a matter of the composition of an economic setup. I hope that the Financial Secretary will re-assess the relevant data and keep the situation under review. I must also point out that from 1981 onwards the proportion of profits tax in the overall public revenue has gradually declined from 56.5% to 52.4%, whereas that of salaries tax has gone up from 16% to 36.1%. The question is whether over the last decade, our taxation system has placed the tax burden on the wage-earners in favour of the commercial and industrial sectors? Should our businessmen and industrialists take up more social responsibility? We all see the need to maintain a low tax system in Hong Kong and at the same time, we, both individuals and companies, must also accept that a stable source of revenue is essential for the Government. We just cannot be so unrealistic as to hope that the tax rate will go down and down. Tax revenue merely makes up 9.8% to 18.3% of our GDP, a rate far lower than the OECD countries' 30% to 40% and other Asian Pacific countries' 17% to 30%. Many economists are of the view that a government must charge no less than 18% of the GDP as tax before it is able to have sufficient resources to finance its projects. The fact that our expenditures on education, medical services and social welfare account for a very small percentage of the GDP as compared with many countries is attributable to our low taxation system. This explains why the Government finds itself short of funds to pay for the vital labour retraining programme and has to charge employers who have successfully applied for imported workers for the necessary financial resources. We must admit that our people's livelihood could not be improved and even the economy would suffer if the Government fails to generate sufficient tax revenue for public expenditure.

Direct tax in Hong Kong accounts for 60% of the total tax revenue and the percentage is far higher than that of other countries. Should we introduce more tax items and broaden the tax base? The former Financial Secretary time and again floated the idea of introducing a sales tax on the grounds that Hong Kong had been too reliant on direct tax which was vulnerable to economic fluctuation and could not ensure a stable source of revenue for the Government. Now it seems that the present Financial Secretary who has just assumed office will introduce sales tax sooner or later. Of course sales tax has its merits, such as easy operation and extending the tax net to those who are not liable to pay income tax, including those engaged in underground economic activities. But sales tax is charged proportionally and is regressive rather than progressive in nature. This kind of tax would drive up consumer prices and fuel inflation and would also be affected by the economic ups and downs. When we are in recession, revenue from sales tax will drop as people's purchasing power is eroded. To this, the only remedy is that the Government charges sales tax on daily

necessities, like foodstuff. But this measure will further increase the enormous burden on the low-income group. In order to forestall these undesirable consequences, many countries do not impose sales tax on daily necessities or offer tax concession or subsidy to their people. But I am afraid the latter measures would complicate our otherwise simple tax system. Is this the price we are willing to pay? Indirect tax like sales tax is, after all, intended to lower the proportion of direct tax so as to offset the undesirable consequences of high direct taxation. But I hasten to add that direct taxation in Hong Kong is already very low and there is no point to raise indirect tax unless the Government is trying to rob the poor to pay the rich by introducing sales tax rather than increasing corporate profits tax. If the Government is determined to introduce sales tax to broaden the tax base, I think the tax should be charged selectively and targeted at luxury goods, for example, luxury cars, pleasure crafts or country club membership, and so on. To broaden our tax base, we should keep the proposal of a capital gains tax which is new to Hong Kong under review and take it into serious consideration. I think that we can impose capital gains tax on property transactions. This would not only broaden our tax base and bring in a steady source of revenue for the Treasury, but also curb the wild speculation in the property market by pruning the speculators' profits. On the other hand, I think that, to be fair, property purchased for one's own use should be exempted from capital gains tax. Besides, average price method and inflation-linked measure could be adopted to protect the interests of long-term investors.

Mr Deputy President, one cannot deny that there are a lot of problems in our taxation system which leave much to be desired and in urgent need of improvement. I have just stated our views. We believe that we should have a well-balanced public finance policy, and maintain a simple and low taxation system. But where we differ from some of our colleagues is that, in our opinion, our taxation system should not place too heavy a burden on the lower and middle income groups or the sandwich class. Our taxation system must be fair to all. Both the commercial and industrial sectors and the members of the public should make their fair share of contribution to Hong Kong, rather than making profits at the expense of others. We accept that the Government must have adequate resources to promote our economic development and social well-being. But we do not think that the Government should slash necessary public expenditure just to make a handful of people pay less tax. Mr Deputy President, why is it that some of our colleagues and the Government are so scared to conduct a review of our taxation system? Are they worried that the review would do away with our low taxation system? Do they think that the low and simple taxation system cannot be in any way made more equitable and better? Is it necessary for us to show

favouritism to the commercial and industrial sectors by maintaining a low tax system at the expense of the men in the street? Do they not know that many other countries have already been revamping their taxation systems? Are they of the view that our taxation system is so perfect that there is no need for a review? I must say this kind of arrogant, insensitive and conservative attitude will only undermine our public finance policy. The insensitivity is bound to lead Hong Kong down the road of recession.

Mr Deputy President, to make Hong Kong a better place to live in in the years to come, I think that we must conduct a review of our taxation system.

MR SIMON IP: Mr Deputy President, there have been many calls recently to amend our tax structure or to introduce new taxes. Suggestions raised have included the introduction of a capital gains tax, some form of general income tax, a tax on dividends, a sales tax and even some form of assessment on worldwide income based on a residence test.

I do not say that these suggestions should not be considered. But I do say that we should be alert to developments elsewhere and learn from their mistakes, not to repeat them. Today many sophisticated economies are shifting their emphasis to indirect taxation in the form of value added taxes or goods and services taxes or sales taxes and away from direct taxation, particularly taxation on capital. In Sweden, one of the most pampered socialized societies, taxpayers are to benefit from a phasing-out of a wealth tax. In Norway, corporate tax rates have been significantly reduced and wealth tax abolished on companies. In the United Kingdom, government policy has recognized that inheritance tax is bad and that it needs to go. Closer to home, the Singapore Government has reduced rates of taxation with further reductions likely to come. In Malaysia and India, estate duties have been abolished entirely. As other countries liberalize, tax rates are coming down and taxes on capital are being removed; Hong Kong should not compromise its attractive system of taxation which has lain so close to the heart of its economic success. Our low rate of tax and our simple tax structure, with its almost complete absence of capital taxation or taxation of foreign income gains, have allowed business to flourish. The Government has followed a policy of low taxation as an incentive for investment and employment.

It seems to me that we should first plan our economic and social objectives of

the territory, then work out the estimated cost of such objectives and from that decide how money can be raised to pay for them and what other consequences there will be for the economy from the raising of such money. On the basis of such information we should then make the decision whether or not the objectives are affordable. These are separate stages and should not be rolled together under what is called a taxation review.

I have no fundamental objection to a review of our taxation system to see whether it can be made more efficient and stable in the light of changes in our economy over the years. However, taxation is a specialized and technical subject and I firmly believe that a review, if there be one, should be undertaken by a committee consisting of specialists and experts. This will ensure speed, efficiency and productivity. I am opposed to a committee consisting of persons with diverse socio-economic objectives as this will transform a technical committee into a political forum. We must have it firmly in mind that taxation is for the purpose of raising revenue, not for social or economic engineering. If the committee turns into a political forum, inevitably there will be polarization and delay. Such a result would create an uncertain fiscal environment for our investor and would send the wrong signals to them.

The amendment moved by the Honourable Frederick FUNG highlights just how a review committee's work could be obstructed by competing interests and the progress of work delayed. Debates of that kind are best left to politicians after the experts have completed their work and their findings are published. I therefore oppose the amendment.

Having heard the Honourable Fred LI speak in favour of the motion, it is clear that his idea of a review and how and by whom it is to be conducted is very different from mine. My concerns about a politicized review have been registered. In the circumstances, I regret I shall have to vote against the motion. But I would ask the Administration not to discard the possibility of referring issues to a specialist committee such as the Joint Liaison Committee on Taxation with clearly defined terms of reference and well delineated parameters.

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, economic development has long been the objective of the philosophy of administration of the Hong Kong Government, and this has been reflected in its policies. But I think that economic development should be the means to improve people's livelihood rather than the ends. In his

Policy Address to this Council in last October, the Governor clearly reiterated the objective of this approach. Against this backdrop, the taxation system, which should be designed to achieve a redistribution of wealth and enhance social equality and social justice, is engineered to encourage commercial and industrial investment.

Over the years, the profits tax rate in Hong Kong has remained at a very low level. At present, the 16.5% profits tax in Hong Kong has placed us as one of the 10 economies with the lowest profits tax among the 106 countries and territories. Even if the profits tax is raised to 20%, our enviable position would remain the same. Among the three Chinese communities of the "Four Little Dragons" in Asia, Hong Kong's profits tax rate is 16.5%, Singapore's is 31% and Taiwan's is 25%. And capital gains tax is charged in both Singapore and Taiwan. These figures show that Hong Kong's tax rate is indeed very low. Certainly, it is a good idea to design a low and simple tax regime to encourage investments. But what I would like to ask is whether this approach is also conducive to the promotion of social justice through a redistribution of wealth. Unfortunately, judging from the past development and the current social situation in Hong Kong, I have much doubt about the Government's sincerity to bring about social justice by means of the taxation system and various social policies. Today I would like to make some comments on this problem from three angles to drive home the point that the Government should conduct a comprehensive review of the taxation system in order to rectify the unfair situation the lower and middle class people are in.

I think we should take the widening gap between the poor and the rich first. The Gini Coefficient has recently risen to as high as 0.48, demonstrating the worrying uneven distribution of wealth among the people. But this situation, in fact, has been with us for 30 years. The Government and the commercial and industrial sectors have always advised the wage-earners in Hong Kong to forego short-term benefits in exchange for long-term improvements in their livelihood. I wonder whether this kind of argument is out of their refusal to take notice of the growing gap between the poor and the rich or just to hoodwink the wage-earners.

In fact, in comparison with the three other "Little Dragons" in Asia, Hong Kong workers' real wage has gained the least growth. According to statistics, our workers' average nominal wage has just increased by 11.16% from 1986 to 1990, at a level similar to Taiwan's 11.8%. However, Hong Kong's average inflation rate of 7.08% has been higher than Taiwan's 2.18%. During the same period, Singaporean workers have enjoyed an average nominal wage growth rate of 6.28% but the average

inflation rate in Singapore has been only 1.52%. As to South Korea, the average nominal wage growth rate has reached 17.1% while its inflation rate over the same period has been merely 5.48%. Our workers in Hong Kong were further hit in 1991 with a negative growth in their real wage as result of the high inflation. These figures bear witness to the fact that economic development may not necessarily bring about an equitable distribution of wealth. At times, the workers will even suffer from a negative growth in their real wage despite the economic growth, resulting in a drop of the people's quality of living and aggravating the situation of unfair distribution of social wealth.

At a time when the gap between the poor and the rich is ever widening, Hong Kong's taxation system seems to have failed to help arrest the problem. On the contrary, it has worsened the situation. The ratio between the profits tax and the income tax of the public revenue has been declining in recent years, from 0.67 to 0.33 in 1989-90 to an estimate of 0.58 to 0.42 in 1991-92, showing a growing share of the income tax in the direct tax. In other words, the working class is subject to a heavier tax burden under a taxation system which has become more and more inequitable.

Secondly, there is another problem which we should pay attention to. As we are going through a time of high inflation, unstable economic development, faltering economic growth as well as heavy spending on infrastructural projects, one wonders if it is a right move for the Government to increase indirect tax substantially in order to ensure a stable source of revenue. But the fact is the Government is exactly heading in such a direction. A case in point is the proposed introduction of a sales tax and a large-scale increase of rates. Definitely, this kind of taxation strategy to target our fiscal onslaughts on the lower and middle class is short-sighted, irresponsible and totally unreasonable.

I think this taxation strategy is absolutely going against the objective of wealth redistribution to be achieved through taxation measures and is really ridiculous particularly when the gap between the poor and the rich is widening. Moreover, I doubt the wisdom of the move to ensure adequate revenue by raising more taxes from the middle and lower class. We must not lose sight of the fact that, in times of sluggish economic growth, public revenue generated from direct tax may take a fall and the wage-earners would be the prime victims as the growth rate of their wage would be affected. So in view of their relatively low "ability of handling crises" in comparison with that of the Government, this strategy would only undermine social stability. As such, I think we should not opt for this kind of taxation measure.

As far as indirect tax is concerned, the recent increase in rates is particularly unjustified. In last April, due to the reassessment of the rateable values, the rates were substantially increased. This year it is said that the rates would further go up by 1%. If this is true, according to estimates made by the Confederation of Trade Unions, within a short span of two years, rates have been increased by 60%, and as a result the inflation rate will also rise by 0.3% or more. However, the recent soaring rates are basically due to the anomalously high property prices. It is too much for the Government to request the end-users to bear the consequences of property speculation which most of them are not involved in.

Thirdly, in view of the vital transition in 1997, we should see to it that social justice must be achieved and look after the well-being of those lower class people who will not leave Hong Kong. In recent years, Hong Kong has gone through various political, economic and social crises and the lower class is always the group which has been hardest hit. At present, the wage-earners are suffering from negative growth in their real wage and at the same time they have to face up to the threats posed by the importation of foreign labour. Many of them do not have sufficient work to do or become unemployed at a time when the transformation of our economic structure is underway and many manufacturing operations are moving across the border. In this financial year, they are very worried that the Financial Secretary will increase indirect tax dramatically or to extend the tax net to cover more wage-earners. These measures will definitely deal a heavy blow to the lower income group's livelihood, undermine a smooth transition in 1997 and also greatly threaten Hong Kong's long-term stability and prosperity.

Mr Deputy President, with these problems in mind, I think there is a genuine need to conduct a comprehensive review of our taxation system in order to map out plans to narrow the gap between the poor and the rich. Just now Mr Martin BARROW said that such an argument is outdated. He gave a warning by quoting the example of the former Soviet Union to point out that the attempts made by the former Soviet Union to narrow the gap between the poor and the rich had left many of the Russian people unable to feed their families. I think we need more studies before we can determine whether a poor Soviet Union was the result of the attempts made to narrow the gap between the poor and the rich or the totalitarian rule by the Communists. But what we are sure is that the October Revolution was ignited by problems arising from the gap between the poor and the rich. To achieve real stability and prosperity, it is essential for us to have our community built on the basis of social justice. In fact,

we are not asking for an even distribution of wealth, but a reasonable distribution of wealth.

I regret to learn from recent reports in the media and the remarks made just now by some Members that the commercial and industrial sectors have reservations about a comprehensive review of the taxation system and an increase of profits tax. In this regard, I am pleased to note that Mr LI Ka-shing has unreservedly supported that profits tax should be raised by 1% and the personal tax allowance be adjusted to the level of about \$60,000. This shows that there are people in the commercial and industrial sectors who really demonstrate sincerity in sharing views with the people in other sectors. Let me repeat, we must sit down and talk in order to resolve the different views between the commercial sector and the ordinary people over the taxation reform. Even if the proposal of setting up a Review Committee is not endorsed, it does not mean the end of this debate which is closely related to ordinary people's livelihood. On the contrary, it would only mean that people would go outside the Council to fight for their cause until social justice is achieved.

Finally, I call upon all workers to unite and join the trade unions or organizations representing the interests of the grassroots people. We must fight for our own interests. We cannot just rely on any individuals, any particular bodies, nor leave it to the democratic organizations.

Mr Deputy President, I speak on behalf of the Confederation of Trade Unions and I will fight for the tax reform which would benefit the lower and middle class.

MR ERIC LI: Mr Deputy President, Christopher Columbus founded America in 1492. He did so by a huge stroke of luck. As a matter of fact, he headed a wrong direction and had landed in the wrong place. The only sure reality of his whole venture was the enormous debt that he had to raise to finance the expedition.

The spirit of this bold explorer probably still plagues a great number of developed western nations. Their taxation policies take a new direction every few years depending on what political wind and tides are prevailing on the day. The same sure reality is, of course, that they have all plunged themselves into serious debts. According to financial analysts, some of these national debts have reached uncontrollable proportions. In the 1992-93 fiscal year, the United States is projecting a US\$400 billion deficit, about half of it attributable to interest

payments to service debts. Economists predicted that the third generation Americans would still be held responsible for repaying the blunder and the excesses of today. The United Kingdom is also projecting a public sector borrowing requirement to the tune of 20 billion for the next four years. By contrast, Hong Kong is a shining example of success.

A Sturdy direction: the Hong Kong success story

Hong Kong enjoys a strong fiscal reserve. It maintains a simple, efficient tax system kept at low rates. The incentive laden economy provides a live spring of activities because it is not fettered by a complicated high tax system. Successive Financial Secretaries would just have to tinker with the taxation machinery to produce the needed revenue. Keeping a sturdy direction, one needs only to practise plain housewife commonsense to stay on course.

The need for review: call foul silent revolution

The few rules of simplicity, efficiency and low tax rates have so far provided the Government with adequate defence to the calls for reform. They have, however, not prevented the Government itself from wavering when put under pressure by rapidly changing circumstances.

(1) Tax avoidance -- much has been said about the structural changes to Hong Kong's economy. The shift to international businesses and the advance of sophisticated global electronic treasury operation have opened up new scope for international tax planning. The sums involved are substantial and at times threaten the yield from the traditional narrow tax base. After all, our tax revenue still depends greatly on a small number of large companies. They have the best professional advisers available to them. In response, the Inland Revenue Department has on some occasions resorted to applying the existing rules and laws aggressively in a zealous attempt to protect revenue. These moves have created some confusion and uncertainty in the present simple tax regime.

(2) Revenue stability -- the Government has adhered to a policy of balanced Budgets for decades. In essence, it should limit itself to raising just enough tax revenue to finance recurrent public expenditure. The long-term programme on the development of our infrastructure has rendered this policy virtually impossible to keep. In particular, the Government is committed to the Memorandum of Understanding on the airport project with China where it has agreed to retain HK\$25 billion in

reserve, to cap maximum borrowing to HK\$5 billion at the time of changeover of sovereignty and to undertake no significant tax increases. In order to ensure that these long-term financial obligations are met, the Government has, in my view, silently built up substantial fiscal reserves through consecutive Budget surpluses by design. Additional revenue sources capable of generating stable income were also explored to provide a second line of defence. These moves attracted criticisms from all sides. The business community rightly accused the Government for abandoning its policy of balanced Budgets and has collected more tax from them than was necessary. The proposal of a sales tax had also provoked waves of organized protests because the need of it was not well proven.

(3) Politics -- the development of representative government has greatly enlarged the arena for debate on tax issues. A number of new normative notions gradually found their way into these debates, for example, inflation, equity, redistribution of wealth and other social engineering measures, that is, anti-smoking, property speculation and environmental protection. The Government has selectively yielded to these calls without a clearly stated policy on social intervention by fiscal measures.

The described departures from established policies may have been well justified. However, it is not seen to be fair for a government to silently pave its own reform on a piecemeal basis. This situation can be described as "allowing the officials to set fire while citizens are not permitted to light so much as a candle". This Council must call foul on the first signs of these important policy changes and to ask for a proper open review.

The incessant calls for various types of tax reforms emit harmful signals to investors. The concoction of these mainly politically motivated propositions has unwittingly created an uncertain and even hostile business environment. On the other hand, I think we must all realize that a policy on taxation will remain a popular and important part of any political platform. There is no sense to delay taking a long-term political decision where it cannot eventually be avoided. It is important to conduct a credible and impartial review as we move towards a more open government and then get on with business. Even the best policies need to be periodically adjusted, reaffirmed and fortified in order to stand the test of time. If we can establish a more robust tax regime conducive to investment and social stability for the next 10-15 years, the benefit will far outweigh any likely costs.

The divisive call: neither democratic nor progress

I now turn to the amendment to the motion proposed by the Honourable Frederick FUNG. The amendment basically divides our citizens into the "haves" and "have-nots". It is a very divisive call.

The divisive call was raised under the banner of democracy. But true democracy treats every citizen as equals and pays no or little attention to class division based on birth or wealth. In a democratic community where capitalism is practised, it is honourable and decent to be wealthy. It is most certainly not the Government's business to intervene. What we ought to ensure is an adequate range of essential social services provided at low costs, an affordable social safety network and most important of all, a level playing field providing equal opportunity for all to select their occupation and practise their skills.

What will be more unjust is for some of our politicians to play the game of "modern-day Robinhood". The age old game of politicians handing out favours, collect their votes and leave our most productive citizens to pay for the bills. We ought to know by looking around us that other countries heading this direction have invariably ended up in bankruptcy. I doubt if this can be called progress.

Another obvious fact is that the amended motion is a call to raise direct taxation in disguise. It is widely known that only about 30% of our working population actually pays salaries tax. The so-called middle and low income groups would not be caught by the direct tax net. Since the scope of indirect tax is also limited to a narrow range of products and services, most of them would only be paying a very modest sum of indirect tax at present. The only way to reduce their tax burden would have to be some further reduction in indirect tax. In order to compensate for the loss in revenue, direct taxes would have to be raised and shouldered by others. That appears to be the only logical deduction. If such is the case, I wonder why Mr FUNG still wishes to set up a committee to consult. Why pretend that a review is still necessary when a conclusion has already been drawn? Does he honestly believe that a reduction of an almost insignificant amount of tax can really redress the gross imbalance in wealth distribution? Is it only a small part of his grand design to radical social reforms?

Direction of review: build on positive experiences

It should now be apparent that I am aiming for a totally different kind of tax review to that of Mr FUNG. I have already outlined the needs for a review of a more technical and specific nature. I believe that there are real options to choose from. Under the present low tax regime and the general affluence of the populace, it would be hypocritical to argue that the business community cannot afford an increase in profits tax rate by a couple more percent. It would be equally shameful for fair minded people in this Council to argue without blushing that an ordinary income earning citizen cannot possibly spare, say, an extra \$200 to discharge their civic duties each year. Before we hastily conclude that "someone else should pay", we must first re-examine the values of our existing system in the light of change and build on positive experiences. It is pertinent to note that the three earlier Inland Revenue Ordinance reviews have produced little change.

Composition of the committee: captain's qualities

When Columbus set sail towards uncharted waters, he should be admired for his courage, determination and a good sense of mission. These positive qualities helped to advance the frontiers of humanity. However, behind the fame and glory of one Columbus, there are stories of thousand shipwrecks and failed expeditions. Worthy qualities of an explorer are not the right stuff for a sound financial manager.

We often like to describe Hong Kong's economy as a ship. There is of course only one ship that we all sail on. If it is our wish to stay on the course of success, we ought to select captains with experience and cool heads. We do need guarantee that a sturdy direction can be maintained. To randomly gather individuals from a wide cross section of the community with little or no respect for the values of our existing good system will not provide that guarantee. They are more likely to play separate tunes to different ears and make use of the forum to cross swords. The community will not know where we are heading until the "mutiny" is over.

I commend the Joint Liaison Committee on Taxation to honourable colleagues as a committee base to build on. As an observer sitting on the committee and someone who has long associations with many of its members, I would vouch for the captain's qualities provided by this instant forum of experts. However, I would also suggest a limited expansion of its membership to include a few individuals who are impartial and are sensitive to grassroots needs, for example, academics. The committee, being an informal gathering at present, would need to be given formal terms of reference and secretariat support.

Conclusion: vote for the motion vs. the speeches

Mr Deputy President, I am inclined to support Mr Fred LI's original motion because its exact wordings are accommodating. It allows supporters to raise their own different ideas. Obviously, I am not voting on Mr Fred LI's speech or that of his supporters. Since there are quite different views expressed today and for the avoidance of doubt, I wish to declare that had Mr Fred LI dropped so much as a hint of intention to introduce radical social reforms in his actual motion, I would have opposed it. For the same reason, I find the amendment proposed by Mr Frederick FUNG unacceptable.

8.00 pm

DEPUTY PRESIDENT: It is now 8 o'clock and under Standing Order 8(2) this Council should adjourn.

ATTORNEY GENERAL: Mr Deputy President, 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.

DEPUTY PRESIDENT: Mr LI, your speech of course will be confined to a reply to Mr K K FUNG's proposed amendment because you do have the right to a final speech before the final question is put.

MR FRED LI (in Cantonese): Mr Deputy President, the amendment certainly signifies the good intentions that we all would like to share. But I think it is inappropriate to add the amendment to the original motion.

The original motion is to urge the Government to set up a committee, with members representing a wide cross section of the community, to conduct a comprehensive review of the taxation system in Hong Kong. As I stated at the outset, the comprehensive

review will involve a number of aspects and the distribution of the tax burden, though important, is only one aspect. The future Review Committee, if it is to be set up, may be misled should this aspect be singled out and other important issues overlooked. Besides, the question of equity with regard to the distribution of taxation is not merely the middle and lower income groups' concern. For instance, the review should cover the relative tax burdens on the rich and the very rich as well as those on the small enterprises and the large enterprises. And how does one define "the middle class" and "the upper class"? How are we going to distribute the tax burdens among them? These should all be reviewed. All in all, we hope that a comprehensive, objective and impartial review of our taxation system will be conducted and above all, we can come up with some concrete proposals, rather than merely fighting for the interests of a certain sector. Having said that, I am happy to see if possible that the tax burden of the middle and low income groups could be relieved. But if my original motion is amended as proposed, I am afraid it will run counter to the spirit of my motion.

Mr Deputy President, I and my two colleagues from Meeting Point will oppose the amendment, and I urge all Members to support the original motion. Thank you.

PROF FELICE LIEH MAK: Mr Deputy President, first I would like to address the question of whether we need a major tax review and in this respect I think a number of speakers have already mentioned that we do not really need a major review but we need to look at the technicalities and some specific areas, like what we shall do with the tax burden on middle income people and how much the corporate tax should be without making it too painful. So we do not really need a major review. But if according to the motion the need for a major review is that there should be more input from a wider base of representation, I would object to this composition because it would invariably end up with a package that has been put together through political compromise and horse trading rather than true economic sense, at the end of which no one will be happy about that package.

So the formulation of a good taxation policy needs informed input and a consideration for a wider implication of any such changes. We only have to look to North America for an example to see what sort of mess can result from politicizing the taxation system.

The next question relates to the timing of the review: should we have a review

now; is this the right time to have a major overhaul of our taxation system? My answer to that is no for the following reasons. With the approach of 1997 there are all sorts of doomsday scenarios being painted and the investment climate in Hong Kong is already at a disadvantage compared to other more stable countries in the region. Any perceived move to change our taxation system will engender more uncertainties despite reassurance that it may not lead to any increase of the tax rate beyond the present maximum. How can investors trust this reassurance when it is subject to political forces rather than to rational economic forces?

In addition to the present problem, the Administration is also seen to be lacking in clear direction and policy in economic matters. At the same time, it is being seen to be taking a more interventionist approach into Hong Kong's laissez faire system so much so that people are questioning whether we are still a free market or a managed economy. With that kind of perception of the Administration, any major review will again engender more uncertainties.

Hong Kong's political situation at this point in time is characterized by various interest groups with different agenda and constituents. A major tax review will open up more acrimonious debates that would further polarize the community and threaten stability and this point has been taken up by the Honourable NGAI Shiu-kit and the Honourable Martin BARROW.

High inflation rate may also be aggravated and an increase in rate for any sector is bound to have a butterfly effect. Taking an increase in corporate profits tax as an example, invariably the increase will filter down to the consumers through price increases. The lowering of taxes for certain sectors will result in more money available for spending and this will increase demand for goods. An increase in government revenue will also increase spending which will in turn fuel inflation. So we will have to be very careful as to which area we want to change and we have to look at the wider implications of such changes.

Let me now turn to a third point. Although this motion may be looked at as an attempt to review our taxation system, yet listening to many of the speakers here it is apparent that the attempt is in fact to redistribute wealth. In less than a decade, the Government in Hong Kong has been redistributing wealth. Public sector as a percentage of the GDP has increased from 11% in 1987-88 to 18.3% in 1990-91 and that was without PADS. And it is projected to rise further to 20%. If we look at the consolidated public expenditure, 67% is already being spent on programmes that

benefit a lot of the grassroots people, like housing, welfare, health, recreational facilities, parks, swimming pools and facilities in district and community relations. Can we redistribute some more? Can we use other countries as a yardstick? Western countries which have followed this policy have a lot more capital to redistribute. They have a strong industrial base, they have good natural resources and they have established agricultural production, none of which Hong Kong has had.

From a historical perspective, redistribution of wealth is not a lineal process that goes onwards. But it undergoes cyclical changes. The first cycle took shape in the 15th century in Western Europe where in order to pacify unrest among the peasants alms were given and feasts and distribution of farm produce were initiated. However, this came to an end in the 16th century with the rise of capitalism and the Protestant Reformation as well as the rise of Puritanism later on while the emphasis was on hard work, social responsibility, self discipline and personal savings.

Towards the beginning of the 18th century, to deal with increasing numbers of poverty stricken people, a system of welfare payments was introduced. This was again rolled back in the early 19th century during the Industrial Revolution. The Poor Law Amendment of 1834 sharply curtailed welfare payment to the able-bodied.

Redistribution of wealth became a social policy again in the aftermath of the Second World War and in the 1990s we are now witnessing a major retrenchment of the policy, not only in North America and the United Kingdom but even in the Scandinavian countries. The greatest social experiment in the redistribution of wealth is communism and that has ended in abysmal failure although some may argue that the failure is due to a totalitarian style of government. Let us look at those countries that practise socialism with a democratic face and we will see that they have not succeeded that well either, taking the Scandinavian countries as examples again. In the United States, the failure of a social programme is not because the rich have become richer but it is because politicians were catering to constituents who wanted more while doing less.

The existing income gap in Hong Kong is the result of market forces and economic structural change. The change of a manufacturing to a service economy has increased the demand for people with skills and higher education attainment. These people are in short supply even in normal circumstances. The numbers have been further depleted by emigration. As a result of all this, they have received a substantial increase in wages. I submit that taxation is not an effective instrument to equalize income

in such a situation. The best approach is to narrow the gap in skills and education and in promoting growth that will provide ample opportunities for everyone.

Many speakers have attacked the business community. There are increasing calls to turn to the business community every time we need more resources; tax them more; ask them to contribute more to environmental improvement; ask them to pay more wages; ask them to pay for pensions; ask them to support cultural activities. All these contribute to increased costs of doing business in Hong Kong. If this is coupled with inflation, the shortage of labour and more government regulations, it will increasingly make Hong Kong less competitive and attractive to investors. It is simplistic to just compare Singapore, Taiwan or South Korea's level of profit tax and come up with a conclusion that we can thus increase profit tax substantially -- I am not saying we cannot increase it marginally. Let us look closely at what Taiwanese businessmen get in return for their taxes. They get tax holidays and they get massive support for their infrastructure. For example, in Taiwan tax incentive accounts for 11% to 14% of the total tax collected. Research and development is encouraged by a 20% credit for firms. Tariffs are also imposed on goods which the government would like to have manufactured locally. In Korea the government uses tight controls on telecommunication and has invested in a multi-billion dollar expansion of the telecommunication infrastructure plus a large amount of cheap credit to four companies to help them enter into advanced semi-conductor industry. Equally Singapore has used government resources to fund research and development to nurture the growth of selective home industries.

We have also considered wages in Hong Kong. If we look at government expenditure, we will find that 70% of it accounts for wages. But we do not get productivity commensurate with this 70% of public expenditure; yet wage increases across the board are met from this 70% of public expenditure. Wages in Hong Kong are the highest in this region in terms of per dollar take-home pay despite allegations by many that they are not rising as fast as wages in Singapore or Taiwan. In this region, Hong Kong's wages have already outstripped productivity. This has been an important factor in the decline of the manufacturing industry as a percentage of the GDP from 21.7% in 1987 to 18.3% last year. Increasing profit tax therefore may accelerate the departure of more manufacturers and thus causing more workers to lose their jobs. Take Germany as an example where overseas investment now is 15 times more than investments within its borders.

With the difficulties that I have enumerated, I find it hard to support the motion that we should open the issue to a review by a body with wide representation from

the people. Neither can I support the amendment which, I feel, is a very narrow approach.

MR STEVEN POON (in Cantonese): Mr Deputy President, Hong Kong does not have any natural resources; we only have a large population. But population is in itself a valuable resource. If we do not have the money to make good use of our population, it will become a burden to our society.

Ever since the transfer of sovereignty in 1997 became a political issue in Hong Kong, investors have been extremely cautious about the political climate in the territory. In a Legislative Council debate in November last year, I mentioned that many investors had put a question to me, and that is: "As Hong Kong is greatly disturbed by the issue of 1997, does it still have a political and economic future?" In fact international investors have already listed Hong Kong as an area with high risk.

One of the main reasons that the international investors still do business in Hong Kong is that Hong Kong all along has a stable fiscal policy. This consistent stability makes them believe that the Government will not introduce drastic changes to the fiscal policy because of political or non-political factor.

Hong Kong is now on the way of reverting to China and we are also moving along the path of democratization. This development not only fulfils the public's aspiration and wish for democracy, but also puts into practice the ideas of "one country, two systems" and "Hong Kong people ruling Hong Kong". Most investors find such a development acceptable. Undeniably, however, many investors are keeping a close eye as to whether these changes will cause a rippling effect in the financial area resulting in major changes in the fiscal policy. Should that really happen, the international investors will have their confidence in the stability of the financial policy in Hong Kong shaken, and their feeling of security in the investment climate in Hong Kong will disappear.

In the past few months there have been quite a number of disputes in this Chamber. Some colleagues are more radical in their views, while others are more conservative. This is normal or even healthy in a democratic political environment; we need not be over-worried. But then we must also acknowledge that these disputes give rise to worries in the minds of investors. Many of them have asked me whether the question of the future of Hong Kong arises out of the transfer of sovereignty

or originates from the internal disputes in the territory itself?

The suggestion to set up a Tax Review Committee is in itself quite acceptable. But under the existing political climate this proposal will give a strong signal to the investors to the effect that the fiscal policy in Hong Kong will undergo radical changes because of political change. The consistent stability of Hong Kong's fiscal policy will be sacrificed on the altar of political disputes and the investors' incentive to invest will wither. Hong Kong, being a small place with no natural resources, will have its economy eroded and the standard of living will go down.

Hence, the most pressing issue at the moment is not how we redistribute our wealth, rather it is how to create more wealth so that on the premise of economic prosperity we will make money and be prosperous. If the total wealth increases, then the total revenue will also increase. If we are just concentrating our minds on how we can collect more from this sector while levying less on other sector, instead of working on how to turn the poor into the rich, then under the present political climate in Hong Kong, we will only create more conflicts in the community. This negative approach definitely will not benefit the community.

With these remarks, I support neither the motion nor the amendment.

MR HENRY TANG: Mr Deputy President, Hong Kong has had a simple tax rate since I first knew it. It is simple enough and has been administered efficiently to have enabled the Government to build up a reserve of \$70 billion, which is more than any of the reserves built up, as far as I can say, by countries of North America and Western Europe. Some of my colleagues have said today that this low tax rate is not very important in the minds of our investors. I would like to express my view, as an investor, as to how the investment decision of an investor will affect his own money. Our tax rate has been low for such a long time and has been as dependable as apple pie that people do not pay so much attention to it anymore. People rely on it because the highest rate we have ever known was 18% and during the time it was 18% our economy was suffering. Then the tax rate was lowered to 16.5%. 16.5% might sound low compared with our neighbouring countries but in fact it is not as low as it sounds. This is a nominal tax rate whereas many other countries with much higher tax rates, such as Singapore with 31% nominal tax rate, have a lot more other tax incentives. They have much higher tax credit for investments and they have a much higher depreciation allowance for new machinery, which effectively make tax rates sometimes

lower than Hong Kong. However, I will not deny that our present 16.5% is a low enough tax rate of a reliable, simple tax system that has been attracting investments. These inward investments have made Hong Kong what it is today. Let us not forget that tinkering with this system too much would be like killing the goose that lays the golden egg.

After taking account of Hong Kong's low tax rates and Hong Kong's overseas investments, many of our industries are moving northwards into China as a result of Hong Kong's structural changes in the economy and in the infrastructure. Some of us are of the view that because of the changing economic structure and the moving into China of some of our industries, our already narrow tax base will continue to lose more and more money. However, I would like to point out that it is simply not true. By moving an operation overseas, for example into China, the operators do not normally make much money. The reason for that is not that the operation has not been run effectively but because much of the profits are kept here in Hong Kong. Why are the bulk of the profits kept here in Hong Kong? Because we have here a reliable, simple tax system that we can count on. So the impression that because of Hong Kong's narrow tax base and because of the continued moving of some of our industries northwards the tax revenue will be in danger is simply not true. On top of that, to have a tax review now will send the wrong signal to overseas investors. For a tax review to be effective, it would normally take years to complete and in the course of these few years, if I have to reinvest my own money into a new project or to reinvest to expand my present project, I would think twice and shop among the neighbouring countries to ensure that all my eggs are not put in one basket. The simple reason for this is that I cannot count on what the outcome of a tax review will be. The revised tax system emerging from a review may be based on a worldwide income criterion as opposed to the basis of the territory-generated income that we have now. As I do not know what will happen, I may as well hold back and wait or I may just put some of my eggs in another basket. And these are simple decisions that investors make, particularly when they have to answer to their shareholders.

With these comments, I support neither the motion nor the amendment.

MR TIK CHI-YUEN (in Cantonese): Mr Deputy President, I support the motion before us and would urge the Administration to set up a committee with wide representation to review the tax system.

As far back as two years ago, during the Budget season of the financial year 1990-91, members of Meeting Point and district and municipal councillors affiliated to it, including myself, already demanded the establishment of a tax review committee to conduct a comprehensive review of the tax system. Last year we made a similar request. The tax system directly bears on the livelihood of the general public, the Government's balance of payments and economic development. Therefore Meeting Point has all along been advocating that the development of the tax system should be a subject for discussion by a joint forum of the public, government officials, businessmen, professionals, economists, academics and councillors so that through their collective wisdom a tax policy can be worked out which will fulfill the objectives of catering for the needs of Hong Kong's economic development, achieving a balanced Budget and protecting the livelihood of the people. Society is in an ever-evolving process: no policy, no law or system can last without change. Tax policy, tax law and tax system are no exception. In the 1950s, 1960s and 1970s, the Administration conducted reviews of the Inland Revenue Ordinance which move was in accord with the changes brought about by social development. Unfortunately, in the 1980s two successive Financial Secretaries, Sir John BREMRIDGE and Sir Piers JACOBS, refused to conduct a review of the tax system. Sir John contended that taxation policy was the responsibility of the Government and there was no need to set up a committee to carry out a review. Sir Piers, on the other hand, doubted if such a committee could produce useful ideas or suggestions. In the Budget debate two years ago, Sir Piers referred in somewhat derogatory terms to tax review committees as horse trainers, saying "I am not yet persuaded that a committee brought in to train and manage our entry in this particular race would win us first place. I do not want to find myself coming down the home stretch on a camel." True, it is the Government's responsibility to formulate policies and laws. But there are several hundred advisory boards and committees whose duty is to give the Government advice. According to Sir John's argument, not only is there no need to set up a tax review committee but also all other advisory boards and committees can be abolished. In extreme terms, it could be argued that the Administration need not listen to the advice of Members of this Council. As for Sir Piers JACOBS, he expressed his lack of confidence in the ability of tax review committees to come up with useful ideas; in like manner we could just as well ask what basis is there for us to cherish confidence in the Administration's decisions? Could it be that the Administration also has no confidence in the advice tendered by other advisory boards and committees? Some are of the view that there is no need to conduct a review unless there are patent shortcomings in the present tax system. Frankly speaking, it was none other than the Administration themselves who were the first to think that there were problems

with the tax system. In the last couple of years, the Administration has been reviewing the feasibility of a sales tax, the introduction of which would be a momentous change to the present tax system. What the Administration has been pondering are changes to the tax system before a tax review whereas we hold the view that there should be a review of the tax system before requisite changes are introduced.

Apart from the question of a sales tax, the Administration has in the last couple of years been reviewing the tax system on the quiet, not through the setting up of a committee with wide representation to openly conduct a review but through the agency of a private body known as the Joint Liaison Committee on Taxation which has been tendering advice on taxation matters. What is the advice given? How has the Administration responded to the advice? The public has no means of knowing. The manner of tendering advice is not only unfair to the public but also unfair to members of the Joint Liaison Committee on Taxation. Undeniably, the tax system involves a multiplicity of technical issues. Yet the system affects each and every member of society. Therefore a review of the tax system is a job which will bear on the economic and political aspects of society and should not be entrusted to a handful of professionals or businessmen; a review committee with broad representation should be set up to collect and collate the views of a wide cross section of society and to take care of the varied interests of each sector of society.

Former Financial Secretary Sir Piers JACOBS, by way of analogy, compared a tax review to a horse race. There are two completely different attitudes with which a punter places bets. One attitude is to bet on one's "personal choices" according to one's fancy and let luck decide. The other attitude is to have regard to the quality and track records of starters, which is a scientific approach. As I understand it, punters would sometimes take the former attitude and sometimes the latter attitude because, in the final analysis, betting on horses is no more than a form of recreation. However, if a system, such as the tax system, bears on the well-being of each and every member of the public, I believe that there is only one attitude for Legislative Councillors and the Administration to take with respect thereto, namely, that of conducting an in-depth scientific review, which is the fitting and responsible attitude to take towards the public.

Mr Deputy President, in today's debate I have heard arguments from some Members against a tax review. One of them has argued that since there is no problem with the present tax system there is no need to conduct a review. As a matter of fact,

the Administration has in the past few years kept putting forward proposals for tax reform, such as the introduction of a sales tax, which I referred to a while ago. Are these proposals not amounting to tax review? It is only that these reviews and reforms, disguised as tax proposals, have been conducted in a less than comprehensive and open manner which distinguishes them from a full-blown review. Today we are asking for the setting up of a committee with broad representation to carry out a review. Furthermore, the economic development and political environment of Hong Kong have come a long way from what they were a decade ago. This, coupled with the infrastructural development now under way, heightens the already pressing need for a review of the tax system to cater for the future needs of economic, political and social development. Some Members have argued that since there is now a Joint Liaison Committee on Taxation to review the taxation system there is no need to set up another committee. As regards this point, some other Members have countered with the argument that the present Joint Liaison Committee on Taxation is no more than a non-government body which advises the Government on legal and technical questions relating to taxation. Therefore the Joint Liaison Committee on Taxation is vastly different both in its terms of reference and its membership from the committee with broadly-based representation as envisaged in the Honourable Fred LI's motion. Neither one could take the place of the other. Some Members have argued that a tax review would scare investors and thus affect Hong Kong's economic development. But we have to understand that the objective of a review of the tax system is to bring about a more reasonable and equitable tax system. Such outcome will only enhance the stability of Hong Kong and create a better investment environment. If it is thought that a review of the tax system would scare away investors would that be over-worrying about a remote possibility or would that be unduly underestimating the investors' capability for rational analysis?

Mr Deputy President, with these remarks, I support Mr Fred LI's motion.

MR JAMES TO (in Cantonese):

Introduction

Mr Deputy President, today's debate is about the review of our tax system. Maybe we should go back in history. The Inland Revenue Ordinance Review Committee was first established in September 1952 in response to the economic downturn as a result of the Korean War embargo in the 1950s. In 1966 the second Inland Revenue Ordinance

Review Committee came into being after the bank run in 1965 resulting in yet another economic downturn. In 1976 the third review committee was formed; at that time there was a global recession and a deficit in our Budget.

The three review committees, though with the objective of reviewing only the direct tax, were set up as an immediate reaction in response to the circumstances of the time. There have been arguments that since we are not faced with any deficit, nor is there any flaw in our taxation system, it is not justified to set up a review committee. All we need may perhaps be just a fine-tuning exercise. The United Democrats of Hong Kong (UDHK) are of the view that such arguments are short-sighted, without any detailed analysis of the present circumstances and the relation between taxation and the economic ethos of the day.

Now we are in the latter part of the transition. Great changes are taking place in the political and economic arena and also the livelihood of the public. Moreover, the expenditure for the mammoth airport project is not within the anticipation of the Inland Revenue Ordinance Review Committee set up over a decade ago. Given these unprecedented circumstances, members of the UDHK and I have studied this motion on taxation review in great detail. In today's debate, I, UDHK spokesman on taxation, will look into the problem from the perspectives of the economy, people's livelihood and physical infrastructure.

Economic transformation

First of all I would like to dwell on economic transformation. According to the 1991 census report by the Census and Statistics Department, the working population by industry was on the decline in the three previous census exercises. In 1981, 0.99 million people or 41.3% of the working population engaged in the manufacturing trade. In 1991, the corresponding number dropped to the region of 768 000, which is about 28.2% of the total workforce. But in the case of other service industries, including wholesale, retail, import and export, restaurants and hotels, finance, insurance and so on, the percentage of workers vis-a-vis total workforce has risen from 24% in 1981 to 33% in 1991.

The above change in working population by industry shows that Hong Kong has shifted its emphasis from labour intensive industries in the past to the present service-oriented industries. We are in an economic transformation and it is this transformation that has exposed to us the various problems in our tax system. For

example, in recent years a lot of manufacturers have moved their production base to the Mainland, turning it into some sort of off-shore operations to avoid taxation by the Hong Kong Government. Moreover, the predominance of service industries over manufacturing industries in our economy has made tax evasion and avoidance all the more easier. Furthermore, certain areas in our economy, such as capital depreciation, which have not been addressed by the present taxation system, have to be reviewed in the light of the transformation of our economy. Added to it are the diverse views on taxation and the legally permissible tax avoidance. As a result, we have before us the absurd scenario of revenue growth becoming disproportionate to economic growth in the past few years.

Besides economic transformation, the mammoth infrastructural projects have made it necessary for the Government to conduct a review on our present tax system.

Airport project

The new airport, costing \$120 billion, will have nine items of its core programme completed before 1997. Based on government estimates, deficit will be at its peak in 1993 and 1994 to reach the level of \$14.2 billion.

It is in fact very important for the Government, in its financial arrangement, to prepare itself for the deficit. The Government's way to solve the problems are just three: to cut public expenditure; to increase taxes and other charges for public services; and to issue bonds.

But according to the Memorandum of Understanding (MOU) for the new airport, the Hong Kong Government has agreed to leave to the future SAR Government a fiscal reserve of \$25 billion while the amount of bonds issued by the Government should not exceed \$5 billion. Given the deficit to be incurred by the airport projects which the Government will have to face in the latter part of the transition period and the financial constraints within which it will have to operate as laid down in the MOU, we have reason to believe and worry that the huge expenses of the airport projects will be passed on to the public. But can our present taxation system ensure that these expenses will be passed on to the public in an equitable way? Can the Government rely on this system to generate enough income to stabilize our financial outlays? I have already mentioned factors like economic transformation and the airport projects. Lastly, I would like to lay emphasis on another factor, that is, the gap between the poor and the rich.

Gap between the rich and the poor

One of the main objectives of taxation is to redistribute resources/income with the object of narrowing the gap between the rich and the poor and of attaining in the long run greater social stability. Is our present system of taxation capable of reducing the gap between the rich and the poor? The Government is of the view that the current tax base is too narrow, and that indirect tax should be raised and the tax base broadened. But given that 8% of the salaries taxpayers contribute 56% to the total salaries tax yield and that one-third of the profits tax is paid by less than 0.1% of the companies in Hong Kong, some people therefore advocate an expansion of the tax base. Yet the gap between the rich and the poor has reached a rather critical level, as reflected in the Gini coefficient which has jumped from 0.45 in 1981 to 0.48 in 1991, putting Hong Kong first among the Asian "four little dragons" in this respect. Regarding the upsurge in flat prices last year, it has turned speculators into millionaires or multi-millionaires overnight. But prompt adjustment has not been made to our taxation system; the gap between the rich and the poor is thus further widened in this perverse, speculative environment. Other than speculation, inflation has also been a cause for concern.

According to the 1991 Census the median income deriving from main occupation has risen from \$1,516 in 1981 to \$5,170 in 1991. Despite the increase real wage has dropped because of inflation. The increase has driven the lower and middle income groups into the tax net. Statistics show that an additional 200 000 people will be drawn into the tax net this year. In respect of the Government's fiscal arrangements, we are of the view that government subsidies to welfare services have been on the decline. Medical and housing expenses, which constitute the basic household expenditure, rise sharply as a result of a greater degree of privatization, further adding to the burden of the public. It has been reported that -- and many Members said so a while ago -- the real wage of the people of Hong Kong has increased considerably. But in my constituency, Kowloon West, people's livelihood has not much improved, particularly those who are not living in public housing estates. For example, residents of the old urban districts of Mong Kok and Yau Tsim have to face high inflation, high rent and substantial transport and living expenses. If anyone has any doubt, may I invite them to come to my constituency and meet with my constituents; then they will get the true picture. As a matter of fact, for the capitalists or big businessmen, they may have a better understanding of the whole situation if they care to talk with the workers.

I think it is urgent and imperative to review comprehensively the tax system. There are arguments that such a review will undermine investors' confidence. But concern should also be given to the sufferings of the lower and middle income groups. In the long term I think investors will look at the overall tax structure to decide whether Hong Kong is a suitable place for investment. Other than taxation, we have attractions to investment. A number of Members have quoted the figures from the survey report by the Industry Department which I do not intend to repeat. To the investors factors like infrastructural and other institutional facilities are of greater concern than merely the tax system.

The Government has suffered considerable loss in tax income in the form of tax evasion and tax avoidance. In the event of an overhaul of the tax system, the Government must legislate against such behaviour.

In view of the economic transformation, the airport projects, the gap between the rich and the poor, changes in the political, economic and social systems in the past decade and the anticipated problems to be encountered in the future, the UDHK will support any comprehensive tax review with particular regard given to the interests of the middle and lower income groups.

A number of Members have already spoken on this topic. I was most disappointed after listening to the Financial Secretary's speech. Sir Philip HADDON-CAVE, while he was the Financial Secretary, mentioned four basic principles in 1978 and 1980 which were referred to by Prof Edward CHEN a while ago. Our Financial Secretary also spoke of four principles but without mentioning the principle of equity. Prof CHEN was very worried that the principle of equity would be accorded a low priority. But what disappointed me most was that the Financial Secretary had simply left out equity from his four principles. The arguments the Financial Secretary gave in his speech include the fact that half of the labour force do not have to pay salaries tax. But how are they supposed to pay tax out of an extremely low income? In my view, if someone is intent on reform the reasons he will advance for it will be plenty; if someone is against reform he will label it as radical or drastic thinking. Many Members were of the view that the debate should concentrate on the technical aspects, and in no way should we politicize the matter. With regard to this, I should say Mr ARCULLI has been honest enough to admit that all matters are political in nature. But if we follow the advice of Members and dwell mainly on the technical aspects, then the impact of this debate will not be so great. But to be honest, if it is argued that,

given the present circumstances, it would be inappropriate to effect social reform by way of a political driving force, I would say that investors themselves also constitute a powerful political force. If it is considered that political forces will undermine investors' confidence, perhaps we may opt for a widely represented tax review committee to go for reform. Otherwise we would be just covering up the fact that investors are covertly pushing for changes including a number of changes in the past. Many Members and also members from the business sector have shown their support for increasing the personal tax allowances. For many years, they have been using their influence to effect changes, unknown to the public though.

Some Members also said we should not care only how the pie is to be divided; we should instead aim at a bigger pie. To this end, we should encourage investment. But could I ask if the public has indeed had a share in the fruits of prosperity given that the pie has grown in size in recent years? Under the present revenue policy is it possible to generate more tax income? This is a point that needs to be reviewed.

Many Members said in their speeches that a review was not necessary; but in some other speeches the view was expressed that certain areas needed to be addressed. We have already spoken a lot on tax varieties and sources and rates of taxation. If we decide in today's debate that there is no need for a review, we are in fact refusing to accept the reality that the need indeed exists.

Mr Deputy President, I support Mr Frederick FUNG's motion.

DR YEUNG SUM (in Cantonese): Mr Deputy President, my speech is mainly a response to the arguments put forth by the Co-operative Resources Centre in relation to Mr Fred LI's motion. Most members of CRC are against Mr LI's motion on two main grounds. Firstly, they consider the wordings of Mr LI's motion vague, with no clear indication as to whether the review should be directed at the taxation system or the taxation policy. If it is the taxation system that is to be reviewed, the existing Joint Committee on Taxation can already serve the purpose. The Administration can, at most, increase the membership of the Joint Committee. Secondly, the taxation policy of Hong Kong has been very successful. Thus if Mr LI proposes to review the taxation policy, it is just a waste of time. They think that any changes in our taxation policy, such as an substantial increase in taxes will affect the confidence of investors. Basing on these two arguments, most members of CRC object to the motion of Mr LI.

Mr Deputy President, I think that most members of CRC have clearly and firmly indicated their opposition against a review on taxation. Yet, their arguments are debatable.

Firstly, the Government's last review on taxation matter was conducted in 1976, which was 16 years ago. With the lapse of all these years, Hong Kong has now entered into the latter part of the transitional period. Our society has experienced great changes in politics, economy, culture as well as the public's confidence in the future. The former Financial Secretaries have all adhered to the policy of positive non-intervention. Yet our incumbent Financial Secretary has openly indicated that he holds different stands on this policy. As the trend of the time has changed, it is only wise to accommodate oneself to the new situation and review on the existing system and policy. Review does not necessarily mean an abolition of all systems and policies in existence, rather it brings the present system more in line with the new social environment and needs.

Judging from the social perspective of today, the existing Joint Committee on Taxation is problematic. Firstly, the composition of the Joint Committee attaches too much importance on representatives from functional groups. As we all know, functional groups have their own specific interests. In fact, Legislative Councillors are very much concerned with the question of conflicts of interests and roles of Members. I believe that conflicts of interests and roles are inevitable in the Joint Committee. No problems will probably be identified regarding the composition of the Joint Committee in the political context of the 1970s. However, problems arise against the present political background. Secondly, the Joint Committee serves as an advisory body to the Financial Secretary. Its members do not represent a wide sector of the community and its operation is in want of accountability and transparency. In the past, the Joint Committee has seldom consulted the public and rarely would it disclose the findings of the review. At present, the community in general demand the Administration to be responsible and accountable to the public. At present, most of the Legislative Council ad hoc groups, standing committees, OMELCO In-House Meeting and policy groups, Legislative Council In-House Meetings, and so on, would release to the public results of their deliberations. Some of these groups would even conduct their meetings openly. Thus, the present political climate calls for the establishment of an independent and widely represented tax review committee to review the taxation policy of Hong Kong. As the public is getting more aware of the Government's administration, the setting up of a tax review committee as proposed by Mr LI will only attract more support from the public towards the tax policy. When

compared with the political climate of the 1970s, the public has now showed greater concern and higher expectation of the Government. Therefore, Members of the Council and government officials should adopt an open attitude in considering Mr LI's motion and should even render their support.

As regards taxation policy, most members of CRC think that any review on the taxation policy will bring uncertainties to investors. They are indeed over anxious and their reaction is nonsensical. Taxation review does not necessarily lead to a drastic change of the present taxation policy, such as a hefty increase in taxes. Maybe, members of CRC are too much influenced by the "free lunch" theory put forward by advocates of a free economy. Personally, I think no social sciences theory can adequately explain a social phenomenon at all times. If we consider it inappropriate to treat Marxism and the thinking of MAO Zedong as eternal truths, we should also not regard the theory of the free economy school as an inviolable truth. The question whether and should the Government immutably adopt the theory of the school of free economy is indeed controversial. The Financial Secretary Mr MACLEOD has raised different opinions of the "positive non-intervention policy" as advocated by the Government. In fact, the sensible way out is to devise specific solutions to address specific problems at different time and situation. As regards the theoretical basis, it is unscientific to take the theory of any school as an inviolable law or an administrative guideline.

The stances of various concern groups on taxation are very clear. Those who are more objective will definitely not think that the liberals are asking for "free lunches" and a hefty increase in taxes. The United Democrats merely ask the Government to increase the profits tax by 1%. Is such a demand tantamount to forcing the Government to give "free lunches" or to encouraging the public to enjoy social benefits without making any contributions. The former Financial Secretaries had once set the profits tax rate at 18.5%. Later, with a booming economy and a large surplus, the rate had been lowered to 16.5%. All that is demanded by the United Democrats is to increase the rate by one percentage point, that is, 17.5%. Why do the United Democrats ask for a 1% increase in profits tax rate? It is because by so doing and by increasing the personal allowance to \$64,000, people earning three or four thousand dollars a month can be exempted from paying tax. Is this request too demanding? At a time of high inflation rate and sluggish economic growth, the wealthy class of Hong Kong can, on one hand, enjoy a lower profits tax rate than many neighbouring countries, such as Taiwan and Singapore (about 30%) and on the other, find ways to evade taxes. The tax affordability and burden of living of other classes,

such as the lower middle class should be taken into consideration as well. Many bodies, upon learning that the Financial Secretary may increase the profits tax rate by 0.5%, openly raise their objection and claim that the confidence of investors would be affected. These bodies are behaving in a selfish way and pay no attention to the common mass. If this attitude does not change, I anticipate that the internal conflicts of our society will intensify. Troubles will be caused definitely not by the liberals but by the industrial and commercial sector. Should riots occur in future, you can recall my words today.

Mr Deputy President, the United Democrats support a simple taxation system and a low tax rate. If there is a need to revise the tax rate, the effect on our exporting competitiveness should be taken into consideration. That is to say, in view that the present profits tax rate of Taiwan and Singapore stand at 30%, we should not increase our profits tax rate to such a high level which would strike a blow to our competitiveness.

Economic development is very important to Hong Kong. However, economic development should mean an improvement of people's livelihood. Only then can our society remain stable and the economy further prosper. In view of the gap between the rich and the poor and the ever increasing tax burden of the middle income group, I am in favour of reviewing the taxation system of Hong Kong. Mr Deputy President, I support the motion of the Honourable Fred LI and the amended motion of the Honourable Frederick FUNG.

MR WONG WAI-YIN (in Cantonese): Mr Deputy President, I rise to speak in support of Mr Fred LI's motion, that is, to urge the Government to set up a committee, with members representing a wide cross section of the community, to conduct a comprehensive review of the taxation system in Hong Kong. My two colleagues from Meeting Point, Mr Fred LI and Mr TIK Chi-yuen, have already expressed their views on the motion, and many colleagues have also made their incisive analyses; so I only wish to add a bit to what they have said.

The eighties saw a period of taxation reform, whether it be in advanced industrial countries or developing countries. They have all made changes in their taxation systems so as to keep pace with their social and economic developments. The reform is usually done in three ways. First, the Government brings up in the Budget tax reform proposals which will be debated and endorsed by the legislature. As the

Government is usually made up of a majority party, it is very easy for the proposals to get through. But they will have to assess the social and economic impact and its acceptability to the community. The impact on the party itself will also have to be considered. So this method is seldom used in most countries. Second, the Government publishes a consultation paper on taxation reforms. Experts, concerned groups and members of the public will be consulted. The original proposals will then be amended according to the results of the consultation exercise. So this is essentially a form of consultation and negotiation and very often interest groups will be able to exert influence, and the outcome may be very different from the original proposals. In the end it will not be able to achieve the original purpose. Third, an ad hoc group or an ad hoc committee is set up with terms of reference specified by the Government. Professionals, concerned parties and the general public will be invited to give their views on the proposals. The recommendations will be incorporated in a report which will be issued in the form of a White Paper. It will be presented to a group in the legislature or to an advisory committee made up of experts from the private sector for deliberation or may be amended by the relevant government department(s) basing on the results of the deliberations and consultation before submitting it to the legislature.

Of the three ways mentioned, most countries will choose the third one. Hong Kong certainly can learn from the experience of these countries. Although no tax reforms have ever been made in Hong Kong, the review of the Inland Revenue Ordinance is nothing new to us. We have had three reviews on the Inland Revenue Ordinance in 1952-54, 1966-67 and 1976 respectively. On each of these three occasions, an Inland Revenue Review Committee (hereinafter referred to as Review Committee) was set up.

The three reviews were all related to direct taxes. In other words, the Government all along has been adopting the third option I described in carrying out the tax reforms. However, the three reviews had its uniqueness. Firstly, these reviews only touched on the Inland Revenue Ordinance, that is, the focus was on direct taxes rather than a comprehensive review of Hong Kong's tax regime. Indirect taxes and the relationship between direct and indirect taxes were not covered. Secondly, the Government has limited the Review Committee's discussion to the technicalities of the Ordinance. Fiscal policies were outside its ambit. In other words, the progressivity of the tax rate and the levels of the tax allowances could not be brought up. All three Review Committees had expressed their dissatisfaction over the exclusion of the fiscal policy from the agenda. The report by the third Review Committee has raised a lot of policy issues. They are actually very important and

cannot be avoided. For example, should the adjustment of personal allowance be linked to inflation and economic growth? This brings out the question of tax equity. Since the level of personal allowance was outside their ambit, the third Review Committee could only presume that they absolutely believed that the Government would constantly review the seriousness of tax burden and make appropriate adjustment. They also stressed that if they did not expect the Government to do so, then they were obliged and in favour of taking certain opinions into consideration. Unfortunately, the presumption of the third Review Committee did not materialize. In other words, the personal allowance was not inflation-indexed, nor was it linked to economic growth. A review of our tax regime and taxation policy, therefore, should be done without delay and there is no way of avoiding it. Besides, this also involves the principle of equity of the whole taxation system and the way to promote our economic growth.

I would like to reiterate the motion proposed by Mr Fred LI of Meeting Point. There are two important points. First, it is asking for the setting up of a committee with wide representation. The Joint Liaison Committee on Taxation (JLCT) is mainly made up of members of the commercial, legal and accounting sectors, while economists and members of the public are not represented. This shows that the Financial Secretary has only attached importance to reforms in the legal and technical aspects of the tax regime in the consultations on tax matters. Tax equity in economics has been totally ignored. If the JLCT was given the task of studying the issue, inevitably it would focus its attention on the legal and technical aspects rather than a comprehensive review of the taxation system.

Mr Peter WONG and Mr Eric LI have given their views in this area already. Mr Peter WONG considers that the JLCT is not representative enough, despite the fact that the members are experts on tax matters. They are concerned that members might place their own organizations interests as the objectives of the review. Mr Eric LI has also mentioned that the results of the previous review committees did not produce much change.

The second point I wish to emphasize is that the review must be comprehensive. We do not want the review to turn into some palliative treatment. We hope that it will be comprehensive and macroscopic. Besides, what we aim at is not just this year's Budget.

Now I would like to turn to Mr Frederick FUNG's amendment. Mr FUNG, on a number

of occasions, gave very pertinent remarks on the wording of different motions. He is an expert in this field. However, I would like to express some of my opinions. I have no intention to challenge Mr FUNG's authority. I understand that in doing so, I would probably show off in the presence of an old hand. Nevertheless, I have something stuck in my throat which I have to cough it up. Firstly, Mr FUNG said that Mr Fred LI's motion has no direction. I do not know whether Mr FUNG always loses his direction or he only sets eye on the minor direction without noticing the main direction. This motion is asking for the setting up of a committee, with members representing a wide cross section of the community, to conduct a comprehensive review of the taxation system in Hong Kong, and I think the direction is clear enough. Many colleagues who spoke before me have urged that attention be given to the lower and middle income groups or to the industrial and commercial sectors. Some are for sales tax, and some are against it. The views are extremely diverse. So it is for this reason that a review must be comprehensive and open, without any constraints nor conditions. Here I would like to give an example: A man and a woman are in love and want to get married but the two families are arguing whether the couple should have sons or daughters. So we have this bickering between the two families on whether they should have sons or daughters instead of discussion on how the marriage should be arranged. In fact the initial thing that needs to be done is to discuss how they should get married and then leave the matter of having sons or daughters sometime later. If we keep on arguing on whether they should have sons or daughters, then probably the marriage might not be made. So if we want to accommodate the requests of different sectors, we must first have a committee with members representing a wide cross section of our community and conduct a comprehensive review. We should not put the cart before the horse. Meanwhile, some members think that the existing taxation system need not be reviewed. Should that be the view, then they would think that the existing JLCT is redundant because what they are doing in fact is reviewing Hong Kong's taxation system, but the only thing is, they are not doing it in a comprehensive way.

Mr NG Ming-yum has been my partner for years and unfortunately he is in hospital and cannot be here today. I visited him the day before yesterday. He asked me to thank Members of this Council, the press and the public for their concern, and at the same time he is very concerned about today's debate. This is because to ask for a review of the taxation system has long been his wish and one of his major targets. Unfortunately he cannot be here to cast a vote in support of this motion. Just now, Mr McGREGOR, running the risk of being pressed and criticized by the Chamber which he is representing, declared he would abstain from voting. I express my gratitude

to him on behalf of Mr NG Ming-yum. Some Members have said that since the Executive Council has already rejected the proposal, this debate is meaningless. We have in this Council nine Executive Council members and since they have to be collectively responsible for their decisions, probably they will have to act against their own wishes. But amongst the Members here, I am sure there are many from the industrial and commercial sectors who have a conscience and I am sure they will vote as conscience dictates. Thank you.

Question on the amendment put.

Voice votes taken.

DEPUTY PRESIDENT: I think the noes have it.

MR FREDERICK FUNG (in Cantonese): Could I claim a division?

DEPUTY PRESIDENT: We will proceed to a division. The division bell will ring for three minutes and the division will be held immediately afterwards. Would Members please observe order as we are still in session?

DEPUTY PRESIDENT: The system is now activated. Would Members therefore please register their presence and then register their votes if they wish to vote.

DEPUTY PRESIDENT: Before I declare the result does any Member have any query or wish to alter his vote? If not the result will now be displayed.

Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr TAM Yiu-chung, Mrs Elsie TU, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr MAN Sai-cheong, Mr James TO and Dr YEUNG Sum voted for the amendment.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mr Stephen CHEONG, Mrs Selina CHOW, Mrs Rita FAN, Mr HUI Yin-fat, Mr NGAI Shiu-kit, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW,

Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Peter WONG, Mr Vincent CHENG, Mr Moses CHENG, Mr Marvin CHEUNG, Mr Timothy HA, Mr Simon IP, Dr LAM Kui-chun, Mr Gilbert LEUNG, Mr Eric LI, Mr Fred LI, Prof Felice LIEH MAK, Mr Steven POON, Mr Henry TANG, Mr TIK Chi-yuen, Dr Samuel WONG, Dr Philip WONG and Mr WONG Wai-yin voted against the amendment.

Mr Jimmy McGREGOR, Prof Edward CHEN and Mr CHIM Pui-chung abstained.

THE DEPUTY PRESIDENT announced that there were 17 votes for the amendment, 34 votes against it and three abstentions. He then declared that the amendment was negatived.

DEPUTY PRESIDENT: Mr Fred LI, do you wish to speak on your motion in reply?

MR FRED LI (in Cantonese): Thank you, Mr Deputy President, I just wish to make a few remarks. Being "a new Member" to this Council as suggested by Mr TAM Yiu-chung, I would like to thank 28 colleagues for giving their valuable opinions. I would also like to thank Dr YEUNG Sum for doing part of my reply.

For those who object to the motion, let me summarize their arguments. Basically, they point out that our taxation system is simple and the tax rate is low, and that the taxation system is attractive to investors and has proved to be effective over the years. Any substantial review with no possible indication of its findings will ruin the confidence of investors and jeopardize our stability and prosperity. And, many Members are worried about the membership being drawn from a wide cross section of the community. They are concerned that the review would be turned into a political issue by these non-professional members and be dragged on for years before the exercise could be completed. These are the basic counter arguments against the motion in their speeches. In reply, I would like to reiterate one point which in fact has been mentioned in my speech. Taxation would have a bearing on everybody including the Members and officials in this Chamber. The review in question is very technical and no one knows that better than those who are well versed in taxation. But I learnt from the press that the accounting firms or legal firms with which people involved in the review of the Inland Revenue Ordinance are working may have a conflict of interest in relation to the review. On the other hand, I think that the setup of the present Joint Liaison Committee on Taxation does not have enough economists

who are conversant with public finance to look at the problem and carry out the review. As such, we should include in the committee a greater number of experts, university professors and lecturers. On top of that we should involve more people from different sectors in the review of the taxation system to solicit more views. The point of setting up a committee with a wide spectrum of representatives is to enhance the acceptability of the findings of the review. Should the review be carried out by only a handful of experts behind closed door then its credibility will be undermined. Perhaps I was too straightforward when I said in my speech just now that the review was politics, and many Members are afraid and wondering whether I am politicizing the issue or moving the motion with an ulterior motive of canvassing votes. In fact, I have made it clear time and again that I have no such intention but, having said that, I must admit that they have every right to do so.

Over the years, Meeting Point and its members in this Council have been striving for a comprehensive review of our taxation system without holding prejudiced view, or showing favouritism toward any sector or class of our society. So in opposition to the amendment, we are really running the risk of arousing people's suspicion of our motive and making them wonder why we raise objection to easing the tax burden on the lower and middle class. Our position is that the review must be comprehensive and carried out in an open, objective and unbiased manner. After all, if the review is to be conducted, all of us may be required to pay a little more tax or some people may have to pay more while some may pay less. I entirely agree with many Members' view that "tax" is something one would like to be exempted or to pay less, if possible. The inference drawn from this view leads one to wonder whether the handful of experts who are assigned to conduct the review would work for their own interests.

In light of this worry, why cannot the review be launched in a more open fashion? With an absence of a comprehensive review or a review committee, people's grievances, which have been displayed by demonstrations when taxation review is mooted or the Budget is published each year, or the social and class contradiction in our community will be here to stay even if there is a result in the review. If technical issues can only be handled by professionals, then allow me to say that although there are many Members in this Council, no one is an expert on everything. None of us in this Council can say that he or she is well familiar with everything, say, from economics, transport, to shipping. But is it necessary for us to have a grasp of knowledge in certain area before we can get ourselves involved in it? The answer is negative. At present many Members of this Council participate in various ad hoc groups to study various Bills which may not necessarily have anything to do with their expertise nor

familiar to them. Professionally speaking, they are not qualified to do so. But, in fact, they are free to sit on any of the 16 standing panels and other ad hoc groups. As I see it, with their sound judgement and social links, they are absolutely well placed to engage themselves in these meaningful commitments. Meanwhile the Financial Secretary's speech is even hollower than the speeches of those who opposed my motion. While I admire some colleagues who backed up their objection to my motion on different grounds, the Financial Secretary's response is far from convincing. Where are the grounds of his objection, after all? He failed to comment on the socio-economic changes in the past 15 years, nor the Government's views in that respect. Neither did he comment on whether the current taxation system in the coming decade could fully cope with the colossal expenditures arising from the 10 core infrastructure projects and other enormous public expenditures. In his speech, the Financial Secretary brushed aside the proposal of conducting a review and merely dwelt on our simple, low taxation system, the maintenance of an attractive environment for investors, tackling tax avoidance and evasion and plugging loopholes. I find his answer far from satisfactory and less convincing than the points put forward by Members who opposed my motion.

In respect of tax avoidance and evasion, here I would like to cite some figures. According to the Inland Revenue Department's Annual Report for the year 1990-91, while corporate profits tax was \$19.044 billion in the year 1989-90, it was \$19.024 billion in 1990-91, a reduction of more than \$20 million. Was there a decline in the turnover of the companies? But if we look at the GDP, our overall economic growth showed that it was absolutely not the case. We enjoyed a growth of 3.5% to 4%. Then why was there a decline in profits tax? This clearly demonstrated that some companies were employing legal or illegal measures to avoid or evade tax. And I am not sure how many loopholes are plugged under Section 61(a) of the Inland Revenue Ordinance. So I am all the more determined to call for a comprehensive review of the taxation system in order to take immediate action to resolve this serious problem.

Mr Simon IP has quoted quite a number of examples from many countries to show how they reduce tax rates, abolish tax items and attract investors. But my motion is not asking for tax abolition, reduction or increase. I have repeatedly made it clear that I am asking for a comprehensive review of our taxation system so that its loopholes can be identified. But Mr IP's examples do arouse my curiosity and I would like to ask how a decision to reduce or abolish tax is arrived at in these countries. The decision or the mechanism is my major concern, not the results. Unlike Mr IP's quoted cases, most of which are about tax reduction, in my motion, I am merely calling

for a review, not taking any particular tax measures. I think Hong Kong should not move in the same direction as other countries as mentioned in Mr IP's speech.

Here I would like to clarify once again: Many Members who have indicated their support of my motion suggest that profits tax be increased by a certain percentage point. But if one looks closely at my speech and the speeches of my two Meeting Point colleagues, one would find that we have never mentioned anything about tax increase or reduction. Just now, Professor Edward CHEN eloquently made a proposal of an increase in profit tax of 3%. But should the request come from my mouth, I am afraid we would come under heavy fire for asking for free lunches. I would naturally think twice before making such remarks.

In closing, I would like to summarize Members' overall reactions to the proposal of a comprehensive review. Some Members said that they were: "shocked" and "worried" and found the proposal "very negative" which would discourage investors. But can they look at it from another perspective and accept that the proposal is a positive and pro-active move? In this transitional period when confidence is dwindling, a comprehensive review on our taxation system could make it clear to the investors that the Hong Kong Government is not a lame duck and we are determined to identify the loopholes in our taxation system to make it more equitable. Besides, it would also tell the investors that we are trying to figure out how to ensure a stable source of revenue for the Government to finance our enormous expenditure on infrastructure. Why cannot these Members look at the motion in this light? I am really at a loss why they interpret the review as a disguised proposal of a tax hike and claim that it is so alarming an idea that it would frighten off our investors. Some Members said that the wording of my motion is too vague and general. But as to Mr FUNG's amendment, they found it too narrow in scope. Then how should I phrase my motion? What is the right approach? It is so bewildering to me.

Finally, I hope Members will exercise their good judgement and vote according to their conscience. I would like to thank colleagues for their support of and participation in this motion debate. Thank you, Mr Deputy President.

Question on the motion put.

Voice votes taken.

DEPUTY PRESIDENT: We shall need to proceed to a division. The division bell will

ring for three minutes and the division will be held immediately afterwards.

DEPUTY PRESIDENT: Would Members please proceed now to vote?

DEPUTY PRESIDENT: Before I declare the result does any Member have a query or wish to alter his vote? If not the results will now be displayed.

Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr TAM Yiu-chung, Mrs Elsie TU, Mr Albert CHAN, Prof Edward CHEN, Mr Marvin CHEUNG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum and Mr WONG Wai-yin voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mr Stephen CHEONG, Mrs Selina CHOW, Mrs Rita FAN, Mr HUI Yin-fat, Mr NGAI Shiu-kit, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Vincent CHENG, Mr Moses CHENG, Mr CHIM Pui-chung, Mr Timothy HA, Mr Simon IP, Dr LAM Kui-chun, Mr Gilbert LEUNG, Prof Felice LIEH MAK, Mr Steven POON, Mr Henry TANG, Dr Samuel WONG and Dr Philip WONG voted against the motion.

Mr Jimmy McGREGOR and Mr Peter WONG abstained.

THE DEPUTY PRESIDENT announced that there were 23 votes for the motion, 29 votes against it and two abstentions. He then declared that the motion was negatived.

Adjournment and next sitting

DEPUTY PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 26 February 1992.

Adjourned accordingly at 24 minutes to Ten o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Securities (Clearing Houses) Bill and the Crimes (Torture) Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.