

1 HONG KONG LEGISLATIVE COUNCIL -- 11 March 1992

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OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 11 March 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 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 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.

DR THE HONOURABLE LEONG CHE-HUNG

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 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 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

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG

THE HONOURABLE ZACHARY WONG WAI-YIN

ABSENT

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

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

THE HONOURABLE VINCENT CHENG HOI-CHUEN

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE NG MING-YUM

THE HONOURABLE JAMES TO KUN-SUN

DR THE HONOURABLE PHILIP WONG YU-HONG

IN ATTENDANCE

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

MR YEUNG KAI-YIN, J.P.  
SECRETARY FOR THE TREASURY

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 RONALD JAMES BLAKE  
SECRETARY FOR WORKS

MR MICHAEL SZE CHO-CHEUNG, I.S.O., 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 Revenue Protection (Inland Revenue) Order 1992.....	43/92
Public Revenue Protection (Dutiable Commodities) Order 1992.....	44/92
Public Revenue Protection (Stamp Duty) Order 1992.....	45/92
Public Revenue Protection (Entertainments Tax) Order	

1992.....	46/92
Public Revenue Protection (Rating) Order 1992.....	47/92
Merchant Shipping (Safety) (Navigational Equipment) (Amendment) Regulation 1992.....	49/92
Merchant Shipping (Safety) (Use of Signals of Distress) (Amendment) Regulation 1992.....	50/92
Shipping and Port Control (Amendment) Regulation 1992.....	51/92
Public Health and Municipal Services (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 2) Order 1992.....	52/92
Rectification of Errors (No. 2) Order 1992.....	53/92
Food Business (Regional Council) (Amendment) Bylaw 1992.....	54/92
Frozen Confections (Regional Council) (Amendment) Bylaw 1992.....	55/92
Milk (Regional Council) (Amendment) Bylaw 1992.....	56/92
Offensive Trades (Regional Council) (Amendment) Bylaw 1992.....	57/92
Places of Amusement (Regional Council) (Amendment) Bylaw 1992.....	

58/92

Swimming Pools (Regional Council) (Amendment)

Bylaw

1992..... 59/92

Places of Public Entertainment (Licences)

(Specification of Fees) (Regional Council

Area)

Notice..... 60/92

Sessional Papers 1991-92

No. 60 -- Hong Kong Polytechnic

Annual Report 1990-1991 with Balance Sheet

at 30 June 1991 and Income and Expenditure Account

for the year ended on that date

No. 61 -- Securities and Futures Commission

Approved Estimates of Income and Expenditure

for the Financial Year ending 31 March 1993

Green Paper

Green Paper by the Working Party on Rehabilitation Policies and Services on Equal Opportunities and Full Participation : A Better Tomorrow for All March 1992

Miscellaneous

White Paper on the Annual Report on Hong Kong 1991 to Parliament

Addresses by Members

Hong Kong Polytechnic Annual Report 1990-1991 with Balance Sheet at 30 June 1991 and



Income and Expenditure Account for the year ended on that date

MR STEPHEN CHEONG: Mr Deputy President and colleagues of the Legislative Council, as Chairman of the Hong Kong Polytechnic Council, it is both my honour and pleasure formally to present to you the 19th Annual Report of the Hong Kong Polytechnic, covering the period 1 July 1990 to 30 June 1991.

The year under review has seen a change in top management, with the retirement of Professor John CLARK, who served as Director from early 1985 to November 1990, and the assumption of duty by a former colleague of this Council, Professor POON Chung-kwong, as Director from January of 1991. On behalf of the Polytechnic Council, I am pleased to report that under Professor POON's leadership, and with the continued support of the Government, industry and the community, the Polytechnic has been able to strive ahead with vigour during the past year in meeting the challenges, in ways that are totally consistent with its overall mission of training the much needed professional manpower for the Hong Kong community.

The year 1990-91 has again been a year of progress and achievement across a wide front, including developments in academic programmes, growth in the extent of applied research, a build-up of provision in continuing education, and the further development of specialist centres, emphasizing at the same time the polytechnic's long-standing philosophy of partnership with industry and commerce.

In this brief address, however, I can do no more than highlight some of the more major events and developments during the year. For a more comprehensive overview, I invite Members of this Council to study the published annual report.

Today, the Hong Kong Polytechnic is the largest tertiary institution in Hong Kong, with more than 26 000 full-time and part-time students attending a wide range of courses at various levels, from certificates to higher degrees. The success of this institution is no doubt a source of pride to us all. It is important, however, to realize that the polytechnic cannot continue to develop to meet the changing needs of Hong Kong and in particular, cannot successfully fulfil its current four-year academic development plan which, I may add, is an integral part of the Government's overall plans for the expansion of degree level education. We cannot do that without the full support of the Government and the community. In this connection, I wish to draw this Council's attention to the fact that the level of recurrent grant made available to the Polytechnic for the single interim year 1991-92 has been cut

significantly. Nevertheless, the Polytechnic Council directed the management to draw up and implement a set of wide ranging contingency measures, and I should like to take this opportunity to commend the Directorate and all members of the academic and administrative staff for co-operating fully in this respect and for maintaining a reasonable level of morale throughout this difficult period.

Now that the recurrent grant allocation for the triennium 1992-95 is known, I would like to take this opportunity to assure my fellow Members of this Council that the Polytechnic Council, and the management, will as usual do all that we can to ensure that every dollar is spent wisely and effectively in delivering the Polytechnic's triennial development plans.

I have made reference in previous annual reports to the pressure on the Polytechnic's Hung Hom campus, and the need for the Polytechnic to have more space and accommodation. These pressures have again been manifest during the year under review and the Polytechnic has now made a formal proposal to the Government for consideration for a secondary campus, preferably located near the present campus. It is an important and pressing matter which requires urgent attention. I therefore look forward to support from our friends in the University and Polytechnic Grants Committee, the Government, as well as the community at large.

Mr Deputy President, I would like to highlight: Sir Gordon MacWHINNIE, one of the longest serving members of the Polytechnic Council and, currently its Deputy Chairman, joined the list of the Polytechnic's honorary graduates when the Degree of Doctor of Letters, *honoris causa*, was conferred on him at the 18th graduation ceremony. This is most certainly a well-deserved honour, in view of the great contribution which he has made, and continues to make, to the well-being of the Polytechnic, and the Hong Kong community in general.

Also at the same ceremony, academic awards were conferred on 8 100 full-time and part-time graduates, bringing the total number of award recipients since its inception in 1972 to more than 100 000. This is truly a remarkable achievement.

Fellow Members of this Council may be aware that the Polytechnic will be entering its 20th year of operation. A full range of activities is now being planned to mark this important milestone in the development of the institution. I therefore believe that it is most fitting for me to make use of this opportunity to reiterate that we, at the Polytechnic, will continue to regard it as a major priority to strengthen and

reinforce the Polytechnic as a major degree-awarding institution in Hong Kong, developing it as a centre of excellence in teaching, research, and serving the needs of the community of Hong Kong in the years to come.

Green Paper on Rehabilitation "Equal Opportunities and Full Participation: A Better Tomorrow for All"

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, tabled today is a Green Paper on Rehabilitation entitled "Equal Opportunities and Full Participation: A Better Tomorrow for All". The Green Paper is a summary of findings and recommendations of a working party appointed by the Governor, comprising mainly non-officials drawn from a cross section of the community. It was tasked to consider how rehabilitation services should be further developed. Here I record my thanks for their time and participation.

The Green Paper has been the result of a true coalition of thoughts, of vision, and of a shared conviction.

The Green Paper Working Party has reviewed the basic principles and objectives of current rehabilitation policies and services. It has addressed the questions of medical and social rehabilitation and special education. It has examined important issues such as access, transport, manpower planning, training, employment, legislation and representation, community and parental participation, public education and the need to break down barriers. It promotes the twin goals of equal opportunities and full participation.

Having regard to these goals, the Green Paper maps out strategies for the future. It outlines ambitious initiatives for the way forward. It advocates the need to influence the broad environment. It reaffirms the need to promote community participation. It reinforces the importance of positive attitudes.

Over 80 major recommendations are contained in this Green Paper. The annually recurrent cost of the more concrete and quantifiable ones is estimated to be \$600 million at current prices.

I think the real triumph of any Green Paper lies not only in what is written, but in realizing realistically what is written. We need to make things happen, with

the guidance and the support of the community; only then can we, I think, celebrate our achievement.

In the light of competing claims for limited resources, there is always a need for prioritization, that which we consider to be the most important is given resources first. Prioritization will help us to focus, particularly in the face of perhaps a dilemma of choices.

The Green Paper is now published for public consultation and comments. The consultation period is three months. Here I urge the public to send in their views. I specifically welcome advice on which areas covered in the Green Paper should be accorded early priority. Together we will set the scene for tomorrow, a better tomorrow for all.

MRS ELSIE TU: Mr Deputy President, may I have your consent to move that Standing Order 16(3) be suspended?

DEPUTY PRESIDENT: You have my consent.

MRS ELSIE TU: I am grateful for your consent for me to move this motion. The purpose of the motion is to remove the restriction on the number of questions for which an oral reply may be required so that six questions on the Order Paper may receive an oral reply whilst limiting Question Time to approximately one hour, at your discretion.

Under Standing Order 16(3) where, in the opinion of the President, there will be a debate on a substantive motion, no more than three questions shall require an oral reply. As Members are aware, there will be debates on substantive motions at all regular Legislative Council sittings up to the end of the current Session. If the number of oral questions is limited to three, Members will have to wait for a long time before they can raise an oral question in this Council. In order to remedy the situation, Members agreed at the Legislative Council In-House meeting on 28 February 1992 that Standing Order 16(3) be suspended at the Legislative Council sitting on 11 March 1992 on a trial basis to allow six oral questions on the Order Paper to be raised. With the new arrangement, the Question Time will be confined

to one hour, with each question taking not more than 10 minutes. I sincerely hope that my colleagues will co-operate so as to make this trial a success. If it proves to be successful, arrangements will have to be made for the relevant Standing Orders to be amended in due course.

Mr Deputy President, with these remarks, I beg to move.

Question proposed, put and agreed to.

Oral answers to questions

Labour protection to foreign domestic workers

1. MRS ELSIE TU asked: Will the Government inform this Council whether consideration will be given to extending the protection offered by the 1992 General Scheme on Importation of Labour such as protection from exploitation, extension of stay to find another job pending investigation, penalties for malpractices by employers and exclusion of such employers from participation in further contracts to cover foreign domestic workers? If not, why not?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, all foreign workers are subject to protection under Hong Kong law irrespective of sex, race and nationality. The same complaint mechanism applies to foreign domestic helpers and to workers imported under the importation of labour schemes. If they have any complaint against their employers, they can approach the Labour Department which will provide a conciliation service. If no settlement can be reached, their cases are referred to the Labour Tribunal for adjudication. They are subject to the "two-week rule" on limitation of stay: that is to say, they are required to leave Hong Kong within two weeks of the termination of their contract of employment. However, they can apply to the Immigration Department for extension of stay pending conciliation meetings, complaint investigation and court hearings. The employment of foreign domestic helpers has had a history of more than 15 years and both the foreign domestic helpers and employers are well aware of their rights and obligations.

Employers of foreign domestic helpers are subject to prosecution if they have committed offences under the Employment Ordinance or the Immigration Ordinance. The

records of offences provide useful information to the Immigration Department in deciding whether an employer is a suitable sponsor in future applications for employment of foreign workers.

MRS ELSIE TU: Mr Deputy President, may I ask the Secretary for Education and Manpower to answer my question about whether domestic workers will be given an extension of stay to find another job pending investigation? The Secretary must be aware that legal proceedings take from three to six months during which time the worker has to pay for renewal of visa and is not at present permitted to get another job.

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the circumstances in which foreign domestic helpers have their contracts terminated prematurely obviously vary from case to case. It is the Immigration Department's normal practice to allow a foreign domestic helper who has had her contract of employment terminated in exceptional circumstances -- for example the emigration of the employer, or the death of the employer, or the financial hardship of the employer -- to change to a new employer. In addition, where there is evidence to show that a foreign domestic helper has been exploited by her employer, then the Immigration Department will also consider the application for change of employment sympathetically. Generally speaking, of course, foreign domestic helpers are brought in to work under specific contracts to specific employers and they are expected to serve under the same employer for the full length of the contract.

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, will the Administration inform this Council how many imported foreign workers were subsequently able to find new jobs after they had been dismissed because they had complained against their employers? What will be the fate of those imported foreign workers in the same position who are unable to find new jobs?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, I regret that I do not have the figures with me. I will provide them in writing after the meeting. (Annex I)

MR HENRY TANG: Mr Deputy President, the Secretary for Education and Manpower said in reply that the records of offences by employers provide useful information to the Immigration Department in deciding whether an employer is a suitable sponsor in the future. Now would the Secretary advise whether such past offences will categorically bar an employer from sponsoring any future application or whether such action is being considered in this current scheme?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, generally speaking, any application to import a worker, whether it is a foreign domestic helper or any other worker, is considered on its merits. Of course, if a prospective employer has a record of having committed offences against the Employment Ordinance or the Immigration Ordinance, then this would be a consideration of substance which will be taken into account.

MRS SELINA CHOW: Mr Deputy President, how many domestic helpers who have breached the two-week rule have been prosecuted, say, in the last three years? What is the average length of sentence handed down on those convicted of the offence?

SECRETARY FOR EDUCATION AND MANPOWER: Again, Mr Deputy President, I regret I do not have the statistics with me. I will provide them after the meeting if possible. (Annex II)

MR MICHAEL HO (in Cantonese): Mr Deputy President, given that foreign workers in their countries of origin have to pay a substantial amount of money to the middle-men before they come to Hong Kong, could I ask whether the Administration has in place a mechanism to protect the workers before they come here, so that they will not be exploited by the middle-men?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, I think the requirements of any governments or organizations situated in the country of origin of foreign workers do not fall within the jurisdiction of the Hong Kong Government.

MR HOWARD YOUNG: Mr Deputy President, as foreign domestic workers by nature are slightly different from workers under the Importation of Labour Scheme in the sense that they are domestic and therefore live in the household of their employer, would protection by way of an extension of stay not prove awkward, if not impractical, because they will be living at the employer's premises while trying to find a job?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, very often foreign domestic helpers do make their own arrangements for accommodation while their stay is being extended. I also understand that the Consulate General of the Philippines, which is the country of origin of some 90% of the foreign domestic helpers working in Hong Kong, does provide assistance to Filipino foreign domestic helpers who need such help.

MR JIMMY MCGREGOR: Mr Deputy President, does the procedure described by the Secretary to enable foreign domestic workers to seek other jobs in Hong Kong, where the employer has been at fault, also apply to workers from China?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, under the Importation of Labour Scheme, the Labour Department will provide assistance to any foreign worker who has been complaining of exploitation or other unfair treatment by the employer. In theory, the same applies to foreign domestic helpers and the local Employment Service is prepared to provide the same assistance to foreign domestic helpers in a similar position. In practice, however, foreign domestic helpers seem to have other ways in which they can deal with such situations. Very often, I think, they would tend to go back to the private employment agencies who arranged their initial placement in the first place.

Smuggling of unmanifested goods

2. MR ANDREW WONG asked (in Cantonese): As the smuggling of unmanifested goods into China by land still runs rampant, will the Government inform this Council whether there are incidents of vehicles attempting to cross the check points along the border by force or without undergoing inspection?



SECRETARY FOR SECURITY: Mr Deputy President, there is smuggling of unmanifested goods into China by land, I would not describe it as rampant. In 1991, 63 cases were detected involving goods to the value of some HK\$36 million. The types of goods typically smuggled into China by land included video cassette recorders, computers, cameras and air-conditioners.

There were two incidents last year when vehicles crossing into China drove straight on after being directed to the Customs inspection area in Hong Kong. They were directed back to Hong Kong by the Chinese authorities. The incidents appear to have been the result of misunderstandings, as no contraband was found in either case. There is close co-operation between Hong Kong and Chinese Customs at the vehicular crossing points, and I would not expect problems of the type envisaged in the question to arise in future.

MR ANDREW WONG (in Cantonese): Mr Deputy President, could the Secretary inform this Council whether the issue has been discussed by the Border Liaison Group? If yes, does the arrangement agreed by the two sides provide for the immediate return of the vehicles involved to Hong Kong in the company and under the supervision of Chinese border control officers?

SECRETARY FOR SECURITY: Mr Deputy President, I do not think that in either case discussion by the Border Liaison Group was necessary. That channel is of course open to discuss problems if they became significant problems but, as I have said, we believe that these cases were simply a case of misunderstanding and they were resolved on the spot without difficulty.

MRS PEGGY LAM (in Cantonese): Mr Deputy President, will the Administration inform this Council how many vehicles reported lost were returned to Hong Kong by the Chinese side last year?

SECRETARY FOR SECURITY: Mr Deputy President, I do not think that is relevant to the original question. But I certainly cannot answer it now. I would have to give a written answer. (Annex III)

DEPUTY PRESIDENT: Yes. I would remind Members that the original question went to the number of vehicles crossing by force or without undergoing inspection.

MR PETER WONG: Mr Deputy President, will the Administration inform this Council what the most common means are of transporting stolen passenger vehicles from Hong Kong to China and what steps the Administration is taking to stem this flow?

DEPUTY PRESIDENT: Are you asking a general question, Mr WONG?

MR PETER WONG: I have asked what the means are by which stolen vehicles are transported to China.

DEPUTY PRESIDENT: That is outside the ambit of the main question. The main question relates to smuggling by vehicles crossing the border by force or without undergoing inspection.

MR JIMMY MCGREGOR: Mr Deputy President, can the Secretary confirm that none of the seized unmanifested goods were in fact stolen in Hong Kong and that they were properly purchased here, in other words, that the only offence was the offence of not declaring these exports under an export declaration?

SECRETARY FOR SECURITY: Mr Deputy President, I believe that is the case. In practice, it is new electrical and electronic goods that constitute the very large proportion of smuggling into China, also, in some cases, cigarettes.

MR ANDREW WONG (in Cantonese): Mr Deputy President, the Secretary only mentioned in his reply that there were two incidents, without specifying the number of vehicles involved. Did it involve only one vehicle in each of the two cases, thus making it two in all or was the actual figure more than that? Moreover, how long is the waiting

time after the Chinese authorities have directed that the vehicles be returned to Hong Kong, that is, after crossing the border how long will it take before they are directed back to Hong Kong?

SECRETARY FOR SECURITY: Mr Deputy President, there were two vehicles involved, one in each case. I understand that the vehicles returned very quickly to Hong Kong within a matter of minutes. I should say that in practice I envisage it is almost impossible that a vehicle could cross from Hong Kong into China and then disappear. Once a vehicle has gone through the customs and immigration checks in Hong Kong, it will find itself invariably at the end of a long queue to undergo customs and immigration checks in China. So, as I have said, I cannot see the sort of problem envisaged in the question arising.

MR STEVEN POON: Mr Deputy President, two incidents out of many vehicles crossing the border indeed form a very, very small percentage. But still it is our job to guard our border and not rely on the Chinese authorities. Can the Administration tell us whether there will be additional facilities installed at the checkpoints so that it will be absolutely impossible for anybody to cross the checkpoints without first being cleared by an officer?

SECRETARY FOR SECURITY: Mr Deputy President, I do not think that any further installations are necessary. As I said, this is not a problem.

Supervision of banks

3. DR CONRAD LAM asked (in Cantonese): In the light of the collapse of the Bank of Credit and Commerce Hong Kong, will the Government inform this Council:

(a) whether consideration would be given to introducing legislation to make more open the financial position of banks as a measure to protect the interests of the general depositors;

(b) whether the Government is aware of the presence of any "unrecorded liabilities" in other banks apart from those which have surfaced in Bank of Credit

and Commerce; and

(c) if not, whether any comprehensive investigation will be made to ensure that there will be no reoccurrence of the incident of the BCCHK?

FINANCIAL SECRETARY: Mr Deputy President, to respond to the first part of Dr LAM's question, it is the Government's policy to review and revise legislation relating to banks regularly to ensure effective supervision of authorized institutions and to protect the interests of depositors. The extent to which more information should be made publicly available in respect of banking operations is one of many issues that will be considered as part of that on-going review; but we shall also be conscious of the need to maintain the stability of the banking system.

With regard to the second part of Dr LAM's question, I should begin by pointing out that should a bank have unrecorded liabilities, that is to say that there were claims which were not recorded in its books though in accordance with standard accounting practices they ought to have been, it may not be possible to discover these, however transparent the operations of the bank were to become. They could well only be identified when the persons purporting to have such claims on the bank came forward and made their claims. Certainly it would seem that the claims which have recently been lodged with the provisional liquidator of Bank of Credit and Commerce Hong Kong (BCCHK) by liquidators of other parts of the BCC Group worldwide, whether they can be described as "recorded" or "unrecorded" liabilities, are not such as could have been reasonably identified or anticipated by a regulator or auditor. These claims, arising out of the business of BCCHK, have yet to be evaluated, and if necessary, ruled upon by the Court.

As to the third part of Dr LAM's question, it follows from what I have already said that it would not be a practicable proposition to conduct a comprehensive investigation into possible unrecorded or potential liabilities in other authorized institutions bearing in mind the large number of authorized institutions and the scale and extent of their business. The best preventive measure is to ensure that only institutions with prudent management are authorized to operate in Hong Kong and that institutions have good and effective internal control systems which can guard against fraud and malpractices including failure to keep proper records of transactions. In this connection, the controls on bank ownership and the authorization policy have been substantially improved since the entry of BCCHK in 1979. A person proposing

to become a controller of an authorized institution incorporated in Hong Kong now has to obtain the prior consent of the Commissioner of Banking. Legislation has also been amended to facilitate the exchange of information between regulators, both local and overseas, and the reporting of fraud to the Commissioner of Banking by auditors. In addition, a Banking Amendment Bill is being drafted to provide the legal framework for external auditors to report on the adequacy and effectiveness of authorized institutions' internal control system.

Whilst we are not complacent and will continue to keep matters under review, we believe we have a sound and adequately supervised banking system which compares favourably with that in other centres around the world.

DR CONRAD LAM (in Cantonese): Mr Deputy President, will the Administration set up an independent committee to inquire into the various causes leading to the collapse of BCCHK and to see if there is any negligence of duties, and if not, why not?

FINANCIAL SECRETARY: Mr Deputy President, there has already been a comprehensive report by the Commissioner of Banking to the Governor in Council on the events surrounding the closure of BCCHK. And since then the Commissioner for Administrative Complaints has been looking into two cases related to the BCCHK affair, and his findings are likely to be made available to Members, I understand, some time today. In all the circumstances, it is the considered view of the Administration that no useful purpose would be served by an inquiry into the BCCHK affair. The priority must be for the liquidation to proceed with all reasonable speed so that depositors can receive as early a payment as possible.

MR ERIC LI: Mr Deputy President, from the main reply of the Financial Secretary it seems that unrecorded liabilities can be clearly attributed to imprudent management and possibly fraud or malpractices. Will the Government inform this Council whether or not Mr Noel GLEESON, the Official Liquidator, and his special managers are minded to investigate internally as to the conduct of the BCCHK' s former management?

FINANCIAL SECRETARY: Mr Deputy President, I do not think that we can, at this stage, make any judgment about the claims which have emerged; that really has to be dealt

with by the liquidator and, if necessary and appropriate, by the courts.

MR CHEUNG MAN-KWONG (in Cantonese): Mr Deputy President, will the Administration inform this Council whether our present banking supervision is adequate? Apart from introducing the Banking Amendment Bill just mentioned in the reply, are there any other ways by which more protection can be provided to depositors and the public so that confidence in our banks can be enhanced?

FINANCIAL SECRETARY: Mr Deputy President, on the question of monitoring, I believe that we have in place a very comprehensive scheme both for deciding which banks should be authorized to operate in the first place and subsequently to monitor how they perform their functions. Banks are of course subject to the Banking Ordinance and to the Commissioner of Banking and are required to provide regular information on their operations to the Commissioner of Banking. There are also a number of provisions as regards capital adequacy and the like. But it is also true, it has to be said, that all the monitoring in the world will not always reveal unrecorded transactions; they are difficult to find, even by the auditors of the company concerned.

I think the second part of the question related to what might be done for depositors in such cases. Apart from continuing to keep our banking system and banking legislation under review, I think we have also recently published for public comment a paper on the question of some sort of deposit protection scheme. Clearly there are arguments both for and against such a scheme. In that paper we also floated the idea that there might be another option involving change to legislation which would give some priority to depositors in the event of a winding-up. But in the end, the key factor is to ensure that these organizations -- organizations which become banks -- are proper, respectable organizations.

DR HUANG CHEN-YA: Mr Deputy President, may I ask the Government about the "Blue Arrow" affair in England which suggests that the Bank of England may not have supervised the banks properly in England. Has the Government studied the circumstances of the "Blue Arrow" affair to see whether similar kinds of problems may arise in Hong Kong and give rise to a crisis in the banking industry?

DEPUTY PRESIDENT: Can you answer that, Financial Secretary?

FINANCIAL SECRETARY: As far as I am aware, the "Blue Arrow" affair does not fall within the jurisdiction of the Hong Kong Government.

MISS EMILY LAU (in Cantonese): Mr Deputy President, the Administration has more than once used taxpayers' money to rescue banks that were in trouble, and depositors affected were thus protected. But clearly this time the Administration did not respond in the same way, and this has made the BCCHK depositors very infuriated and unhappy with the way the Administration handled the incident. Moreover, it has also aroused public concern. For the sake of giving the BCCHK depositors a fair treatment and allaying the anxieties of the public, will the Administration consider conducting an independent inquiry to see if there was neglect of duties on the part of any officials in handling the case and, more importantly, whether there are ways to prevent such sad event from happening again?

FINANCIAL SECRETARY: Mr Deputy President, I have already answered the second part of the question relating to an inquiry. With regard to the first part that in some previous cases we have used public money to rescue banks, at the time that those decisions were taken it was made very clear in this Council that there would be no question of automatic rescue of banks which got into trouble and that the prime consideration had to be whether the monetary and banking system was at risk, and that must be the prime consideration. And very clearly, in this case, that was not so.

MR MOSES CHENG: Mr Deputy President, would the Financial Secretary inform this Council whether the failure to record any liability in the books of a bank constitutes an offence or a breach of any existing regulation or legislation regulating the operation of a bank?

FINANCIAL SECRETARY: Mr Deputy President, it is against the law to keep false or incomplete accounting records. Under the Theft Ordinance, persons convicted of false accounting are liable to imprisonment for 10 years. The Companies Ordinance also requires every company to keep proper books of account with respect to, among

other things, all assets and liabilities of the company. Any director of a company who fails to take all reasonable steps to ensure this is done, or has caused the company's failure to comply by his wilful act, is liable to a fine and imprisonment. Banks are also required to file regular returns to the Commissioner of Banking showing their assets and liabilities. Anyone signing such documents who knows, or who reasonably ought to have known, they contained false information is liable on conviction to two years' imprisonment and a fine of \$500,000.

MRS PEGGY LAM (in Cantonese): Mr Deputy President, will the Administration inform this Council whether it will consider paying to the BCCHK depositors on recovering part of their deposits part of the interest on such deposits as a protection of their right? If not, why not?

DEPUTY PRESIDENT: It does not really fall within the scope of the main question but are you minded to try and answer, Financial Secretary?

FINANCIAL SECRETARY: No, Mr Deputy President.

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, will the Administration inform this Council up to now how much has been spent by the liquidator of BCCHK since winding-up? How much more will be spent? In view of the plight of the BCCHK depositors, can the cost incurred be borne by the Administration?

DEPUTY PRESIDENT: The same comment, I would think, Financial Secretary?

FINANCIAL SECRETARY: I would not wish to answer, Mr Deputy President.

Provision of public services

4. MR FRED LI asked (in Cantonese): Will the Government inform this Council of the criteria which have been used in deciding whether a service for the public should



be provided:

- (a) directly by the Government; or
- (b) by a public corporation established through legislation; or
- (c) by a private corporation operated under some form of control mechanism; or
- (d) by a private corporation without the imposition of any control mechanism?

FINANCIAL SECRETARY: Mr Deputy President, we are essentially pragmatic in such matters, but in general terms, the Government would prefer services and facilities to be provided by the private sector where it is willing and able to do so, and where the public interest can be adequately safeguarded. Thus for example, most public transport, harbour crossings, broadcasting, power generation and distribution and telecommunications are provided by the private sector. Where these businesses are monopolies or quasi-monopolies, the public interest is usually safeguarded through franchise and/or licensing arrangements of some sort.

Where a public service needs to be provided, and there is merit in giving its management a large degree of autonomy and in ensuring that it operates the service in accordance with prudent commercial principles, we tend to seek to provide it through the mechanism of a statutory corporation. The Mass Transit Railway Corporation, the Kowloon-Canton Railway Corporation and the Hong Kong Export Credit Insurance Corporation are cases in point.

Where a public service is needed, but the private sector is either unable or unwilling to do so (either because of its size or because it is not commercially viable), the Government would consider providing that service. We would, however, ask ourselves whether alternatively the service could be provided efficiently and effectively through the mechanism of voluntary agencies. Hence aided schools and subvented hospitals and welfare agencies form the bulk of our social services. Where the service cannot be provided in that way, the Government would assume the direct responsibility of delivering the service through a government department.

MR FRED LI (in Cantonese): Mr Deputy President, will the Secretary inform this Council

what mechanism is in place to control statutory corporations that provide public services and operate on a commercial basis?

FINANCIAL SECRETARY: Mr Deputy President, in broad terms we use a number of means. We may of course sit on the board of the corporation; there is control through the provisions of the statute which governs the corporation; there are often requirements under the statute to provide, for instance, annual accounts and annual business plans; there are normally regular meetings between the relevant Policy Secretary and the corporation. So there are a range of methods used and I do not think there is one single standard method which applies to all such cases.

MR WONG WAI-YIN (in Cantonese): Mr Deputy President, will the Administration inform this Council whether economies and cost recovery are the important criteria in deciding whether a public service should be provided by a government or non-government organization?

FINANCIAL SECRETARY: Mr Deputy President, certainly those factors would be the ones close to my heart.

MR TIK CHI-YUEN (in Cantonese): Mr Deputy President, I would like to follow up the question raised by Mr Fred LI. There have been criticisms that some statutory corporations are not under adequate control. Does the Administration have any plan to review the control over the operation of these corporations, especially in the context of enhancing public participation and monitoring, so that public interest can be safeguarded?

FINANCIAL SECRETARY: Mr Deputy President, I think we are departing quite a long way from criteria used in deciding whether a service to the public should be provided in various ways, and I have difficulty with the generality of the question. I do not think I can add to that comment.

PROF FELICE LIEH MAK: Mr Deputy President, this question may have an indirect bearing. In safeguarding public interest, can the Secretary inform this Council as to the course of action to be taken by the Government when some business, because of its

size, has evolved into a quasi-monopoly?

FINANCIAL SECRETARY: Mr Deputy President, we, of course, have a number of monopolies or quasi-monopolies in Hong Kong, and we have a number of well-known ways of dealing with them. We have schemes of control, we can have franchise agreements, and we can have regulating Ordinances. If they are providing services to the public, we also very often have some reserve powers on the charges which are made to the public. Again, in answer to a general question, I am afraid I can only give a general answer.

MR MARTIN BARROW: Mr Deputy President, given his answer that the Government prefers services to be provided by the private sector, could the Financial Secretary explain why there has been so little privatization in recent years, and could he enlighten us as to his strategy in the future?

FINANCIAL SECRETARY: Mr Deputy President, there was a question in this Council on 26 February on privatization in which we did outline our position on privatization. But just perhaps to elaborate on that question a little, we are not ideological in this matter; we have to be very convinced that there is a case for changing the status of a department or a corporation. And in recent years I think it is true to say that although there has been some modest privatization -- and I can think, for example, of abattoirs -- there has been more of an emphasis on corporatization and on contracting-out.

MR MICHAEL HO (in Cantonese): Mr Deputy President, will the Administration inform this Council what existing services are likely to be hived off from the public sector, and the reasons for doing so?

FINANCIAL SECRETARY: Mr Deputy President, I believe this question has already been fully answered on 26 February.

DR YEUNG SUM (in Cantonese): Mr Deputy President, will the Administration inform this Council of the reasons for establishing such bodies as the Hospital Authority, and

the ways and means the Administration can enhance the accountability of the Hospital Authority to the public?

FINANCIAL SECRETARY: Mr Deputy President, I believe that the main reason was to improve the efficiency of the hospitals, both public -- that is to say, government-run at that time -- and subvented, and thereby to provide a better service to the public.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, referring to the second paragraph of the Secretary's reply, will the Administration inform this Council, if public services which are related to the interests of the community at large are to be privatized, whether the financial burden thus passed on to members of the public will be the prime factor considered by the Government?

FINANCIAL SECRETARY: Mr Deputy President, certainly one of the prime factors to be taken into account is of course the interests of the public, and I think I referred earlier in particular to the question of charging.

MR PETER WONG: Mr Deputy President, the Financial Secretary, in the last paragraph of his reply, referred to subvented hospitals providing the bulk of our social services whereby I take it that he means the medical part of our social services. Would the Financial Secretary advise whether he was referring to the Hospital Authority which comprises the ex-government as well as the ex-subvented hospitals?

FINANCIAL SECRETARY: Mr Deputy President, my understanding is that those hospitals are subvented hospitals whether ex-government or ex-subvented.

Wooden planks used in government construction projects

5. MR MAN SAI-CHEONG asked (in Cantonese): Will the Government inform this Council of the following:

(a) what proportion of wooden planks and boards used in government construction

projects are imported from countries with tropical rain forests;

(b) how these wooden planks and boards are disposed of after use;

(c) what measures there are to encourage the re-use or re-cycling of these wooden planks and boards, and particularly, whether there is consideration to impose fees and charges on their disposal?

SECRETARY FOR WORKS: Mr Deputy President,

(a) Wooden planks and boards used in government construction projects in the main are imported from countries in Southeast Asia, and may therefore be said to be about 95% of tropical rain forest origin.

(b) Wooden planks and boards when no longer usable are disposed of either by taking to landfills or by burning on site. No figures are available as to the proportion disposed of by either method. However burning is now much less common since air pollution control measures have become more effective.

(c) There are at present no measures to encourage the recycling of wooden planks and boards, however the increasing cost of timber itself does encourage maximum use. The Administration is currently considering charging for construction waste disposal, together with proposals to establish sorting and recycling centres for construction waste including timber.

MR MAN SAI-CHEONG (in Cantonese): Mr Deputy President, it was mentioned in the reply that about 95% of the wooden planks and boards used in government construction projects were of tropical rain forest origin. Would the Government set an example by minimizing or reducing the use of wooden planks and boards of tropical rain forest origin in public housing estates and major works projects in response to the worldwide appeal for rain forest protection? If there are difficulties, what are they?

SECRETARY FOR WORKS: Mr Deputy President, as the question has rightly pointed out, the Housing Authority, where possible, has used industrialization and standard blocks. This is done, certainly, in the building sector. The Architectural Services

Department, wherever there are standard items such as schools, is indeed ensuring that elements of the structure are as standard in terms of common dimensions as possible in order to encourage the use of materials other than timber for construction purposes. This is not quite so easy in the civil engineering services where the type of work requires elements of different nature to carry different forces. However, in major structures the Government has actively encouraged the use of systems which can employ formwork which is reusable rather than simply employing timber.

MR RONALD ARCULLI: Mr Deputy President, will the Secretary please inform this Council whether the use of steel formwork has resulted in a fairly significant reduction in the use of wooden planks and boards, and whether the use of such steel formwork is possible in government construction projects so that it can be introduced as a condition of government contracts?

SECRETARY FOR WORKS: Mr Deputy President, it is a question of economics. Certainly steel formwork is used in government construction wherever there is significant reuse of the particular element -- the formwork in question. However, there is a fairly substantial amount of work that is of a one-off nature and therefore the use of steel formwork in those circumstances is not entirely appropriate.

DR SAMUEL WONG: Mr Deputy President, could this Council be informed when the proposal for charging for construction waste disposal will be forthcoming? And in view of the shortage of both labour and land here, will the proposed sorting and recycling centres for construction waste be a good proposal?

SECRETARY FOR WORKS: I cannot give an answer on when a charging scheme will be implemented, Mr Deputy President. That is in the hands of the Environmental Protection Department and is a matter which is under consideration. They are now undergoing a pilot consultancy study on recycling which is to begin this month and will last about six weeks. After that a decision will be made on the feasibility of sorting construction waste for reuse.

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, could the Administration

inform this Council when it would actually take action to charge for construction waste disposal so as to meet the crisis of landfills being saturated earlier than projected and to reduce the Government subsidies to such commercial activities which are passed on taxpayers?

SECRETARY FOR WORKS: Mr Deputy President, the use of landfill sites for construction waste is under active review and the alternative of providing public dumps which could receive construction waste is an area that is currently being looked at. Together with this, another matter to be looked at would be the control over the public dumps to ensure that illegal tipping does not take place when charging for landfill coupled with a public dumps policy is introduced.

DR CONRAD LAM (in Cantonese): Mr Deputy President, referring to the 95% of the wooden planks and boards of tropical rain forest origin, would the Secretary quantify them in terms of cubic meters and Hong Kong dollars?

SECRETARY FOR WORKS: I cannot, Mr Deputy President, give an answer to the monetary side but I can put it into perspective. Of the 16 000 tonnes of material which goes into landfill, approximately 800 tonnes on a daily basis is timber of some sort. Of this timber, much of it is in fact in the form of skid-boards or boxes which relate more to packing materials rather than construction purposes. So in relative terms, I think the proportion of construction material in timber is quite small.

MR PETER WONG: Mr Deputy President, can the Secretary inform us what the pros and cons are of levying a tax on the importation of tropical timber in order to enhance the recycling of such timber in the construction industry?

SECRETARY FOR WORKS: Mr Deputy President, I think that is rather outside of my programme area. I would prefer not to answer.

MR RONALD ARCULLI: Mr Deputy President, will the Secretary inform us whether the change of policy by the Hong Kong Government to one of using construction waste for reclamation purposes has in fact resulted in the demand for landfill areas?

SECRETARY FOR WORKS: It is too early, Mr Deputy President, to say whether there is any significant change. The question of public dumps is one which is actively under review and it is a question of finding those areas.

Financial feasibility studies on PADS projects

6. MR ALBERT CHAN asked (in Cantonese): Will the Government inform this Council:

(a) whether consultants have been commissioned to carry out financial feasibility studies on the projects related to the Port and Airport Development Strategy;

(b) which of the reports of these financial feasibility studies can be provided to Members of this Council and the general public for information; and

(c) what criteria have been followed by the Government in deciding whether or not to release the reports on such studies; and whether the Government will consider releasing the reports on these studies after classified information has been removed therefrom?

SECRETARY FOR THE TREASURY: Mr Deputy President, consultants have been engaged to carry out financial feasibility studies on some projects recommended in the Port and Airport Development Strategy and now included in the Airport Core Programme. These projects include the new airport, the Airport Railway, the Lantau Fixed Crossing and the Western Harbour Crossing. They are essentially projects in which we envisage to a degree of private sector participation.

The financial feasibility studies contain commercially sensitive information. In determining whether or not to publish these studies, we have to consider whether the release of commercially sensitive information will prejudice tenders or offers of financing to the Government or the statutory corporations involved. Moreover, in some cases, the basic assumptions used in the earlier studies are out of date. We therefore consider these reports unsuitable for publication and that they may, if released, cause more confusion than enlightenment.



We have also considered whether the reports could be released after removing sensitive information. The fact is that, in all cases, the sensitive information constitute the most important part of the reports. Without them, the reports would be virtually meaningless.

MR ALBERT CHAN (in Cantonese): Mr Deputy President, will the Administration inform this Council, in the absence of information on relevant financial feasibility studies, how it will ensure that Members, in handling applications for funds such as funds for the construction of Chek Lap Kok Airport and the Airport Railway, are provided with adequate information so that a reasonable decision on the applications can be made?

SECRETARY FOR THE TREASURY: Mr Deputy President, I would have thought the answer to that question was self-evident: the Government will take very great care to ensure that the ad hoc group on the Airport Core Programme is fully briefed before funds are sought from Finance Committee and it would then be open to the ad hoc group to ask any questions they may wish to raise.

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, it has been the practice in the past that the Administration did not release consultancy reports mainly because these reports contained commercially sensitive information. Does the Administration really intend to consult the views of the public and Members of this Council? If yes, I believe there must have been some way through which the summaries of these reports can be made public. Could I ask the Administration whether it is in no way possible to release the summaries of these consultancy reports so that the public or Members of this Council will be informed?

SECRETARY FOR THE TREASURY: Mr Deputy President, I think the best way of answering the Rev FUNG's question is to try to give an example of commercially sensitive information and to explain, after giving this example, why it cannot be released. If we take, for example, the Financial Feasibility Study on the Airport, a part of the consultants' findings and recommendations relate to the tenant facilities at the new airport -- tenant facilities such as shop spaces, cargo-handling facilities, aircraft engineering facilities -- which will be the subject of future negotiations

between the Airport Authority on the one hand and the future tenants and occupants of these facilities on the other. Now, we would be willing to explain that care has gone into the way in which the consultants have constructed their recommendations but to disclose this information publicly would result in the Airport Authority being placed at a great disadvantage when they do negotiate.

CHIEF SECRETARY: Mr Deputy President, if I may supplement my colleague's answer. We are not in any way unusual in this respect. Even where there are Freedom of Information Acts, which we debated in this Council recently, and I can quote the examples of Australia and Canada, there are provisions in those Acts for commercially sensitive information not to be made available to the public. So we are not in any way unique in this respect.

MR PETER WONG: Mr Deputy President, can some of this information be released to legislators on a confidential basis, otherwise the ad hoc group on the Airport Projects will be reduced to resorting to fishing expeditions in order to try to ascertain what is contained in some of these reports?

SECRETARY FOR THE TREASURY: Mr Deputy President, a rather difficult question. If the Administration can be given an absolute assurance that that confidentiality will be respected, then we would be prepared to provide some of that information, as long as it would not prejudice the negotiating position of the corporations involved and the tendering position of the Government as far as tenders are involved.

MR PETER WONG: Mr Deputy President, speaking for myself, I am surprised at that answer because confidential is confidential.

DEPUTY PRESIDENT: Is there anything that you feel you ought to reply to there at all, Secretary for the Treasury?

SECRETARY FOR THE TREASURY: Mr Deputy President, I believe Mr WONG was making a statement rather than asking a question.

Written answers to questions

Publicity sign boards for district boards and councils

7. MR GILBERT LEUNG asked: Will the Government inform this Council whether there are any guidelines on applications by members of various councils and district boards to put up publicity sign boards for their offices at public places within their constituencies; what the application procedures are; how long it would take to process such applications; and what criteria the Administration bases on when deciding whether or not an application should be approved?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, at present applications by Members of this Council, the two municipal councils and the district boards to put up publicity sign boards for their offices at public places within their constituencies are considered and processed in the same way as other applications for putting up sign boards in public places. Factors such as obstruction to the public, traffic safety, the commercial content of the sign boards, and so on, are taken into account.

If the sign boards are proposed to be put on government land, an application will have to be made to the relevant District Lands Officer. However, depending on the location, approval by the two municipal councils or the Housing Authority may also be required.

Applications for putting up sign boards normally take some six weeks to process.

The District Lands Officer will only approve of non-commercial advertising involving the display of banners or posters on highway structures for special events, such as trade fairs and festivals. If in doubt, the District Lands Officer will seek comments from other relevant departments. For example, in the case of an application by a social service voluntary agency, the Social Welfare Department will be consulted. Where there may be possible obstructions to traffic or view of traffic, the police and the Transport Department will be consulted.

Overseas education allowances for children of civil servants

8. MR NG MING-YUM asked: Will the Government inform this Council:

(a) whether there are plans to review the existing policy on overseas education allowances and school passages for the children of civil servants with a view to encouraging them to pursue their studies locally and assisting the Government in implementing its programme to reduce expenditure;

(b) what amount of public money has been spent on overseas education allowances and school passages for the children of civil servants over the past three years;

(c) what estimated amount of public money will be spent on overseas education allowances and school passages for such children in the next three years; and

(d) how the rates in respect of the various items of expenses covered by the allowances are worked out?

SECRETARY FOR THE CIVIL SERVICE: Mr Deputy President,

(a) Overseas education allowances and school passages were introduced in the past to facilitate recruitment from overseas and were later extended to local officers on grounds of parity. There are aspects of the schemes which have become outdated. A review is currently underway to examine whether and, if so, how the two schemes should be changed. The availability and quality of local education are among the considerations in carrying out the review. It will be necessary to consult staff on any proposals to modify the overseas education allowance scheme and school passage scheme before any changes are introduced to the conditions of employment of serving officers.

(b) Expenditure on overseas education allowances and school passages in the past three years is as follows:

OEA Passages  
\$ M \$ M

1989-90 112.6 52.3

1990-91 168.5 66.4

1991-92 211.2 103.7

(revised provision)

(c) Forecast expenditure for the next three years is as follows:

OEA Passages		
	\$ M	\$ M
1992-93	222.1	84.7
1993-94	235.4	82.5
1994-95	249.6	87.4

The forecast reduction in passage expenditure in the next two years is due to a new ticketing arrangement with return journeys starting in Hong Kong and lower fares under a new passage agreement to be introduced in 1992-93.

(d) The rates of overseas education allowance vary from country to country depending on the cost of education in that country. There are different rates for day school and boarding school. Traditionally, we have followed the rates laid down by the United Kingdom Overseas Development Administration (ODA) for its staff working overseas. The ODA rates are revised from time to time based on changes in the level of tuition fees in various countries.

The cost of school passages on the United Kingdom route is based on the contract fare in the air passage agreement between the Government and the two operating airlines. School passages on non-UK routes, which only constitute about 4.5% of the total, are based on the published Economy Class fare or Student fare, where available.

Industrial safety arrangements for the construction of the new airport

9. MR TAM YIU-CHUNG asked: Will the Government inform this Council whether specific measures will be taken by the relevant departments to co-ordinate the efforts in promoting and ensuring industrial safety during the construction period of the massive infrastructural projects of the new airport?

SECRETARY FOR WORKS: Mr Deputy President, I am keenly aware that the scale and intensity of the Airport Core Projects demands thorough co-ordination of measures to promote and provide a safe working environment for all of the construction workers and site personnel involved.

Requirements on safety is one aspect of the prequalification of tenderers, and is an important initial step towards creating a positive safety environment. Airport-related and indeed all government contracts include general safety requirements. Work on site also has to comply with the Construction Site Safety Regulations, imposed by the Factories and Industrial Undertakings Ordinance, and which are enforced by the Labour Department.

Additional measures specifically for airport core programme projects will include:

(a) Requirements for a contractor's site safety plan to be approved. The plan will then be controlled by the contractor's named and qualified site safety officer. The Government's Project Manager and safety audit staff in the site supervision organization will work closely with the site safety officer to ensure that the safety plan is followed, and that the contractor's obligations in regard to safety are being met. These will include promulgation of safety information to all those on site, education on safety matters, and compliance with methods of construction which have been approved with safe working in mind.

(b) The conditions of contract and specifications are being strengthened to give contractually binding effect to the additional safety requirements.

(c) A site safety manual is being developed which will establish a framework common to all airport-related contracts. Procedures for auditing safety actions and for emergency support will be included in the manual.

(d) The usual quarterly reporting on contractors, including safety performance,

will apply, and contractors' safety records will be regularly reviewed. If there are any major site safety problems, there will be urgent high level management involvement to rectify the situation. Poor site safety performance also adversely affects the eligibility of contractors to tender for further government contracts.

(e) As a positive encouragement a site safety award scheme is being considered. This will require further discussion with contractors involved and other relevant bodies.

#### Parking spaces for heavy vehicles on Tsing Yi Island

10. MR LEE WING-TAT asked: Will the Government inform this Council:

(a) what the statistics of night time illegal parking by container lorries and lorries on Tsing Yi Island for the past 12 months are;

(b) how many container lorry parking spaces and lorry parking spaces respectively are available on Tsing Yi Island;

(c) whether the provision of container lorry and lorry parking spaces on Tsing Yi Island is in compliance with stipulated planning guidelines, if not, what the reasons for non-compliance are and what the remedies are;

(d) whether there are planned sites for further developing spaces for container lorry and lorry parking on Tsing Yi Island; if yes, where and when will they be provided?

SECRETARY FOR TRANSPORT: Mr Deputy President,

(a) There are no statistics on the numbers of vehicles parking illegally in the territory. However, a spot check carried out by the Transport Department in late January this year revealed about 310 container vehicles and 350 lorries illegally parked on Tsing Yi overnight.

(b) There are at present about 1 150 parking spaces for container vehicles and about 1 800 spaces for lorries on Tsing Yi.

(c) The Hong Kong Planning Standards and Guidelines stipulate standards for

providing lorry parking spaces in new industrial developments and for public housing estates. These standards are being applied in the case of new developments on Tsing Yi. The actual availability of land for parking is monitored. Where there is a shortfall, efforts are made to identify additional sites for use on a temporary or permanent basis.

(d) There are plans to provide extra land to accommodate about 330 container vehicles at Sai Tso Wan in the western part of Tsing Yi. This should be available in July this year. There are also plans to make two sites available in northeast Tsing Yi by September this year for about 400 lorries. In the longer term, provision for vehicle parking will be included in the development of Container Terminal No. 9, which will have a 36 hectare back-up area.

KCRC's corporate intent

11. MR LEE WING-TAT asked: In the light of the Kowloon Canton Railway Corporation (KCRC)'s recent statement regarding its "Policy Objectives" agreed with the Government in 1990 which include, inter alia, a target rate of return of 12% to 15% based on net fixed assets, will the Government inform this Council:

(a) what the nature of this agreement is and whether it has been approved by the Executive Council;

(b) of the reasons for not announcing the agreement reached in 1990 until now;

(c) given the public criticisms against using a percentage of net fixed assets as the permitted rate of return for public utilities companies, what the reasons for the Government reaching the above agreement with KCRC are and in what ways this agreement will benefit the public; and

(d) whether a similar agreement has been reached with the Mass Transit Railway Corporation?

SECRETARY FOR TRANSPORT: Mr Deputy President,

(a) In late 1990, the Government and the Kowloon-Canton Railway Corporation



agreed on a set of broad internal guidelines for adoption as the Corporation's corporate intent. One of the guidelines is that the Corporation should aim to achieve a rate of return of between 12% and 15% on net fixed assets. This rate is a long-term target which is indicative rather than definitive. It is not to be used as the sole indicator to evaluate performance. This rate was set by the Financial Secretary under section 8(2) of the Kowloon-Canton Railway Corporation Ordinance (Cap. 372). Although these internal guidelines did not require the Executive Council's approval, the Council was informed in March 1991.

(b) As the guidelines are intended for internal guidance within the KCRC and involve commercial confidentiality, they have not been publicized. However, in the Administration's brief to the Legislative Council on 14 December 1989, Members were advised that as part of the Administration's arrangements to strengthen the Government's monitoring over the KCRC, discussion would be held with the Corporation to determine a rate of return on assets that it was expected to achieve. Subsequently, during a presentation by the KCRC at the OMELCO Transport Panel meeting held on 18 April 1991, specific reference was made to the target rate of return of 12% to 15% on net fixed assets.

(c) As stated in (a) above, the target of 12% to 15% is not a permitted or guaranteed return. In 1991, KCRC's rate of return on fixed assets was 8% before property income and 9% after property income. The KCRC expects that excluding property income, the return on its net fixed assets will only be around 6% to 7% per annum in the next five years. The adoption of these guidelines is considered desirable for the KCRC to ensure its operation on prudent commercial principles without government subsidy. Specifically, a rate of return will ensure that the Corporation will build up sufficient reserves over time to finance major development projects without recourse to the taxpayer.

(d) No similar agreement was made with the Mass Transit Railway Corporation which is governed by a separate Ordinance.

## Neighbourhood Level Community Development Projects

12. MR FREDERICK FUNG asked: In allowing social service groups to undertake

Neighbourhood Level Community Development Projects (NLCDP) in Mark III to VI public housing estates, will the Government inform this Council:

(a) whether priority will be given to reserving and allocating units as community development centres for use by the social service groups as office and for organizing activities;

(b) whether consideration will be given to converting units designated for commercial or residential use as community development centres, and if so, what the procedures and criteria for such conversion are;

(c) whether the floor areas allocated for these community development centres will comply with the standard laid down in the Operational Guidelines for NLCDP;

(d) whether used units will be restored to their original condition on vacant possession by previous tenants before they are let to social service groups as community development centres; and

(e) what arrangements will be made to ensure that applications for renting vacant units as community development centres will be processed within the target date of four months so that the Community Development Projects can commence at an early date?

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, the NLCDPs are carried out by subvented agencies in areas where the provision of social facilities and welfare services is non-existent or inadequate. Such areas have included temporary housing areas, squatter areas, cottage areas, and Mark I to VI public housing estates that are due for imminent redevelopment.

The NLCDP team is generally the main social welfare agency in the priority area, providing a package of welfare services to the target population.

Since May 1989 the Committee on Neighbourhood Level Community Development Projects has approved the extension of NLCDP teams, inter alia, to Mark III to VI public housing estates. A total of 51 teams have been set up, 14 serve these estates. The Social Welfare Department approves applications from agencies to provide services in each case. It is a matter for the agency to apply to the Housing Authority for the allocation of suitable accommodation, if necessary.

The Housing Authority considers applications from a voluntary agency for premises for NLCDP in the context of all other priorities and having regard to the wishes of estate residents. To date, 13 units in Mark III to VI public housing estates that are scheduled for redevelopment have been allocated to NLCDP teams for use as a base for their work in the estate, there is one application still being processed.

Under current policy, if vacant premises fail to attract commercial tenants after repeated attempts to let, consideration may be given to conversion of such premises to community use, provided that such use is unlikely to affect adversely the business environment of nearby shops. Vacant domestic premises in blocks not due for imminent redevelopment are relet to eligible applicants with a housing need. Suitable premises may be considered for conversion into community development centres if there is no housing demand to be met and no objection from tenants in the block concerned to the proposed conversion.

It is the aim to provide, as far as practicable, premises that meet the operational guidelines laid down by the Hong Kong Council of Social Service. For community development centres, premises between 50 sq m to 140 sq m are considered appropriate for allocation. Based on operational experience, it has been possible to make available premises within this range for use by these centres.

It is the Housing Authority's established policy to render premises to a tenantable condition before reletting. The voluntary agencies nominated for operating community development project centres are expected to meet the cost of special conversion since they may apply for a grant from the Social Welfare Department for this purpose.

Provided that suitable premises are available and that all supporting documents are submitted together with the application, it has been possible to complete the processing within four months from the date of submission. Where delays have in the past occurred, these are generally due to the voluntary agencies failing to provide supporting material in time for verification. Whenever this is likely Housing Department staff try to assist them.

Motion

PUBLIC FINANCE ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:

"That -

1. Authority is hereby given for a sum not exceeding \$39,204,635,000 to be charged on the general revenue in advance of an Appropriation Ordinance for expenditure on the services of the Government in respect of the financial year commencing on 1 April 1992.
2. Subject to this resolution, the sum so charged may be expended against the heads of expenditure, and expenditure for each such head shall be arranged in accordance with the subheads, shown in the draft Estimates of Expenditure 1992-93 or, where such estimates are changed under the provisions of the Public Finance Ordinance as applied by section 7(2) of that Ordinance, in accordance with such estimates as so changed.
3. Expenditure in respect of any head shall not exceed the aggregate of the amounts specified in respect of each subhead in that head, by reference to percentages, in section 4(a) and (b).
4. Expenditure in respect of each subhead in a head shall not exceed -
  - (a) in the case of a Recurrent Account subhead, an amount equivalent to -
    - (i) except where the subhead is listed in the Schedule hereto, 20% of the provision shown in respect of it in the draft Estimates;
    - (ii) where the subhead is listed in the Schedule hereto, that percentage of the provision shown in respect of it in the draft Estimates which is specified in relation to that subhead in the Schedule; and
  - (b) in the case of a Capital Account subhead, an amount equivalent to 100% of the provision shown in respect of it in the draft Estimates,  
or such other amount, not exceeding the provision shown in respect of the subhead in the draft Estimates, as may in any case be approved by the Financial Secretary.

SCHEDULE

Percentage  
of provision  
shown in draft Head of Expenditure Subhead Estimates

22	Agriculture and Fisheries Department	452 Royal Society for the Prevention of Cruelty to Animals (Hong Kong).....	25	
		456 World Wide Fund for Nature (Hong Kong).....	25	
		Percentage of provision shown in draft Head of Expenditure Subhead Estimates		
91	Buildings and Lands Department	221 Clearance of Crown Land -- ex-gratia allowances.....	50	
		259 Enforcement of the Buildings Ordinance -- works on private property.....	40	
28	Civil Aviation Department	170 Airport insurance.....	100	
		281 Air passenger departure tax administration fees.....	30	
43	Civil Engineering Department	255 Storage of explosives.....	30	
40	Education Department	325 Direct Subsidy Scheme.....	30	
		330 Assistance to private secondary schools and bought places.....	30	

350	Refund of rents and rates to kindergartens, private schools and study rooms.....	30
489	Miscellaneous educational services.....	30
46	General Expenses of 013 Personal allowances..... the Civil Service	35
50	Government Land 225 Traffic accident victims Transport Agency assistance scheme -- levies.....	100
53	Government 285 Promotional activities on Secretariat: City building management..... and New Territories Administration	23
<p>Percentage of provision shown in draft Head of Expenditure Subhead Estimates</p>		
60	Highways Department 260 Installation of street lighting -- residual payments...	40
	273 Highways maintenance.....	30
61	Hospital Services 001 Salaries..... Department	26
62	Housing Department 228 Clearance.....	25
	232 Squatter control.....	25
	268 Clearance of the Kowloon	

	Walled City.....	25	
73	Industry Department 513 Hong Kong Quality Assurance Agency.....	25	
76	Inland Revenue 002 Allowances.....	25	
	Department		
	149 General departmental expenses.....	25	
	189 Interest on tax reserve certificates.....	35	
	209 Special legal expenses.....	25	
34	Internal Security: 195 Defence Costs Agreement: Miscellaneous cash contribution.....	25	
	Measures		
92	Legal Department 234 Court costs.....		32
	243 Hire of legal services and related professional fees.....	25	
120	Pensions 015 Civil, judicial service and police pension benefits and compensation.....	30	
	016 Gratuities for officers on contract.....	30	
	Percentage of provision shown in draft		Head of Expenditure Subhead Estimates
	017 Widows' and children's pensions, widows' and orphans' pensions and increases.....	30	

026	Employees' compensation.....	50
118	Planning Department 149 General departmental expenses.....	30
126	Post Office 002 Allowances.....	25
130	Printing Department 002 Allowances.....	25
170	Social Welfare 177 Emergency relief.....	100
	Department	
	179 Public assistance scheme.....	25
	180 Special needs allowances.....	25
	410 Rehabilitation services (grants).....	25
	411 Social welfare services (grants).....	25
	412 Refunds of rates.....	25
176	Subventions: 416 Commonwealth Parliamentary Miscellaneous Association (Hong Kong Branch).....	59
	437 Hong Kong -- Japan Business Co-operation Committee.....	25
	446 Law Society Legal Advice and Duty Lawyer Schemes.....	25
	475 Outward Bound Trust of Hong Kong.....	25
	487 Subventions for performing arts activities.....	30



Percentage  
of provision  
shown in draft Head of Expenditure Subhead Estimates

502	Hong Kong Archaeological Society.....	100
503	Subventions to voluntary agency camps.....	25
504	Hong Kong Council on Smoking and Health.....	25
177	Subventions: 429 Consumer Council.....	79
	Non-Departmental Public Bodies 441 Hong Kong Productivity Council.....	25
443	Hong Kong Tourist Association.....	25
444	Hong Kong Trade Development Council.....	25
520	Vocational Training Council....	25
178	Technical Education 001 Salaries.....	65
	and Industrial Training Department	
188	Treasury 002 Allowances.....	30
163	Write-offs.....	50
187	Agents' commission and expenses.....	75

190 Other miscellaneous items.....	100	
191 Payment to Cross-Harbour Tunnel Company Limited.....	100	
192 Refunds of revenue.....	100	
190 Universities and Polytechnics		002 Allowances..... 25
<p style="padding-left: 40px;">Percentage of provision shown in draft Head of Expenditure Subhead Estimates</p>		
149 General departmental expenses.....	40	
169 Visitation.....	35	
492 Grants to universities, polytechnics, Baptist College and Lingnan College.....	25	
496 Refund of rates -- universities, polytechnics, Baptist College and Lingnan College.....	25	
194 Water Supplies Department		223 Purchase of water..... 25

Explanatory Note

This resolution authorizes the expenditure of a sum not exceeding \$39,204,635,000 on the services of the Government prior to the enactment of an Appropriation Ordinance for the 1992-93 financial year.

FINANCIAL SECRETARY: Mr Deputy President, I move the motion standing in my name in the Order Paper.

The purpose of this motion is to seek funds on account to enable the Government to carry on existing services between the start of the financial year on 1 April 1992 and the enactment of the Appropriation Bill.

The funds on account sought under each subhead have been determined in accordance with paragraph four of the resolution, by reference to percentages of the provision shown in the draft Estimates. As the draft Estimates are changed from time to time, by the Finance Committee or under delegated powers, the provision to which the percentages are applied will also change. Thus the provision on account under each head is not constant but may vary, with every increase being matched by an equal decrease. The initial provision on account under each head is shown in a footnote to this speech. The aggregate total under all heads is fixed, however, at \$39,204,635,000 and cannot be exceeded without the approval of this Council.

The resolution also enables the Financial Secretary to vary the funds on account in respect of any subhead, provided that these variations do not cause an excess over the amount of provision entered for that subhead in the draft Estimates or an excess over the amount of funds on account for the head.

A vote on account warrant will be issued to the Director of Accounting Services authorizing him to make payments up to the amount specified in this motion and in accordance with its conditions. The vote on account will be subsumed upon the enactment of the Appropriation Bill, and the general warrant issued after the enactment of the Appropriation Bill will replace the vote on account warrant and will be effective from 1 April 1992.

Mr Deputy President, I beg to move.

#### FOOTNOTE

Initial Amount amount of  
show in the provision  
Head of Expenditure draft Estimates on account

\$'000    \$'000

21	His Excellency the Governor's Establishment .....		17,058
		3,412	
22	Agriculture and Fisheries Department .....	312,528	73,237
25	Architectural Services Department .....	1,150,828	230,216
24	Audit Department .....	63,977	12,796
23	Auxiliary Medical Services.....	36,218	7,244
91	Buildings and Lands Department .....	812,047	180,752
26	Census and Statistics Department .....	215,387	43,455
27	Civil Aid Services .....	46,121	9,337
28	Civil Aviation Department .....	349,558	80,002
43	Civil Engineering Department .....	388,442	90,990
30	Correctional Services Department .....	1,357,146	278,969
31	Customs and Excise Department .....	696,047	144,937
37	Department of Health .....	1,437,120	
		304,952	
39	Drainage Services Department .....	462,994	100,000
40	Education Department .....	11,852,489	
		2,570,168	
42	Electrical and Mechanical Services Department .....		891,651
		198,598	
44	Environmental Protection Department .....	542,366	233,438
45	Fire Services Department .....	1,346,938	
		308,366	
46	General Expenses of the Civil Service .....	3,204,276	685,110
48	Government Laboratory .....	94,454	27,466
50	Government Land Transport Agency .....	123,776	95,380
51	Government Property Agency .....	1,178,732	236,464

Initial Amount    amount of  
show in the provision  
Head of Expenditure draft Estimates on account

\$'000    \$'000

52	Government Secretariat .....	665,458	148,358
53	Government Secretariat: City and New Territories Administration .....	472,519	107,568
29	Government Secretariat: Civil Service Training Centre .....	50,747	
		10,426	
96	Government Secretariat: Overseas Offices .....		
		164,010	37,880
56	Government Secretariat: Planning, Environment and Lands Branch and Works Branch .....	146,856	
		37,356	
55	Government Secretariat: Recreation and Culture Branch .....	97,559	41,671
58	Government Supplies Department .....	101,590	20,905
60	Highways Department .....	952,063	251,893
61	Hospital Services Department .....	109,330	28,340
62	Housing Department .....	366,730	94,533
70	Immigration Department .....	1,026,355	207,904
72	Independent Commission Against Corruption .....	337,895	67,889
73	Industry Department .....	105,267	51,286
74	Information Services Department .....	140,906	28,438
47	Information Technology Services Department .....	200,680	
		42,705	
76	Inland Revenue Department .....	597,471	124,672
78	Intellectual Property Department .....	27,043	5,409
34	Internal Security: Miscellaneous Measures .....		
		1,793,448	456,665
80	Judiciary .....	392,715	
		81,930	
90	Labour Department .....	252,873	50,897
94	Legal Aid Department .....	235,853	47,171
92	Legal Department .....	428,438	96,514

100 Marine Department .....	479,312	122,088
106 Miscellaneous Services .....	8,091,893	
2,514,558		
112 Office of Members of the Executive and Legislative Councils .....	45,340	11,901
114 Office of the Commissioner for Administrative Complaints .....	7,496	1,500
120 Pensions .....		
3,492,734	1,046,777	
118 Planning Department .....	176,428	56,304
121 Police Complaints Committee .....	6,489	1,298
122 Police: Royal Hong Kong Police Force .....	6,640,904	1,576,572

Initial Amount amount of  
show in the provision  
Head of Expenditure draft Estimates on account

\$'000    \$'000

126 Post Office .....		
1,669,396	347,438	
130 Printing Department .....	148,132	33,552
136 Public Service Commission .....	9,035	1,807
160 Radio Television Hong Kong .....	275,848	66,184
162 Rating and Valuation Department .....	134,397	26,880
164 Registrar General's Department .....	233,144	46,888
165 Registry of Trade Unions .....	6,062	1,213
166 Royal Hong Kong Auxiliary Air Force .....		86,138
34,198		
167 Royal Hong Kong Regiment (The Volunteers) .....		34,533
7,065		
168 Royal Observatory .....	91,366	19,844
170 Social Welfare Department .....	6,144,075	
1,500,288		
174 Standing Commission on Civil Service Salaries and Conditions of Service .....	8,463	1,693

175 Standing Committee on Disciplined Services			
Salaries and Conditions of Service .....	5,312	1,063	
173 Student Financial Assistance Agency .....	367,482	73,697	
176 Subventions: Miscellaneous .....	184,579	50,248	
177 Subventions: Non-Departmental Public Bodies .....			
12,369,845	2,799,755		
178 Technical Education and Industrial Training Department .....		1,046	677
180 Television and Entertainment Licensing Authority .....			22,886
5,531			
110 Territory Development Department .....	141,761	28,953	
181 Trade Department .....		147,276	31,040
186 Transport Department .....		367,114	93,066
188 Treasury .....		243,233	
69,847			
190 Universities and Polytechnics .....		5,213,939	
1,321,784			
194 Water Supplies Department .....		2,504,028	565,227
	-----	-----	
	84,595,645	20,414,635	
184 Transfers to Funds .....		18,790,000	
18,790,000			
	-----	-----	
	Total .....		
103,385,645	39,204,635		
	=====	=====	

Question on the motion proposed, put and agreed to.

First Reading of Bills

BANKRUPTCY (AMENDMENT) BILL 1992

INLAND REVENUE (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

### BANKRUPTCY (AMENDMENT) BILL 1992

THE SECRETARY FOR MONETARY AFFAIRS moved the Second Reading of: "A Bill to amend the Bankruptcy Ordinance."

He said: Mr Deputy President, I move that the Bankruptcy (Amendment) Bill 1992 be read the Second time. The purpose of the Bill is to make provision for the setting up of a separate Official Receiver's Office.

As part of the reorganization programme of the Registrar General's Department, we are proposing that the Official Receiver's Office should be established as a separate legal entity. This should both improve the management structure and, in conjunction with certain proposed changes in working practices, allow for a more efficient and streamlined operation.

The Office, headed by the Official Receiver, will assume full responsibility for insolvency matters under the Bankruptcy Ordinance (Cap. 6) and compulsory winding-up of companies under the Companies Ordinance (Cap. 32) which are at present under the purview of the Registrar General.

The Bankruptcy Ordinance is the principal legislation governing the operations of the Official Receiver's Office. Sections 75 and 76 provide for the appointment of an Official Receiver by the Governor and define his powers and status.

In order that he can discharge his duties effectively, clause 3 of the Bill enables the Official Receiver to delegate his powers to certain specified officers who can act on his behalf and carry out his statutory functions as liquidator and trustee of the estates of insolvent companies and bankrupt persons. Such delegation has hitherto been provided for under the Registrar General (Establishment) Ordinance. The specified officers may also represent the Official Receiver in the Supreme Court in hearings on petitions or civil litigation proceedings, and conduct prosecutions



on insolvency offences in the Magistrates Courts. It is therefore important to stipulate that the incumbents of such posts should hold the appropriate legal qualifications. Clause 4 also authorizes them to take affidavits.

Clause 6 introduces a new Schedule which specifies the officers appointed to assist the Official Receiver. The Schedule may be amended by the Governor by order published in the Gazette. Clause 5 contains transitional provisions to ensure continuity and certainty as to the validity of actions taken respectively by officers of Registrar General's Department and the new Official Receiver's Office before and after the date of transfer of functions.

Clauses 7 to 13 contain amendments to other legislation consequent upon the establishment of the new Office and the transfer of the functions of the Official Receiver from the Registrar General.

It is not envisaged that the introduction of these new institutional arrangements, which is provisionally scheduled to take place on 1 June 1992, will require any additional funds.

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

Question on the adjournment proposed, put and agreed to.

#### INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1992

THE SECRETARY FOR THE TREASURY moved the Second Reading of: "A Bill to amend the Inland Revenue Ordinance."

He said: Mr Deputy President, I move that the Inland Revenue (Amendment) (No. 2) Bill be read a Second time. The main purpose of the Bill is to exempt from profits tax income derived from goods and passengers uplifted in Hong Kong by ships registered on the Hong Kong shipping register.

Major world ship registration centres, other than Hong Kong, do not charge tax on profits made by owners of ships registered with them. Instead, they levy initial registration fees and annual charges. There is now a disincentive for ships to join the Hong Kong register, because here they are subject both to fees and charges and to profits tax. By exempting them from profits tax, the Bill will encourage more

ships to join our register and so provide a large, even if unquantifiable, benefit to the economy generally. The revenue implications are small: the notional cost to revenue of the exemption would be less than \$30 million a year. And, of course, we expect most of this to be made up for by fees and charges paid by new ships coming onto the register.

The Bill seeks to make two other changes. The first of these relates to charter hire. Few operators sign charter contracts which produce income taxable under Hong Kong law. Nevertheless, there is some disincentive for ship-owners to sign chartering contracts in Hong Kong, because of their potential liability to profits tax. The Bill seeks to remove this uncertainty by not charging profits tax on the charter hire income attributable to a permanent establishment maintained in Hong Kong of either Hong Kong-registered or overseas registered ships.

Finally, the opportunity is taken in the Bill to clarify the liability of airlines to profits tax on their charter hire income. As a result of this change, airlines will be able to calculate their tax liability from their own records.

It is now over a year since the Government announced its intention to introduce this legislation. Although the principles behind the Bill are straight-forward, protracted consultations have been necessary with the shipping and airline industries on matters of technical detail. These include, in particular, an extensive range of definitions to cover the wide variety of different circumstances that can apply in determining the tax liability of shipping and airline operations. It was partly in anticipation of the drafting difficulties involved that the Government announced that the measures would be effective from 3 December 1990, the date on which the new shipping register was established.

Mr Deputy President, I believe that the time taken has been worthwhile, as we have been able to reach agreement with the industries concerned not only on the principles behind the Bill, but also on important drafting technicalities. The result is, I hope, a comprehensive and polished Bill which will achieve its objectives in a manner acceptable to all the main affected parties.

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

Question on the adjournment proposed, put and agreed to.

## INLAND REVENUE (AMENDMENT) (NO. 5) BILL 1991

Resumption of debate on Second Reading which was moved on 27 November 1991

Question on Second Reading proposed.

MR RONALD ARCULLI: Mr Deputy President, the Inland Revenue (Amendment) (No. 5) Bill 1991 is an effort to plug a number of identified tax loopholes. It is designed to curb tax leakages relating principally to (a) depreciation allowances drawn on ships and aircraft acquired through leveraged leasing the end user of which is not a Hong Kong operator, and (b) deductions in expenditures incurred on the purchase of patent rights, trade mark or design where technology upgrade is not involved. For the key measures in the Bill, the intention to effect them through legislative amendments was previously announced by the former Financial Secretary in this Council: measures on leveraged leasing on 14 November 1990 and measures on patent rights on 17 April 1991. To safeguard against loss of revenue when the Bill was being prepared and scrutinized, the Bill proposes that the amendments should be applied with retrospective effect; namely, with regard to contracts or transactions entered into following the Financial Secretary's public announcements, it should take effect from the dates of such public announcements and not on the date on which the Bill is enacted into our laws.

An ad hoc group was formed to study the Bill. It held a total of four meetings and received written submissions from various interested bodies. The Hong Kong Society of Accountants supports the Bill for effectively closing two existing tax avoidance loopholes. The other submissions, namely, from the Hong Kong Association of Banks, the Hong Kong General Chamber of Commerce, the Hong Kong Equipment Leasing Association and the Federation of Hong Kong Industries make no special comments on the provisions regarding big ticket leasing involving ships and aircraft, or on provisions regarding patent rights, trade mark or design. The major point of concern they raise is about the proposal to deny depreciation allowances to Hong Kong lessors leasing machinery and equipment to Hong Kong based companies manufacturing in the People's Republic of China (PRC), mainly in the Pearl River Delta region, given that the plant or equipment is used wholly or principally outside Hong Kong while the lease is in force. Most of the submissions comment that the proposal would impede such cross-border financing. They are particularly concerned that the Bill has retrospective effect on small ticket leasing as the intention to amend the law on

such small ticket leasing was not clearly spelt out at the time of the Financial Secretary's statement.

In addressing the points raised by the submissions, the Commissioner of Inland Revenue furnished the ad hoc group with statistics to show that equipment leasing in the PRC represents only a small amount of the total expenditure on plant and machinery by Hong Kong business. He also confirmed that lease rentals would only be assessable to Hong Kong tax if such rentals were sourced in Hong Kong. In the recent case of Hang Seng Bank Decision (Privy Council Appeal No. 36 of 1989), there was an obiter dicta supporting the tax principle of using the location of the equipment as the basis for profits tax. The tax case of the Federation of Supreme Court Decision in Commissioner of Taxation vs the British Shoe Machinery, (South Africa), Limited also stressed that "the source of the income derived from the property is where the property is used". In other words, for lessors who are denied depreciation allowances because leased equipment are used across the border, no profits tax will be charged on rentals from this type of financing. This should, to a certain extent, compensate for the loss of initial and subsequent depreciation allowances, and balance off any pressure on increase in cost of financing arising from the loss of these allowances.

The question was also put to the Administration as to whether the proposed amendment which affects small ticket leasing is a departure from what was originally intended since it was not clearly spelt out in the Financial Secretary's statement on 14 November 1990. The Administration clarified that although there was no prior mention of the proposed amendment, it would like to take the opportunity of the present Bill to remove an identified anomaly in the Ordinance. Having been satisfied on the principles of taxation in relation to leased machinery and plant and of taxation based on source of income, the ad hoc group concluded that it is inadvisable to provide for an exception on leased equipment to the PRC/Pearl River Delta Region.

The point made by the submissions concerning retrospective effect of the Bill is, however, well taken. In response to this point, the Secretary for the Treasury will, at the Committee stage, move an amendment so that the new law will not apply to small ticket leasing with effect from 15 November 1990 but on enactment. The Administration also confirmed to the ad hoc group that the provisions relating to small ticket leasing would not apply retrospectively to arrangements concluded before the Bill's enactment.

Mr Deputy President, in his Budget speech last week, the Financial Secretary said that "he had very much in mind the need to plug tax loopholes whenever they appear". While we have yet to debate on his various budgetary strategies and proposals for 1992-93, I think the Financial Secretary can count on this Council for support on at least this particular score, namely, his pledge about closing tax loopholes.

With these remarks, Mr Deputy President, I support the Bill subject to the amendments at the Committee stage.

MR PETER WONG: Mr Deputy President, I rise to support the resumption of the Second Reading of the Inland Revenue (Amendment) (No. 5) Bill 1991. The convenor of the ad hoc group, the Honourable Ronald ARCULLI, has already gone over the major aspects of this Bill and I shall not repeat them.

I do wish to raise three points on the so-called "small ticket leasing". I feel it will be useful to have the Administration's views clearly on this aspect to assist both the leasing businesses as well as tax practitioners.

The Commissioner of Inland Revenue has stated that if an asset is not used in Hong Kong, the lease rentals will not be sourced in Hong Kong, and lease rentals paid to the Hong Kong lessor will not be taxed in Hong Kong nor will depreciation allowances be granted. However, there are assets under lease used wholly or principally outside Hong Kong but also frequently in Hong Kong. Many leased vehicles fall into this category. Doubts have been raised as to whether rentals should be apportioned, and if so on what basis.

It would be helpful if the Administration can confirm that the lease rentals in such a case would be regarded as arising outside Hong Kong and hence not chargeable to profits tax, and correspondingly, the entitlement to depreciation allowances does not arise.

In relation to leasing, there have also been doubts cast over the wording in section 15(1)(d) as to whether the Commissioner would be looking at the actual usage of moveable property in Hong Kong to determine the taxability of rentals or the "right to use". For example, would the "right to use" without actual usage bring it into the tax net? Again, would the Secretary confirm that the revenue would only look to actual usage?

Lastly, what will happen if a lessee makes certain representations to the lessor about the usage of the leased assets and subsequently change the location of those assets without informing the lessor? Strictly speaking, this could bring the rentals outside the scope of Hong Kong profits tax and the lessor should keep constant track of the whereabouts of his assets under lease. However, this is unlikely to be practical and would be rather wasteful of resources. Would it not be more practical to ascertain the location of the assets at the end of the Basis Period in question instead of throughout the Basis Period?

SECRETARY FOR THE TREASURY: Mr Deputy President, since it was introduced into this Council on 27 November 1991, this somewhat technical but important piece of legislation has benefitted considerably from the advice and suggestions of the ad hoc group led by Mr ARCULLI. Apart from holding three formal meetings with the government team, the group received formal representations from a number of professional organizations, including the Hong Kong Association of Banks, the Hong Kong General Chamber of Commerce, the Federation of Hong Kong Industries and the Hong Kong Equipment Leasing Association. As a result of these various discussions, the way in which the Bill would operate in practice was clarified, and two useful amendments, which I shall be moving later this afternoon, were agreed. I should like to put on record my sincere appreciation of the ad hoc group's efforts.

Mr ARCULLI and Mr Peter WONG have referred to a number of problems addressed by the ad hoc group. I shall confine my remarks to two areas. One important concern which emerged in discussion was the possible implications of the Bill for persons who lease plant and machinery to factories in China under the so-called "small-ticket" leasing arrangements. The Bill will in fact have little impact on such lessors. Lease rentals from plant and machinery operated in China will, under Hong Kong tax law, continue to be regarded generally as having their source outside Hong Kong, and therefore as not being subject to Hong Kong tax. By the same token they will not, of course, be eligible for the generous depreciation allowances which are available for plant and machinery used to produce profits which are assessable for tax in Hong Kong.

Mr Peter WONG has asked three questions in relation to how this principle would apply in certain specific cases. I do not propose to respond to these points of detail this afternoon, as I understand that the Commissioner of Inland Revenue has received

and responded in writing to the OMELCO clarifying the technical issues involved.

A second area of concern was that of retrospectivity. As previously announced by the Financial Secretary, the first part of the Bill, dealing with tax allowances in respect of the upgrading of technology, will apply to contracts entered into on or after 18 April 1991. The second part of the Bill, dealing with leveraged leasing, will apply to transactions entered into on or after 15 November 1990. The decision to bring the Bill into effect in advance of its enactment was taken in order to protect the large sums of public revenue which would otherwise have been at risk.

The Government nevertheless accepts that this element of retrospectivity was neither announced nor intended in respect of "small ticket" leasing of plant and machinery. One of the amendments which I will shortly be proposing to the Bill will therefore make it clear that the November 1990 effective date for the leveraged leasing provisions applies to ships and aircraft only.

Mr Deputy President, I commend this Bill to the Council, subject to the amendments which I shall shortly move.

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

Bill read the Second time.

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

#### DENTISTS REGISTRATION (AMENDMENT) (NO. 2) BILL 1991

Resumption of debate on Second Reading which was moved on 20 November 1991

Question on Second Reading proposed.

MR MOSES CHENG: Mr Deputy President, the Dentists Registration (Amendment) (No. 2) Bill 1991 seeks to expand the range of disciplinary orders available to the Dental Council by giving it the additional powers of making no order, suspending the application of any order made and deciding whether or not a reprimand is to be published in the Gazette, in place of an existing power of postponing judgment for two years.

A Legislative Council ad hoc group consisting of eight members was formed to study the Bill. The group has held two meetings and has met with the Administration as well as representatives of the Hong Kong Dental Association.

Having regard to the views of the Administration and the Dental Association, the ad hoc group accepted in principle that there should be greater flexibility in the powers of the Dental Council to make disciplinary orders, especially on minor cases. As regards the specific additional powers proposed by the Bill, members were agreeable to the power to suspend the application of any order made but had reservations on the power to make no order. They considered that it would be difficult to explain to members of the public if a dentist convicted of an offence punishable with imprisonment or found guilty of unprofessional conduct was not disciplined at all by the Dental Council. Some members also made the point that in many cases, it could be difficult to determine whether or not an offence by a professional was related to his profession.

The ad hoc group therefore proposed that the power to make no order by the Dental Council should be replaced by a power to make any order it considered appropriate, provided that no such order was of greater severity than those permitted under the existing legislation. If this proposal was taken on board, the other proposed power to decide whether or not a reprimand should be gazetted would no longer be necessary.

The Administration has been informed of and agreed with this recommendation. Accordingly, I shall be moving an amendment to this effect at the Committee stage.

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

DR LEONG CHE-HUNG: Mr Deputy President, I rise to support the Dentists Registration (Amendment) (No. 2) Bill 1991 subject to the amendment to be proposed at the Committee stage.

In rising to support the Bill, I am expressing the feelings of the dental profession which I represent. At the same time, I am instructed by them to urge the Government to make an overall review of the Dentists Registration Ordinance and make necessary amendments in line with the recommendations and views of the Hong Kong dental profession without delay.



Mr Deputy President, the Dentists Registration Ordinance governs the registration, the examination and the professional discipline of practising dentists through the Dental Council as its executive arm. Since the role of registration, examination and professional discipline concern with standards of dental practice, the Dental Council should be an autonomous body of the dental profession.

There are, Mr Deputy President, basically three areas where the Dentists Registration Ordinance requires imminent amendments. They are: composition of the Dental Council, the status of the examination body, and the Chinese name of the Council.

#### Composition of the Dental Council

The current Dental Council is composed of 12 members. Section 4(2)(d) of the current Dentists Registration Ordinance states that the composition of the Dental Council should consist of, amongst other members, "six registered dentists" chosen from a panel of not less than 12 registered dentists nominated by the Hong Kong Dental Association.

These nominees are directly appointed to sit in the Council by the Governor. It is obvious therefore there is no direct linkage between the Dental Council and the Hong Kong Dental Association which represents the profession.

Furthermore as these members are appointed by the Governor and not elected by members of the profession, they do not have to be accountable to the profession.

#### The status of the examination body

Section 8(2) of the current Dentists Registration Ordinance states that the Dental Council may require any applicant for registration to pass such examination as it may determine.

This would have to be done through an Examination Board of the Dental Council. But unfortunately, the membership, the power and the duties of this Board is currently not governed by statute, unlike the equivalent Licentiate Committee of the Medical Council where all these are specified by law under section 20(c) of the Medical Registration Ordinance. Imminent amendments, Mr Deputy President, are therefore needed to bring this in line.

The Chinese name of the Council

The Chinese translation of the Dental Council currently does not appear to reflect all the functions and role of the Council nor does it do justice to the responsibilities of this particular Council. A more appropriate translation such as is therefore also wanting.

Mr Deputy President, these and others are not covered by this amendment Bill, but would need to be looked at with urgency to ensure that the Dentists Registration Ordinance will function smoothly to 1997 and beyond.

With these remarks, Mr Deputy President, I support the Bill subject to the amendments to be raised during the Committee stage.

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, I am grateful to the convenor, the Honourable Moses CHENG, and members of the ad hoc group for their scrutiny of this Bill. The proposed amendments will make for greater flexibility and enhance transparency in the Dental Council's administration of internal discipline.

Mr Deputy President, if I may, I would like to respond to the concern expressed by Dr the Honourable C H LEONG on the composition of the Council and also regarding consultation with the Hong Kong Dental Association as distinct from the Dental Council in this exercise. I would like to put the record straight. The fact is that six of the 12 members, that is half of the membership of the Dental Council, are appointed from registered dentists nominated by the Hong Kong Dental Association. This is a statutory requirement under section 4(2)(d) of the Ordinance specifically to ensure a close link between the Dental Council and the Association. The members who are appointed on the Association's nomination have presumably a role, if not a duty, to act as a bridge to keep the Association informed of developments and to reflect the Association's views to the Dental Council. There should theoretically therefore be no question of a lack of consultation with the Dental Association. If there were a communications gap, I would respectfully suggest that this would be a matter for the Association to address and to redress as appropriate, jointly with the Dental Council if needs be.

Mr Deputy President, I am grateful for all the remarks made either within the

context of the Bill or outside its immediate context.

I commend to this Council the Bill as amended.

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

Bill read the Second time.

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

Committee stage of Bills

Council went into Committee.

INLAND REVENUE (AMENDMENT) (NO. 5) BILL 1991

Clauses 1 and 2 were agreed to.

Clauses 3 and 4

SECRETARY FOR THE TREASURY: Mr Chairman, I propose that clauses 3 and 4 be amended as set out in my name in the paper circulated to Members.

The minor amendment proposed to clause 3 is a drafting amendment for clarity. Clause 3 of the Bill seeks to add a new section 22B to the Ordinance, in order to limit the share of loss that a limited partner can set off against other income for the purposes of tax deduction, either to his share of the partnership loss or to the amount of his capital contribution to the partnership, whichever is the less. The proposed amendment clarifies the way in which the amount of a limited partner's capital contribution should be calculated for the purposes of the new section.

The proposed amendment to clause 4 of the Bill makes it clear that the denial of depreciation allowances to lessors of plant and equipment used wholly or principally outside Hong Kong shall not apply with retrospective effect. As I mentioned earlier, the Government's intention is to apply the new provisions relating to leveraged leasing to transactions entered into on or after 15 November 1990 only in respect of ships and aircraft. The effect of the proposed

amendment is to put this beyond doubt.

Mr Chairman, I beg to move.

Proposed amendments

Clause 3

That clause 3 be amended by deleting the proposed section 22B(2)(a) and substituting -

"(a) the amount which he has contributed to it as capital less the sum of -

(i) the amounts of capital that he has directly or indirectly drawn out or received back; and

(ii) anything that he is or may be entitled at any time while the partnership carries on the trade, profession or business to draw out, receive back or be reimbursed from another person, whether or not the entitlement is enforceable or is pursuant to an unenforceable undertaking or practice; and".

Clause 4(e)

That clause 4(e) be amended by deleting "section 4(a), (b)" and substituting "section 4(b)" in the proposed subsection (6).

Question on the amendments proposed, put and agreed to.

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

DENTISTS REGISTRATION (AMENDMENT) (NO. 2) BILL 1991

Clause 1 was agreed to.

Clause 2

MR MOSES CHENG: Mr Chairman, I move that clause 2 be amended as set out in the paper circulated to Members.

Proposed amendments

Clause 2(a)

That clause 2(a) be amended, in the proposed paragraph (iv), by deleting "make no order" and substituting "make any other order as it thinks fit, but no such order shall be of greater severity than those in paragraphs (i) to (iii)".

Clause 2(c)

That clause 2(c) be amended --

(a) by deleting "subsection (1)(i) or (ii)" and substituting "subsection (1)(i) to (iii)"; and

(b) by deleting "subsection (1)(iii)" and substituting "subsection (1)(iv)".

Question on the amendments proposed, put and agreed to.

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

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

INLAND REVENUE (AMENDMENT) (NO. 5) BILL 1991 and the

DENTISTS REGISTRATION (AMENDMENT) (NO. 2) BILL 1991

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

Bills.

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

Bills read the Third time and passed.

Member's motion

#### LAW AND ORDER

MRS PEGGY LAM moved the following motion:

"In view of the community's strong concern over violent crimes and gang activities, this Council urges the Government to take immediate and appropriate measures, including those to improve the efficiency, equipment and morale of the Police Force, so as to protect the lives and property of the people, maintain law and order and reduce the crime rate in Hong Kong."

MRS PEGGY LAM (in Cantonese): Mr Deputy President, I would like to move the motion standing in my name on the Order Paper. The motion is "In view of the community's strong concern over violent crimes and gang activities, this Council urges the Government to take immediate and appropriate measures, including those to improve the efficiency, equipment and morale of the Police Force, so as to protect the lives and property of the people, maintain law and order and reduce the crime rate in Hong Kong."

Mr Deputy President, the law and order situation in Hong Kong has reached a very critical state. In the past few years, this Council has asked various questions and held debates on this issue. However, violent crimes and gang activities are still on the increase. Only a couple of days ago, a goldsmith shop on Ma Tau Wai Road was held up in which staff of the shop and policemen were shot and injured. Yesterday evening, over 40 shots were fired by armed robbers during a double goldsmith shop robbery in Sham Shui Po. For car thefts, the number of cases also shoots up monthly and the cars of three of our colleagues in this Council were stolen but up to now, only one car has been found. These ruthless violent crimes, in which the police officers are regarded as mere nothing and the people's lives are ignored, are around us every day at an increasing frequency.

To the general public, the rampant violent crimes and gang activities are no

longer abstract statistical figures or "cops and robbers" games but pose an actual intimidating threat to their existing way of life and personal safety. As a matter of fact, the worries and anxieties of the public warrant our concern and attention. According to the latest statistical figures, reported cases of violent crime in the last quarter of 1991 amounted to 4 842, representing an increase of 6% compared with the corresponding period in 1990. Let us look at the figures for the past four years. There were 15 724 cases of violent crime in 1988, 17 721 in 1989, 18 820 in 1990 and 19 558 in 1991. The increase within these four years amounted to 24%. We have to face squarely the serious consequences brought about by such an upward trend.

Mr Deputy President, increasing violent crimes have posed a serious threat to the prosperity and stability of Hong Kong. They have jeopardized our living environment, political stability and international image to a great extent.

There is a western saying that "the most severe penalty for crimes is fear." But the situation in Hong Kong is peculiar. Those who live in fear are the law-abiding citizens instead of the law-breaking criminals. In fact, violent crimes and gang activities have become the routine of the day penetrating every sector of our society. More and more Hong Kong people are resigning to their fate, taking such exploitation, intimidation and oppression as things which they have to experience every day in Hong Kong. Since Hong Kong is densely populated, geographically and psychologically speaking, there is close proximity between people and between places. In other words, when crimes happen the panic caused and the potential danger to the public should not be under-estimated. A member of the public told me recently, "The scenes which, I thought, only appear on films can now be seen anywhere at any time." It is really unimaginable that the Wild West lawless scene would appear here in Hong Kong today.

Hong Kong is striding into the latter half of the transition period and some people are thinking of changes. If our law and order situation continues to deteriorate, the confidence of the public and investors would be undermined, the Government's power of administration would be weakened and massive turmoil might also occur in our society.

On the other hand, the international image of Hong Kong has been tarnished as a result of its deteriorating law and order situation. Visiting travellers were repeatedly victimized by violent crimes in Hong Kong. Some of them experienced mass robberies on tourist coaches and were held as hostages by the criminals. Recently, an anti-triad parade by the show-business personalities in Hong Kong was widely covered

in the media, including international magazines like Newsweek, Far Eastern Economic Review and other major news agencies round the world. Such has rendered Hong Kong into a dangerous city in the eyes of the foreigners.

All in all, good law and order situation is the basis for stability and prosperity in Hong Kong. As such, I would like to spend the rest of my speech on the means to improve our law and order situation, by focusing on law enforcement, judicial and legislative aspects, China/Hong Kong co-operation as well as civic education.

#### Law enforcement

As the law enforcer, the Police Force is the guardian of law and order in Hong Kong. However, whether the police could function effectively to prevent, deter and curb or eradicate crimes would depend on a number of factors. The major factors are:

##### (I) Management of the Force and police morale

All along, discussions on police morale have been focused on the pay and conditions of service of the police. Nevertheless, human factors including management of the Police Force are also very important.

It is beyond doubt that the Police Force at present is in critical need of strong and powerful leadership. The Commissioner of Police must have experience and ability in management and administration, as well as considerable expertise in the field. On top of these, he must be able to communicate effectively with his colleagues and subordinates, commanding their respect and obedience. I am not questioning the leadership of the incumbent Commissioner of Police. But it is worrying that the conflicts between the police management and the associations of police officers have been intensified and surfaced recently. It is believed that this has certainly dealt a blow to the police morale and the reputable image of the police. The conflicts, widely covered by the press, came as a shock to various strata of our society. What makes me worry most is that the unruly elements may think the Police Force have exposed their weaknesses and would take the opportunity to cause greater damage to the law and order of Hong Kong.

Therefore, the immediate task for the Government is to thoroughly understand the facts of the case and explain to the public so as to dispel their doubts. In the long term, the Government should conduct an overall review on the management of the



Police Force, strengthen the communications between the police management and the officers and do the best to settle the differences between them.

(II) Police equipment and manpower

During a debate on law and order in this Council in February last year, I pointed out clearly that, as the saying goes "what is a workman without his tools", police equipment had to be improved on all fronts, in particular firearms and marine police speedboats, if we were to combat crimes effectively.

Nevertheless, some people, probably including the Secretary for Security, still wonder if this is a prudent approach to the problem. May I stress that I have no intention to promote an endless weaponry race between the Police Force and the criminals, nor to turn the streets or territorial waters in Hong Kong into a battlefield of dashing bullets. On the contrary, I am confident if the armoury of the police is improved so that they are no longer inferior to those of the criminals, violent crimes and cases of criminals employing firearms would likely decrease. It is because except a few desperadoes, most criminals would not dare to commit armed robberies causally if they know they would surely suffer in fighting with the police. Unfortunately, the armoury for the police at present does not enable policemen to hold their own, not to mention their ability to hit back. An ex-policeman commented today at Talkabout, a radio programme on Radio Television Hong Kong, that "The firearms now carried by a policeman cannot even protect the policeman himself, how can he protect members of the public?" This comment warrants the Government's serious consideration. As a matter of fact, advanced and sophisticated weaponry would not only protect the public and boost the morale and confidence of the police, they would also serve as a deterrent to the criminals. In other words, deterrence is more important than weaponry. Under certain circumstances, it is likely that the more sophisticated the equipment is, the less occasions would such equipment be put into use. This logic is the same as that of the Cold War when the United States and the then USSR relied on "nuclear deterrence" to prevent an outbreak of war. In addition, the Gulf war last year ended quickly and casualties among the Allied Forces were kept to the minimum due to the advanced and sophisticated equipment. Although the management of the police said recently that police bullet-proof vests would be improved and six extra bullets would be carried by policemen, I still think such improvements are inadequate. Our Police Force needs hi-tech and advanced equipment to protect the lives and property of the public. Last year, the Government recorded an overall Budget surplus of over \$10 billion, and it is justified to spend part of

the surplus to upgrade the police equipment.

Moreover, there should be a review on the restrictions upon policemen in firing shots. What warrants our consideration is whether such restrictions are appropriate for the present situation or whether they are too stringent; otherwise, the most sophisticated police equipment would still serve no purpose.

On the recruitment of policemen, I agree that their starting salaries need to be increased so as to attract more people to join the Police Force. I also agree that policemen performing dangerous duties (including those on the beat) should be awarded special allowances. This would be more justified and cost-effective than an overall salary increase for the whole Force.

In addition, the management could re-deploy its manpower more effectively by, for example, deploying civilian staff to undertake non-operative duties such as taking finger prints, recording statements for reported cases and fostering relationship between the public and the Force, thereby releasing the policemen who are engaged in civilian work for patrol duties. This is similar to deploying traffic wardens to issue penalty tickets to drivers. As the Police Force is facing serious shortage of manpower, policemen should be asked to concentrate on their work of maintaining law and order.

I hope the Government would spare the Force from the tightening budgetary strategy intended for all government departments. Moreover, I do not hope that the proposed deletion of 770 permanent posts of the Police Force (from its existing establishment of 33 881), as suggested in this year's Budget, will become true. Otherwise, gangsters would treat that as good news and commit more crimes, bringing more serious and disastrous damage to Hong Kong.

I think the Government should conduct a detailed review on whether the staff establishment for each police district is adequate; and fill all vacancies in the Force as soon as possible. In fact, police manpower must be adequate and the overall funds allocated to the Force must be increased. There must be enough police officers to carry out operations against triad, smuggling and violent activities, and to step up patrol duties. Besides, hi-tech and effective equipment should be acquired for the police in order to boost their confidence in discharging their duties.

(III) Police power

Human rights have been more and more recognized in Hong Kong recently. This is an encouraging phenomenon for a civilized society ruled by law. However, in maintaining human rights we should not hastily weaken the police power. Actually, the effective and proper use of police power could help to safeguard our fundamental right, that is, the right to live and work in peace and contentment. Of course, by the proper use of police power I mean the police power is not to be abused.

In this context, the police power to stop and search and to deal with loitering is a quite effective means to prevent crimes. It would not be in the public interest to strip the police of such powers. In fact, such powers are not unique to the Force in Hong Kong. Policemen in many major cities round the world also possess such powers for crime prevention. Moreover, during their training, policemen have fully comprehended the ways to use such powers prudently and properly. On the contrary, if there are enough justifications to suspect that someone has the intention to commit crime but the police are not given the power to stop and search, the case would be like "letting the tiger return to the mountain" and would surely bring bad consequences.

In fact, cases of abuse of police power are much infrequent than most people imagine. According to statistics from the Complaint Against Police Office, of the 4 580 cases received by the Office in 1991, only 105 were found substantiated and nearly 3 000 were subsequently withdrawn by the complainants. This reflects that police officers have exercised self-discipline and maintained their code of practice in execution of their duties. On the other hand, it is unfair to the police that those who lodge false accusations against them are seldom prosecuted.

#### Judicial and legislative aspects

In my opinion, punishment meted out by the court on serious crime offenders is often too lenient. While the maximum penalties stipulated in some Ordinances are quite severe, judges, however, prefer to mete out relatively light sentences instead of long imprisonment terms. Such cases then become precedences for reference by other judges, setting off a "vicious cycle" in which serious crime offenders are leniently punished. This has been a serious blow to the morale of the police officers because they have made much effort to arrest the criminals, but the criminals were not duly punished. All long, I think that armed robbers should be severely punished. Armed robbers who have inflicted injuries on others should be sentenced to life

imprisonment and those who killed should be sentenced to death. Only by such doing could the criminals be deterred and public confidence be restored.

Although judicial independence is one of our most treasured assets, the judges, in meting out sentences, should not disregard the needs of our society, our views on crimes and the wish of the public. If ruthless criminals who killed are not sentenced to death, and over-lenient penalties are meted out repeatedly, Hong Kong would soon turn into the crime haven in Asia.

Besides, statistics show that it takes three to six months for a case to be heard in a magistracy, six to nine months in a district court and nine to 12 months in the High Court. Statistics also show that of the two armed robbery cases causing injuries to policemen last year, two suspects were arrested. One of the suspects died before his case was due for hearing and the other is still waiting for a trial in the High Court.

Due to the time lag for hearing, sometimes suspects are released on bail thus giving them an opportunity to jump bail and abscond, intimidate the witnesses or commit crimes again. Moreover, with the passage of time, prosecution work becomes more difficult and witnesses concerned may have left Hong Kong or forgotten the details of the incidents.

I therefore urge the Government to conduct thorough investigations to find out whether the situation is due to a shortage of judges or other factors, and to take remedial measures as soon as possible.

On legislation, we have to formulate a set of comprehensive Ordinances catering to the needs of Hong Kong and effective in preventing and combatting crime. These Ordinances should not only deal with the criminals and their ringleaders but also serve to protect the witnesses. The Organized Crime Bill introduced in August last year marks a forward step towards the right direction, though there is still room for improvement in its contents. I sincerely hope that the Bill would be passed by this Council as early as possible. The most important thing is, though, while necessary amendments should be incorporated to avoid contravention of the Bill of Rights Ordinance, the former should be kept effective and counteracting against crimes. Otherwise, the Bill would become a "toothless tiger" serving no real purposes. As regards the protection of witnesses, I think if the law would stipulate that those who attempt to harass or attack the witnesses would be further punished,

then more members of the public would stand up to bear witness against the criminals.

#### China/Hong Kong co-operation

Every one knows that co-operation from the Chinese authorities plays a crucial part in dealing with the smuggling of firearms and other smuggling activities between China and Hong Kong. In his recent visit to Guangdong, Lord WILSON, the Governor, has had in-depth discussion with the Governor of Guangdong and the Mayor of Shenzhen. This shows that both China and Hong Kong attach much importance to the matter.

As the Governor said, the resolution of the smuggling problem requires long-term efforts and co-operation of both China and Hong Kong. However, I also firmly believe that in order to make a breakthrough within a short period of time, the matter must be upgraded to a higher political level. Smuggling and crimes should be included in the discussions by the Sino-British Joint Liaison Group and even at the regular meetings between the foreign ministers of China and United Kingdom. This is not a fuss at all but reflects the seriousness of these problems according to the actual situation. Moreover, the matter involves Sino-British co-operation, which is beyond Hong Kong's jurisdiction, therefore, to let China and the United Kingdom resolve the problem through higher political level will not undermine the authority and administrative power of Hong Kong Government.

So far, China has attached much importance to the stability and prosperity of Hong Kong and has been prepared to make efforts in this respect. Law and order is obviously related to stability and prosperity. China's failure to provide greater assistance reflects that the issue is not only "very complicated", but also has wide implications. I hope China will face up to the situation and jointly resolve the problems of smuggling, stolen cars and firearms.

#### Civic education -- every one is responsible for combatting crimes

In the end, the collective intention of the local people has a bearing on the law and order situation in Hong Kong. In order to reduce the crime rate, the police should of course do their best to arrest the criminals. But on the other hand, the procedure for reporting crimes should also be simplified to provide greater protection for the witnesses so as to encourage public co-operation with the police. In fact, while assisting the police in cracking criminal cases, members of the public are protecting their lives and property and, after all, it will be wise to do so.

Coming out to be witness would be more risky than being submissive and there might be a bit of trouble. But we have to bear in mind that everyone might become a victim of this battle against crime and if we fail to discharge our civic responsibilities, it will not be easy to win this battle by solely relying on the Government.

Members of the public are concerned about the law and order situation. In fact, this provides a very good chance for the Government to impart civic education. On one hand, the Government should promote public awareness of a citizen's responsibilities and make members of the public realize that while assisting the police to combat crime, they are the ones who are benefited most. On the other hand, through publicity and education, the police should make the triad crime groups show their colours. The legends about the prowess of the triad members and their sense of brotherhood are a pack of lies which deceive and mislead the public. The triad members should be the ones who are really haunted by fears because eventually they will be punished by law. The mass media should exercise their self-discipline and should not play up violence or embellish crimes.

In addition, I am of the view that the bravery of the police should be commended. Community organizations and district boards should not fail to express their appreciation and thanks. Some police officers said to me that they joined the Force not only because they were interested in the job but also because the work enabled them to protect the public and maintain law and order directly. They also said that they required support from their superiors and the Government as well as understanding and encouragement from the public.

Finally, I hope the Hong Kong people will co-operate with the police officers more often and assist them to maintain law and order and combat crimes. The Government should immediately adopt all appropriate measures to ensure the safety of the people and their property so that Hong Kong's image as a place with low crime rate can be restored and Hong Kong can be made again a place for people to live and work in peace and contentment.

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

Question on the motion proposed.

MR STEPHEN CHEONG: Mr Deputy President, for the past few days we have had a tremendous indication of prosperity: the Government has had a windfall of surpluses, Hongkong Bank has made an 80% increase in profit, the stock market has run wild. Amidst all such good signs, what are the issues that are really concerning the public and this particular community? In my mind, in my view, there are two burning issues that merit the Administration's as well as this Council's consideration.

The first one is the frustration felt by our "sandwich class" over their inability to cope with the ever runaway cost of owning their own home. This issue I will not touch upon today; I will tackle it in our Budget debate.

The second issue is the unease generated by a deteriorating situation in law and order, especially the dramatic increase in the violent crime rate involving firearms. It does not need me, Mr Deputy President, to tell our colleagues, as well as the Administration, that these are the two burning issues. Especially in relation to the second one, I am sure over dinner parties, cocktail circuits, even approaches by citizens walking around the streets, you sense that there is that concern.

Now how do we deal with those concerns? A lot of people point their fingers at the inability of the police force to cope with that problem. That is unfair, because I do not think that the police force have not done their job; they have done their job within the constraints that they have. Are they effective, on the other hand? Statistics certainly do not show that they are effective. Why are they not effective? Part of the motion, as proposed by Mrs LAM, touched upon the equipment. Now there is certainly a case to review the need for more modern equipment to be used by our police force very, very carefully.

The second effectiveness, I must say, is that, as I already cautioned during the debate on the Bill of Rights last year, the police force, in order to carry out their work, must have the effective tools. And if some of the laws which in some people's mind are against the rights but which have been proven to be effective in preventing crime, then we should seriously consider whether or not we should discard such laws automatically. Quite honestly, Mr Deputy President, the Bill of Rights was introduced into this Council with a lot of noise and a lot of voices to the effect that if police powers were not curtailed, that come 1997, those powers will be abused to the detriment of the citizens in Hong Kong. The assumption underlying that fear is that the future SAR will definitely abuse those powers. I question those assumptions, and not only do I question those assumptions, or the validity of those

assumptions, I would also put it to Members that we also have to consider what effect the curtailing of police powers will have between now and 1997 on the situation of security and law and order in the territory.

It would be foolish if we were to lose our lives between now and 1997 because of the repeal of certain laws, thereby reducing drastically the effectiveness of our police force. One of the laws I am referring to is the loitering law which in the past has been proven to be extremely effective in the prevention of crime; but there are loud voices and noises being made about the need to remove this particular law immediately.

In so far as effectiveness is concerned I would, Mr Deputy President, also draw the Administration's attention to the fact that the salary levels and the conditions of service of the police force need to be constantly reviewed. According to a simple research that I have done, I believe that even at the Assistant Commissioner level, the conditions of service and salary level are nowhere near the Administrative Officer grade. Now, true or not, I cannot vouch for it, but I am sure the Secretary for Security is going to say something about that. But in any case, what I am trying to bring out in the point that I am making is that there is this particularly important matter that need to be addressed by the Administration.

If we ask our police force to do their best -- and I have the firm belief that they have done their best -- I think their conditions of service and salary levels have got to be reviewed objectively and comparatively with the spheres of responsibility and work done by the Administrative Officer grade.

In so far as police morale is concerned, there have been quite a lot of press reports about the morale being bad. There has been quite a lot of criticism levelled against the top management of the police force. All I can say is that perhaps all these frustrations have arisen from the inability of the police force to convey their message to the Administration that they need better equipment, that in order to be effective they should not be stripped of the powers they need to have, and that they also need conditions of service that are comparable to the Administrative Officer grade.

With these words, I support the motion.



MRS SELINA CHOW: Mr Deputy President, during the period between Christmas and Chinese New Year, as a result of increased police presence on the street, there is a distinct improvement in the law and order situation. Apart from positive feedback from the public through bodies such as the District Fight Crime Committees, statistics show that there is a decrease in the number of violent crimes. Such upgrading of the visibility of police presence is clearly welcome and has a definitely helpful effect on crime prevention, but can this measure be sustained as a permanent one given the shortage in our police force?

I am aware that this assertion of mine will probably lead to official challenge or even denial. If one is presented with the deficiency figures for the last three years, there seems, at first glance, to be little cause for concern. At the end of 1989 the establishment stood at 27 450 while the strength stood at 26 980. The deficiency was therefore a very tolerable 1.71%. At the end of 1990 the establishment was increased to 27 578 while the strength dwindled to 26 403 with a deficiency of 4.26%. These figures reflect an increasing demand but a falling supply. At the end of 1991, in spite of heavier loading on the police, there is a cut in the establishment to 27 245 while the strength stood at 26 430. The deficiency was 2.99% which, taken on its own, might create the rather misleading impression that the shortage of manpower in the force had improved over the previous year. In fact the drop in the deficiency figure is the result of the cut of 333 posts in the establishment rather than a boost in the strength to meet requirement. We are now aware that there is to be a further cut in the establishment of another 700 posts by the end of March this year. As a result of this cut, the picture may very easily be interpreted to mean that there is no deficiency at all in the staffing of the police force. But are we really dispensing with the unnecessary in this exercise, or are we sacrificing essential police power in this process? And overall, is there a real problem of manpower deficiency, and how is it affecting the quality of service and the people offering that service?

First of all, where are the men who manned the Vietnamese boat people duty and the Anti-Smuggling Task Force to be drawn from, if not from the districts? With the increase in volume and intensity of the latter, has additional provision and posts been fought for to tackle it? With the additional demands from the new towns in the New Territories where new police stations are built to serve new communities, where are the bodies to be deployed from, if not from the existing command? With the increasing geographical network of criminals and their links across the border, the coverage of the activities by our own police force must necessarily expand to cope.

The penetration and sophistication of organized crime with its ever increasing ingenuity into new areas of activity require an alertness of a well managed and adequately staffed team of professionals.

To aggravate matters, the taking over of border duties by the police from the garrison is taking its toll too, as these border duties have to maintain full strength and, as such, would not share the average deficiency ratio with the rest of the force, thus creating a greater burden of under-staffing on them.

Underlying all the above is the deteriorating law and order situation which would in itself require more operational frontline men. All these demands on the force, temporary or permanent, have to be managed by a force that has in fact thinned out from about 27 000 to about 26 400 over the last two years. Quite obviously, recruitment cannot catch up with wastage.

What kind of manpower shortage are they facing in the force on the ground? Take the four commands on Hong Kong Island -- the shortage of sergeants ranges from 20% to 23.5%, and at constable level from 11% to 18%. Whichever way one looks at these figures, they cannot be regarded as satisfactory.

May I now briefly comment on the 700 posts which have recently been deleted. It is true that quite a substantial proportion of these have no direct effect on the day to day operations. But of these, 150 posts belong to the action squads under the CID which assume the special tasks of policing black spots of crime. I realize there is some controversy, even within the force itself, as to whether these squads should be retained as their mode of operation has been quite aggressive and has therefore given rise to complaint. I am the last person who is qualified to judge whether they should or should not be kept. However, their disbandment should not mean the total abandonment of the duties they have assumed and that void must be filled by others and not by existing officers who are already fully occupied, or perhaps even more than fully occupied, by their original assignments.

Then who are to take these important duties over, if the posts are to be deleted with no prospect of replacements here or elsewhere? Judging from comments made by members of the public, representatives of local communities, District Fight Crime Committees, as well as police officers themselves, there is no doubt that there is a serious problem of manpower shortage. I ask the Government to face up to it and to act on it. I, for one, will give it the fullest support and I call upon colleagues

in this Council to urge for action and offer assistance.

During a Security Panel meeting of the OMELCO some months ago, we posed the question to the police officer attending the session as to whether the morale of the police force was really as bad as we had heard it to be. His answer was most interesting. He said that morale was one thing, and efficiency was quite another; and given the professionalism of the force he believed Hong Kong was well served by a dedicated and effective police. I happen to be one of those who have great faith and confidence in our police force. They may not be perfect but they are certainly one of the best forces around. However, I also happen to believe that they are suffering from a problem of low morale which the senior management of the force can ill afford to ignore. Those at the very top need to ask themselves whether staff relations are as good as they should be; and whether real and regular dialogue between central and district commands is open; and whether opportunities and channels for a frank exchange of views and ideas exist between the top and middle management, and between management and the rank and file. Should senior management not ask themselves why the heaviest wastage rate occurs between the first and third year of young recruits who joined the force with the ideals of a young person fresh from school, who were then trained by the force itself and were offered good terms of employment and a clear career path of professional development? Should top management not listen more when the various staff associations speak out publicly to voice discontent and ask themselves why their own men are not talking to them direct but would rather do it in such a way which must affect the good image of the force and themselves? Should they not create proper internal lines of communication to enable problems to be solved through discussion? Maybe the problems are real after all and will not just go away. Something has to be done about them and we look to those responsible for the answers.

4.58 pm

DEPUTY PRESIDENT: We shall take a short break and resume in 20 minutes.

5.20 pm

DEPUTY PRESIDENT: Council will resume.

MRS RITA FAN (in Cantonese): Mr Deputy President, I am grateful to Mrs Peggy LAM for moving the motion debate on law and order because in so doing she has given me a chance to raise some points on the morale of the police.

The community has been much concerned about the morale of the Police Force. As we all understand the difficulties encountered in police work, we cannot help worry about the impacts on the protection of lives and property of citizens if the morale of police is low. I also share such sentiments. On several occasions, I asked the Security Branch and police officers whether the Police Force was suffering from low morale. At first, the reply was that there was no problem of morale in the police. Recently, the reply given is that the Police Force possesses professionalism and its efficiency will not be affected by morale even though the latter is not high. I believe that the reply does reflect the facts. When we see how brave police officers have been in performing their work without regarding to their own safety, we shall be convinced that despite the problem of morale they have never neglected their duties. Recently, however, a police officer complained to me and said, "We are like orphans. Our superiors do not care about us. When there are problems, we have to cope with them ourselves. If there are complaints against us we can only put the blame on bad luck. In a word, we must do our best and deal with problems on our own." These words are brief but they have been ringing in my ears. Have we given adequate support to police officers who maintain law and order and protect public safety?

If we really want to boost the morale of the Police Force, I think we must have support from four fronts.

Firstly, the support of the management of the police. I believe that, under the leadership of the Commissioner of Police, senior police officers are in support of their subordinates. However, the problem is whether there are adequate opportunities for conveying views at the bottom to the top and mutual communication. For those subordinates, especially those inspectorate officers at the middle rank, the problem is whether they know and understand that their superiors have made a lot of efforts for them. Such problem is adequately reflected when recently an English newspaper reports that some middle ranking police officers are dissatisfied with the Commissioner of Police. Police officers think that the Commissioner of Police does not care about and support his subordinates because on some occasions when their lives are jeopardized the Commissioner fails to give open support in the first instance or denounce a certain party for foul play. As a matter of fact, it may be out of

prudence or political consideration that open support is not given in the first instance. However, when it is difficult to take an open stand, internal pacification is, in my view, practicable to make police officers in question feel the concern from above. I do not intend to criticize anybody. Nor am I in a position to advise senior police officers on how to boost the morale. As a citizen, however, I hope there will be mutual concern, support and co-operation in the family of the police. The parents should be impartial and should not spoil their children. But when their children have grounds, they should have no fear of high power and stand firm in accordance with reason. I believe what those low and middle ranking police officers ask for is not a general who can "always win", but an understanding and sincere superior.

Secondly, the support of the Legal Department and the Judiciary to the police. It is commonplace that police officers spend a lot of time and efforts in detecting a case. With ample evidence, the Legal Department successfully brings about the conviction of the defendant. The criminal, however, will become complacent over the lenient sentence and even mock at police officers for wasting efforts. Such frustration often occurs to the police and is a serious blow to their morale. Though it is not totally wrong for judicial officers to discharge their duties with a forgiving heart, their deeds have posed various blows to law-enforcing officers. Police officers pay costly but their reward is meagre, and they become the subject of mockery. Moreover, those who intend to break the law are encouraged to do so since they may think that, with good counsel, they may not be convicted even though they are arrested and conviction only means that they will be imprisoned for several months or years which, in their view, may perhaps be worth the risk. Citizens who brace themselves for testimony are worried about the danger of falling victims to retaliation of criminals released from prisons as their identity has been disclosed. The brief sentence that convicts have to face makes witnesses feel more insecure. The Legal Department has the power to appeal if it considers a sentence too lenient. However, the department usually determines whether an appeal should be made from a purely legal point of view. From a legal point of view, it is reasonable that one should not go into a battle unless one is confident to win. Unfortunately, the wish of the public and the efforts of the police are not given due consideration. For example, there are only a few complaint cases that are related to abuse of power by police officers. Every such case will be thoroughly investigated by the Complaint Against Police Office and cross-examined by the Police Complaint Committee. Action will immediately be taken if a case is substantiated. However, for those cases which are obviously false accusations and which have been proved so, most of them are left unpursued and only a small number of persons who have lodged false accusations are

brought to the court. I believe that the public should have the right to complain against the abuse of power by police officers. But those who make false accusations should also be punished. I wish the Legal Department will look into this matter. In a word, I hope that due consideration will be given to the morale of the police and the reaction of the public in judicial procedure. To be lenient to those who break the law is to ignore the victims, to mock at those who are law-abiding and to give a blow to law-enforcing officers.

Thirdly, the support of the Legislative Council to the police. If the Legislative Council really wants to reflect public opinion, we should not hesitate to support the police. When we think that the sentences in respect of certain crimes are lenient, we can raise the maximum penalty for such crimes through legislation, we can question the Legal Department why it does not make appeal, and we can express our views on the subject. However, we cannot interfere with the independence of the Judiciary. Nevertheless, it is the Bill of Rights (BOR) that has influenced the morale of the police. I recall that when the BOR was passed there was a very clear consensus in this Council that a balance must be struck between human rights and law and order. In other words, we do not hope that the BOR would undermine too much the ability of the police to prevent crime and to carry out investigation. Otherwise it will lead to law and order problems and law-abiding citizens will have to suffer. In this Session, however, I have observed two problems. The first problem is related to the study of new legislation. One argument is that consideration should not be given to any legislation which may come into conflict with the BOR. The word "may" is a problem. It is easy for a prominent lawyer to justify that a piece of legislation "may" come into conflict with the BOR. Similarly, it is also easy for another lawyer to justify that it "may not" come into conflict with the BOR. The problem of "may" or "may not" can only be determined by the court. Members of this Council must give prudent consideration to the problem of "may" and "may not". If no definite conclusion can be drawn or there is a higher probability of "may not" and the legislation in question will have positive effects on the protection of law and order, I think that we should give our support. The second problem is related to the reduction of police power which mainly affects crime prevention. For instance, it is highly possible that the loitering offence will be abolished because of the BOR. But in the past, it had been a means of which the police had made use to deter those who intended to commit crimes. I hope my colleagues in this Council can use their collective wisdom to find out a good method by which the police can continue to prevent crime and which gives protection to human rights of the public. Otherwise, those law-abiding citizens who need human rights protection will have to pay for the BOR.

The police will be forced to stand by with arms folded and cannot take action until crimes occur. Then, it will not be surprising, that the police morale is low.

Fourthly, the central government. In order to control public expenditure, the Financial Secretary has instructed various departments to trim down expenses before allocation can be considered. This is a reasonable procedure. But according to the police, the posts in the Police Force that have been deleted are in fact vacant posts. The cut therefore does not affect the actual strength of the Force. Nevertheless we all know that the police is lacking sufficient manpower for street patrols; and it has experienced difficulties in recruiting rank and file officers. When questioned by Members of the OMELCO Security Panel, the Commissioner of Police, who is always a reticent and prudent person, finally admits that the salary level of rank and file officers should be adjusted. We understand that recommendations on the rate of adjustment are under preparation. I do not believe that salary increase is the only means to boost the morale. However, a suitable level of salary and promotion prospect can reflect that the danger and difficult tasks faced by the police are recognized. I therefore hope that the central Government, including the Finance Branch, the Civil Service Branch and the Disciplined Service Committee should study the problem as soon as possible. In addition to support in respect of resources, the central government should reflect through the Political Advisor and the British Foreign Office regularly to Beijing the problems at the marine border. The marine police should not be subject to unnecessary interference or threats from the Chinese side.

In view of the fact that firearms are in most cases smuggled from or via the Mainland into the territory and that they are used by unlawful elements for illegal purposes which may endanger the lives of the public and the policemen, the Government should continue to discuss this matter with high ranking officers in Beijing and Guangdong with the object of identifying an effective way to provide co-operation and assistance to the Chinese public security authorities in their investigation so as to prevent armed robberies and smuggling activities.

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

MR HUI YIN-FAT (in Cantonese): Mr Deputy President, public order is the pillar of a stable and prosperous society. Unfortunately, the law and order situation in Hong Kong is getting from bad to worse lately. If the Government does not make strenuous

efforts to tackle the problem as early as possible, I am afraid the law and order problem will become another major reason for Hong Kong people to emigrate. It will also drive away investors and tourists. The consequence can be more serious than we can imagine.

I am not trying to be an alarmist. As a matter of fact, that 50 shots have been fired in yesterday's chain robbery in Sham Shui Po and the recent jewellery shop robbery in To Kwa Wan tell us very clearly that criminal syndicates nowadays are well-equipped with firearms. And gangsters are so fierce and ruthless that they will shoot at close range at totally unarmed and defenceless shop attendants and policemen. This is open defiance of the law.

Apart from armed robberies, cases of smuggling by sea and car theft are running rampant again after a very brief quiet period. As far as I know, even if the police was able to get hold of information about the time and place of these smuggling activities, police officers were often unable to stop the smugglers who were equipped with firearms and high-power speedboats. As for car theft, gangsters are now openly robbing cars from car owners in carparks. The situation is indeed alarming. Does this reflect on the inadequacy of the strength of our police force or weakness in the amendment Ordinance enacted last year? It is imperative that the Administration should review the situation.

While anti-smuggling operations at sea are highly dangerous and the performance of the valiant police officers are commendable, I think our police force can do still better. To say the least, the police have not exhausted all possible means to stop the smugglers such as firing from helicopters to destroy the engine of the high-power speedboats to slow them down for the pursuing Marine Police launches, or dropping water bombs or nets from helicopters to reduce the speed of the speedboats. In fact, the police did successfully intercept high-power speedboats before by setting up a water barrier at the Tolo Harbour. Why do they not use the same method again?

It is indisputable that the police plays a very important role in the maintenance of law and order. The question is how the police force can further improve the detection rate of 50% to 60% when it is faced with a manpower shortage as well as low morale. Since the most tedious crimes lately involve professional criminals from Mainland China, I think it is important that the police force should step up co-operation with the law enforcement authorities in China, especially in the exchange



of intelligence. As there are signs to show that mainland crime syndicates involving in smuggling activities may be harboured by members of the Chinese Communist Party, Hong Kong Government should seek the co-operation of the Chinese authorities to eliminate such corrupt activities through contacts between high level officials of the two governments. This will help cut off the route of retreat of the criminals. In fact, the Chinese Government can do a lot more to help fighting crime in Hong Kong. Just like what we are doing in Hong Kong, the Chinese Government can enact laws to control the manufacture of high-power speedboats. The Chinese Government should understand that Hong Kong's prosperity will be at stake if its stability is shaken.

The police force can also help boost the detection rate by securing the co-operation and trust of the public. Police should first of all streamline crime reporting and identification procedures, and to use one-way viewers in identification parades in all police stations. This will encourage the public to report crime to the police more readily.

While great emphasis may have been placed on improving detection rate in the fight against crime, we must not overlook the importance of boosting police morale, stepping up police patrol in busy streets and upgrading police equipment to discourage criminals. I am glad to learn that the authorities are thinking about issuing more bullets to police officers. But it is more important that we should improve police officers' marksmanship, and relax the restriction on their use of firearms. This is especially important for police officers performing anti-smuggling duties on the sea.

I have always supported the use of heavy punishments in turbulent times because we will otherwise be unable to deter the criminals or raise the opportunity cost of committing crimes. Judging by the severity of the crimes, I think the punishments meted out by the courts to the criminals have been too lenient. May I take this opportunity to appeal to the judiciary and the legal profession to consider ways to make criminals pay a dearer price for their wrongdoings.

Mr Deputy President, it is gratifying to learn that the increase in the provision for the police force for the coming financial year will be the biggest among the five disciplinary forces. As a matter of fact, I believe the citizens will rather make some sacrifices elsewhere to ensure that our law and order is properly maintained. With these remarks, I support the motion.

MR MARTIN LEE (in Cantonese): Mr Deputy President, it is the hope of every member of the Hong Kong community to be able to live and work peacefully and happily. The precondition to this is the stability and prosperity of Hong Kong, and more importantly, a safe and law-abiding society. However, the Administration, as I have already cautioned in the debate on the Organized Crime Bill, has all along been unable to address the deteriorating trend of law and order. Consequently, while the Administration keeps publicizing the put-on look of peace and plenty, the public is worried over the ever rising crime rate. We have always been told that there is no dramatic increase in crime rate as compared with that of the early 1980s. But this is not the case. Comparing the total number of crime cases in 1991 with 1981, we can find that they remain more or less the same; the figure on violent crime cases, however, has soared from 17 500 to 19 600, representing an 18% increase. Worse still, the number of armed robbery cases has risen to 547, 2.1 times that of 1981. We have only seen a decrease in the incidence of minor offences such as "pocket-picking". To ordinary people like us, the cumulative effect of 100 cases of "pocket-picking" is far less appalling than the shootout last evening downtown. For ordinary people like us, it is precisely these violent crimes which pose a serious threat to life and property. We must admit the existence of such a trend and vigorously address the problem. Repeated emphasis on the safety of Hong Kong as a city in comparison with other metropolises is useless in removing people's anxiety over their very own safety.

While the urgent need for curbing the escalating crime rate is well recognized, we, the United Democrats of Hong Kong, have to reiterate that the best means to combat crime lies in prevention rather than punishment or the "tit-for-tat" approach. For instance, in order to combat diseases effectively, a person must have a healthy body and pay attention to disease prevention. Some may argue for the imposition of draconian punishment on criminals as a measure to deter crime. Such an argument is tantamount to the view that a person who has an efficacious drug ready can simply disregard health care and personal hygiene. Most criminologists agree that heavy punishment has no apparent effect in deterring criminal activities. That draconian laws are needed at a time of social unrest is no more than a myth or pure wishful thinking. We, the United Democrats, think that the problem must be addressed through a two-pronged approach, namely, the cultivation of a healthy social ethos and a dedication to the education of young people. Draconian or capital punishment should not be relied on as a deterrent. Meanwhile, the burden of combatting crime should not be laid solely on the police force. Every member of the Hong Kong community has

an obligation to work towards creating a healthy social ethos so as to reduce the incidence of crime to a minimum. Mr LEE Wing-tat will elaborate on this point in a moment.

Since we advocate a preventive approach to combat crime, we attach special importance to the role played by the police. Our police force has been a well disciplined and efficient force. It deserves our commendation. We believe, however, that the force needs sufficient support from the Administration, that is to say, the force should be given adequate resources to carry out its work. We have been continually reassured that there is no serious shortfall in police manpower. Official statistics on the police establishment released by the Administration recently show that there is only a 3% to 4% manpower shortage. In fact, such a low shortage rate is attributed to the deletion of hundreds of unfilled vacant posts each year. The Administration has repeatedly described this practice as internal redeployment and so the day-to-day functions of the force will not be affected. The reality is that upon deletion of posts work left to be done will have to be passed on to other serving police constables, thereby increasing their workload. Many other duties, including management of boat people, interception of illegal immigrants and border surveillance, are now added to their duty list. Police constables actually patrolling the streets are far from adequate in number despite the concocted figures which show the contrary. According to the estimate by some police constables, the number of police constables on the beat is roughly 20% short. Some police constables serving in new towns even told the OMELCO Security Panel that there was a 50% shortage of beat duty constables.

The duties of the police have been expanding over the past three years, but the police force, instead of growing in size, keeps shrinking. In 1988, there were 480 police officers per 100 000 people, while in 1991, the ratio has dropped to 455 per 100 000. Under such circumstances the police force is still to be put through a retrenchment exercise this year, which will reduce outlays by \$62 million and delete over 700 posts. By 1995, more than 2 900 posts will have been deleted. This is basically contrary to the needs of society in maintaining law and order. Cutting police expenditure will lead to shrinkage of the size of the force and curtailment of fringe benefits, such as overtime allowances, thereby causing demoralization. How can the Administration hope to convince the public that it has bona fide intention to improve the law and order situation if it, through a resources allocation cutback, attempts to have lesser numbers of police officers to deal with the ever increasing numbers of criminals while at the same time expanding the officers' scope of

responsibility, such as the management of boat people and interception of illegal immigrants?

We, the United Democrats, have all along been opposed to the "across-the-board" expenditure cutback policy advocated by the Financial Secretary. We think, the Administration should, on the contrary, cut its financial cloth to suit the different needs of the departments, rather than treating all departments alike. Let me reiterate this point: the Administration should exclude from the retrenchment exercise those departments with inadequate resources and the Royal Hong Kong Police Force is certainly one. The police establishment should also be expanded as soon as possible, at least to be restored to its optimal level of 1988. Various ways and means should be explored to attract more people to join the force to solve the manpower shortage. If the Administration is of the view that all methods to attract new recruits and staunch wastage have failed, it should then actively consider the granting of special allowances to the police officers.

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

MR PANG CHUN-HOI (in Cantonese): Mr Deputy President, first of all, I must pay tribute to the contributions made by the Police Force towards Hong Kong in the past. At the same time, the force will have a more vital role to play in the foreseeable future and the maintenance of law and order in Hong Kong is indeed closely bound up with the morale and efficiency of the force. Because of the formidable task confronting the police, the whole community should give assistance and moral support to the force.

During meetings of the OMELCO Security Panel, I have come to realize the frustrations and difficulties encountered by the police when discharging patrol and other duties. Since the police have to work under tremendous pressure and always risk their lives to maintain law and order, I am of the view that Honourable Members should vigorously seek to improve substantially the working conditions of the force and to ensure that ample resources are being provided.

Police morale is a matter of common concern. The Government should ensure that proper channels are made available to reflect police views so that this Council will be made fully aware of the force's internal problems. In the past, the Government has on numerous occasions mentioned the need of a policy for localizing the force. The Government should vigorously pursue this policy which I believe is in keeping

with the times and will go a long way in boosting police morale.

As a gesture of sincerity, the Administration should lose no time in setting out a timetable for the localization of our Police Force and gradually accomplish its goal according to this timetable. In order to effect smooth transition, the localization of the force brooks no delay because qualified personnel needs time to train and bring up. I hope that this Council will soon be informed of developments in this matter.

Mr Deputy President, with these brief remarks, I support the motion.

MR MARTIN BARROW: Mr Deputy President, I have two quick points to make on the subject.

First, a general point. Members this afternoon have been referring to the efficiency and morale of the police. Recent crimes are worrying, but we should not over-react. Whilst I do not disagree with Mrs Peggy LAM's motion, we must be careful about exacerbating concerns in raising the public profile of this issue with emotional rhetoric; for example, we should not exaggerate the concerns of the tourism industry and Hong Kong's international image as this could become a self-fulfilling prophecy. In fact, Hong Kong remains a very safe place for our visitors from all over the world. Furthermore, I fully agree with the Honourable Martin LEE's comments that we should not reinstate the death penalty for all the reasons put forward in the debate last year. I hope Members of this Council will restate their confidence in the police. Hong Kong should count itself lucky in being provided with the quality police force that we enjoy. The esprit de corps, dedication and determination is something of which we can all be proud.

Secondly, a specific suggestion. Mr Deputy President, the Gurkhas have played a long, loyal and valuable role in Hong Kong. They are known and respected by the people of this community. While I am not suggesting that they should be invited to join the main line force itself, surely given our law and order worries and our manpower shortages, we could make use of them in support roles, either through employment in the private sector to perform law and order duties such as guarding services or to take over certain work now done by the police. I urge the Administration to have a creative and urgent look at this suggestion.

With these words, I support the motion.

MRS MIRIAM LAU (in Cantonese): Mr Deputy President, according to figures published by the police, the total number of crime in 1991 was 88 659 cases, representing only a 0.4% increase over 88 300 cases in 1990. But the increase in violent crime, which bring the most damaging effect, is extremely worrying. In 1991, violent crime amounted to 19 558 cases, representing a 3.9% increase over 18 820 cases in 1990. This set the greatest record since the past decade. The main factor leading to the rise in violent crime is the increase in robberies. Last year, there were totally 9 138 cases of robberies. Robberies increased by 1 109 cases or 14%, compared with 8 029 cases in 1990. In 1990, robberies accounted for 43% of overall crime. Last year, robberies increased by 47%. Among them, cases involving the use of firearms were alarming. Last year, there were totally 547 robberies involving the use of firearms and pistol-like objects. It showed a 30% upsurge compared with 422 cases in 1990.

Another sign of the desperate law and order situation in Hong Kong is the growing rampancy of triad activities and organized crimes. Though it seems that the figures do not indicate any major increases in triad activities and organized crimes, this cannot cover up the seriousness of the problem. Businesses have been subject to intimidation and extortion by triad societies. Young people are forced to become triad members. Loan sharks threaten their debtors to settle the debts. The frequent occurrence of such crimes has much worried the public. But since many citizens still have worries concerning reporting triad activities and organized crimes, I believe that those triad-related crimes that have been disclosed is only the tip of the iceberg.

We all know that the rise in armed robberies is closely related to the smuggling of firearms across the border from Mainland China by criminals and the commission of crimes by mainland criminals hired by their counterparts in Hong Kong. The crimes are also related to smuggling activities that have increased significantly in recent years. Over the past few years, the police has reiterated that they would seek co-operation from the Chinese authority to suppress smuggling activities. I believe the police have done their job but the result has not been good. Though smuggling activities have decreased since the amendment of the legislation in Hong Kong last year, they tend to become rampant recently. I firmly believe that there must be co-operation between Hong Kong and China if the problem is to be solved. Only empty talks and meetings cannot do. We must actively take concrete action, with co-

operation from both sides, to achieve the best result. It is now forbidden to manufacture and repair high-powered speedboats in Hong Kong which have been used for smuggling. However, it is learnt that criminals have moved their bases into the mainland. I think that we must ban the existence of high-powered speedboats in order to fight against smuggling activities. Thus, I hope the Government can urge the law-enforcing authority in China to take parallel action and forbid criminals to exploit the mainland for smuggling activities between China and Hong Kong.

Nevertheless, I believe we all agree that the co-operation of Chinese authorities is crucial. But after all, this is help from the external. We must rely on our force, that is, a Hong Kong Police Force that is professional, efficient and has a high morale, to maintain a good law and order situation.

In fact, the Hong Kong Police Force now consists of more than 26 000 police officers and about 5 500 civilian staff members. The average number of police officers in service every 100 000 people is 455, which is smaller than 480 in 1988. In 1988, however, the overall crime rate was only 1 407 cases every 100 000 people. In 1991, the crime rate rose to 1 540 cases every 100 000 people. Although the police has been suffering from shortage of manpower for the past few years, the crime detection rate for last year remained at 45.2%, which was only slightly lower than 46.5% in 1988. Besides, we all see the bravery of police officers when they confront armed robbers. These have shown that the Hong Kong Police Force is a well-trained and highly professional anti-crime force.

Mr Deputy President, in order to fight crime, we must maintain a Police Force that has a high standard and morale.

In term of establishment, the recruitment result last year was better than that in the past few years. But there are still several thousand vacancies. Besides, the wastage of police officers each year is rather serious. But the Police has recently announced the deletion of 700 police officers posts to reduce expenditure. At the same time, the police has said that 760 more police officers will be recruited. This has puzzled the public. Is the Police Force strengthened or weakened? I think that given the tense law and order situation, the public are very concerned about whether there are enough police officers carrying out daily patrol duties to protect their lives and properties. The Government should give serious consideration to problems concerning the establishment of the Police Force and should, as much as possible, avoid any alteration to the establishment that may affect the confidence

of the public. As regard wastage, efforts should be made to reduce the outdrain of experienced police officers. For example, a meritorious award system for senior rank and file officers can be set up to strengthen their wish to continue their service.

In addition to various kinds of awards, police officers who have contributed to the successful detection of major crimes should be extensively commented to society to boost the morale and promote job satisfaction among police officers. These measures and the timely in-take of fresh blood will help maintain a high morale in the Police Force.

Concerning the equipment of the Police Force, the Government should continue to make reviews and improvements like the provision of more portable equipment, better bullet-proof vests, more modern and powerful firearms and speedier loaders to police officers. There should be improvements to radio communication systems, especially those installed at anti-smuggling vessels, and on-going efforts to upgrade the crime detection apparatus and systems. When improving equipment, I think the police should always consult police officers at the frontline, try to understand and meet their actual working needs to make them more confident and efficient in discharging their duties.

Recently, I have learned from newspapers that some members of the Police Force are not satisfied with the management. I am very concerned about that. I am of the view that the Administration should face this matter squarely, mediate between both sides, eliminate their differences and try to make the Police Force as a whole work in unity and wholeheartedly for maintaining law and order of Hong Kong.

Lastly, I would like to talk about the problem of measurement of penalty which, to a certain extent, is related to boosting the morale of the Police Force. All along I have advocated that "drastic situation demands drastic punishment". Though Mr Martin LEE may not agree to it, the fact is that the sentences passed by the court are usually light. In case of armed robbery, the convict only faces a sentence of 12 to 15 years in prison. Even though he has opened fire and caused injuries, he only faces three or more years of additional imprisonment. This is still far from the maximum penalty which is the life imprisonment. As armed robberies have become rampant and robbers cold-bloodedly fire at and assault police officers, several or 10 years' imprisonment will not have deterrent effect. Meanwhile, the maximum penalty for "snake heads" who arrange illegal immigrants to sneak across the border is life imprisonment. But recently, the court only sentence those who have committed



the crime of making arrangements for or assisting illegal immigrants to about 30 months' imprisonment. Concerning triad offences, the average sentence ranges from one year suspended sentence to three years' imprisonment. The average sentence for intimidation and extortion is four years' imprisonment. The sentence passed in respect of loansharking is even lighter. In a recent case, nine-month suspended sentences have been passed.

We all know that police officers have risked their lives in fighting crimes and bringing criminals to justice. Yet, it is not easy for them to successfully detect a criminal syndicate. The current sentences faced by criminals, however, have not only failed to have any deterrent effects, but also undermined the morale of the police. Though police officers have worked hard to bring a triad leader to the court, the convict can soon walk out of the prison and resume the post of the Dragon Head Big Brother. What will those police officers feel? Mr Deputy President, I do respect the principle of judicial independence. At the same time, I am sure that heavier sentences will have greater deterrent effects to criminals. The authority of the police and their morale will also be positively affected. I therefore urge the Legal Department to closely monitor the sentences passed by the court and apply for a review if necessary to ensure that the sentence of a convict can adequately reflect the seriousness of the crime committed.

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

MR JIMMY MCGREGOR: Mr Deputy President, I will keep my comments as brief as possible and I do apologize to the interpreters to whom I have not given a copy of this speech.

Our community has always had to deal with violent crime, some of it connected with organized crime. Our police force has been able to contain such violence and over the years we have seen a satisfactory rate of detection, prosecution and punishment. The Fight Crime Committee has done a good job in promoting public awareness and co-operation with the police. The result of all this work and co-operation has been, until recently, a society which by international standards was safe and law-abiding; a community within which citizens and visitors could walk our streets by day or night without fear; our shopkeepers could display their wares without serious worry about armed attack. In my view that is no longer quite the case.

In recent times we have had to withstand an escalation of serious crime involving violence or threatened violence. We have seen an upsurge of robbery with violence involving the threat or use of firearms, clearly involving close co-ordination between Hong Kong criminals and their counterparts from China, involving impressive planning and organization, and often resulting in the wounding of innocent civilians and the taking of hostages. Too often the criminals have been able to escape and where they have not been subsequently apprehended there has been a suspicion that they have made their way to China.

Mr Deputy President, although we have been reassured many times by the Government, and specifically by the Commissioner of Police, that Hong Kong is still a safe place by world standards, I have to say that this assurance is no longer as acceptable as it was. I believe we are moving rapidly into a rather dangerous situation. Every time violent crime succeeds, it is an invitation to criminals to try something more, to organize better, to aim at bigger targets, and to use firearms ever more indiscriminately. This is a sort of mini war and I believe we should now treat violent crime accordingly. If we do not, we risk very dangerous escalation with unforeseeable consequences.

It seems to me that some further measures can be taken. We should begin, perhaps, with police capability and police morale. Again, we have received government assurances that all is well but I have also heard many times from policemen and others that confidence in the leadership in the police force is not high and that there is a feeling that there is not sufficient determination at senior levels to overcome some of these problems.

I have tried to ascertain whether such a morale problem really exists but I find it difficult to engage senior policemen in informal discussion on this issue. They do not want to be disloyal to Mr LI Kwan-ha and his senior officers. My impression, however, is that they are not happy with the top leadership. The Secretary for Security may be able to consider whether such a problem really does exist. The Security Panel of this Council may also wish to examine this matter.

It is clear that we are facing a new breed of dangerous criminals willing to risk life, to rob, and to escape. My impression is that many of them in fact come from China. It goes without saying that cross-border liaison between the respective forces of law and order must take high priority and I do accept that this is done. The co-operation of the Chinese authorities is paramount and I hope that there is

no reticence on either side. In this regard, would it not be possible to set up a Police Co-ordination Unit beyond the existing arrangements which would permit police officers to work with each other in each territory with agreement on hot pursuit where this is appropriate. We ought not to have any more of these confrontations between armed PRC personnel and our own police in our waters or elsewhere.

I am not sure of the arrangements for police teams in Hong Kong comprising of expert sharpshooters who would be able to deal with emergency dangerous confrontations with armed criminals. I feel, however, that every police district should have its own specialist team, or teams, to be called in immediately when emergencies arise. Criminals are willing to use firearms; the police should be well equipped and capable of using firearms in response. And in this regard I agree entirely with some of the previous speakers who suggest that the restrictions on the police should be reduced or removed in regard to the return of fire.

I feel also that the triad link with violent crime is already serious and likely to become more so. Action is already being taken against triads, with good results. These efforts, in my view, should be stepped up and widened. The triad leaders must be brought before the courts, as well as their violent followers. We are never clear of triad menace; so this is not a temporary phase but must become a prime objective. I think consideration should be given to increasing the maximum sentences which apply to triad offences. It should be remembered that the triads are directly associated with the threat of violence in almost all that they do. The only way the triads can extort money from their helpless victims is by the threat of violence. The only way that such protection money payments will be resisted is by public demonstration that the triads can be effectively prosecuted. I note the recent action taken against the Sun Yee On, for example, in the New Territories which I believe is quite efficient.

The courts also have a part to play. Violent crime must surely attract substantial sentences. Our judges and magistrates must be persuaded to regard violent crime with great concern and abhorrence, and sentence accordingly. Sentences must act as a deterrent and as a reassurance to the community.

Mr Deputy President, most of us have a sense of futility in considering this overall question. Police organization and police work is complex and much of it involves a high level of discipline and bravery. We must be sure that police morale is as high as possible, that the equipment given to the police is the best available, that the restrictions on police response to violence do not deter them from doing

their job, and that their organization is both efficient and enlightened. The police are part of our community and must feel so. This Council must, I think, do more to seek advice and information from the police force and to listen to and support ideas on improvement.

I end as I started, by suggesting that we are at war with violent criminals. We must not fight them with velvet gloves nor with one hand tied behind our backs. I will listen with great interest to the Secretary for Security in his response to this Council's deep concern.

Mr Deputy President, I support the motion.

MRS ELSIE TU: Mr Deputy President, I believe it would be true to say that Hong Kong was virtually free from serious crime in the early days after World War II, and that corruption and crime increased along with affluence. Corruption reached the climax in the early 1970s, resulting in the belated decision to set up the ICAC in 1974. Crime, however, continued to increase.

Up to 1974 the process of corruption was simple and overt. Any triad gang could operate by intimidation and extortion simply by paying those among the police who were happy to be bribed, while those who were not happy to join in the corruption were very unpopular and liable to be sacked. Even to get promotion in the police in some districts at that time required a large bribe, and money needed to pay the bribe was often advanced by triad brothers, who in return were given licence to carry on vice and criminal activities. A certain expatriate policeman actually boasted in court that he ran his corrupt activities like a business company.

The ICAC stopped a great deal of that overt corruption, and the expatriate policeman I mentioned was one of those who went to prison, though only for a short time, for his monstrous crimes against society.

Then came the amnesty at the end of the 1970s, and corrupt police were able to breathe freely again, while honest police were released from the pressure to join in corruption.

At the same time, the pattern of crime changed. Some police who had been dismissed for corruption set themselves up in vice dens -- casinos, houses of

prostitution, drug trafficking, loan-sharking, and all the other evils that go with triad activities. The dishonest police who remained in the force then became part of the triad scene, instead of its corrupt collaborators. That was much safer for them than open corruption, because corruption could be dealt with by the ICAC, while triad activities are dealt with by the police, and the triads already had some well-established contacts with bad elements in the police.

Let me make it clear that I am not accusing all police. In fact I think the calibre of the young police has greatly improved. But it is not easy even for a majority of honest police to deal with triads while those old connections still exist. That may well be the reason why police become frustrated and left the force because they feel unable to do their work conscientiously.

It has been my contention therefore for the past 10 years or more that it is almost impossible for the triad problem to be solved by the police, no matter how well intentioned many of them may be. I have suggested, and continue to suggest, that because of this old connection between triads and corrupt police, the investigation of triads should be undertaken by the ICAC or some other independent body.

I make this same proposal again today, and I hope it will be given serious thought.

One final thought. Recently I proposed that the Charter for Youth should emphasize the rehabilitation of young minor offenders, in an effort to give them an alternative to a life of crime. Criminal records discourage young people from making good, from clearing their consciences and getting on with their lives. More and more of these young offenders become the tools and scapegoats of syndicated triads. We must act before it is too late. I therefore urge the Government to make triad activities and corruption the joint responsibility of the ICAC in order to show a genuine intention of making inroads into serious crime.

Mr Deputy President, apart from my proposal on control of triads I support the other measures proposed in the motion including improvements to the condition of service of the police. I support the motion.

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, as the vice-spokesman on security policy for the United Democrats of Hong Kong, I wish to say a few words about the shortage of manpower and the widespread low morale in the police force.

We have been reassured by the police that it has sufficient manpower and enjoys high morale, but it is plain that the actual situation is different from what we are told. Let me now cite a few examples:

(1) It has been a year since the Ma On Shan Police Station was completed. All except for one thing have been ready, namely, the police officers. The shortage of manpower has resulted in the Ma On Shan Police Station not being able to serve the public.

(2) Though the Tin Shui Wai Police Station will be ready for use by this April or May, the poor result of the recruitment exercise has necessitated the authorities to deploy manpower from other districts.

(3) The strength of the Uniform Branch and the Criminal Investigation Department in Tuen Mun District is 18% less than their establishment. Forty-six Uniform Branch officers have been seconded or redeployed to perform other duties, for example, to work at the Shek Kong Detention Centre or the regional command and control centre, thus reducing almost by half on average the police presence on beat in the district.

(4) At present a number of old public housing estates are undergoing re-development and the residents are gradually moving out. As the police does not have sufficient manpower to take care of these housing estates, criminals take advantage of this situation and the remaining residents are living in fear.

What has been mentioned above is only the tip of the iceberg. I am sure that the shortage of police manpower is much more serious than the figure released by the police. For example, the police has claimed that the manpower shortage rate is only 3%. However, this percentage does not take into account the 300-odd policemen deployed to the detention centres at Shek Kong and Lo Wu. I believe the actual shortage of police manpower is much higher than the 3%.

The shortage of manpower in the police force is serious at present, and the prospect of the problem is worrying. A large number of rank and file officers are apt to opt for premature retirement at the age of 45 in order to receive their pensions, and at best to be re-employed on contract terms. Recently the monthly wastage in the police force has reached 100 officers on average, including retirement, resignation or transfer. In last August the figure was as high as 184 officers. If

this trend remains unchanged, the wastage rate of the police force is expected to go up dramatically after 1995.

Apart from shortage of manpower, widespread low morale is another great hidden problem plaguing the police force. Officers at the top level of the police force have never admitted they have a low morale problem. Indeed, morale is not as concrete as shortage of manpower. One cannot quantify the problem for objective judgement. But from the impression and feeling people get from their daily contact with the police, it is pertinent to say that the morale of the police officers is not as high as what it used to be. The reasons why police morale is sinking are very complicated. Broadly speaking, it is out of the anxiety brought about by the 1997 issue and the subsequent social changes, and the immediate cause is their dissatisfaction with the low pay and heavy workload. But one thing is certain, that is, none of the above reasons, taken individually, may fully account for the problem of low morale in the police force. In other words, there is no single way, say increase in salary, which we can employ to put an end to this problem. I suggest that the authorities concerned should take multi-barrel measures at one time in the following three directions to boost police morale. I also believe that the following ways will help improve police recruitment:

(1) Improve the safety of the police officers on duty -- we have to fight criminals who are more and more violent with more powerful firearms. The armed robberies which took place yesterday and today could bear witness to this observation. That is to say, our police officers are faced with increasing danger when they perform their duties. Sometimes when a police officer is killed while on duty, other police officers, especially those under the same command as the deceased will naturally feel sad and depressed and this would certainly affect their performance. In terms of society as a whole, the news of a policeman being killed on duty will draw a swell of sympathy and may produce a negative effect of discouraging those young people who intend to become a policeman from joining the police force. As such the authorities concerned must endeavour to improve the equipment of the police force as a whole and make the individual officers better equipped to give them more protection while on duty. Over the years the police force in fact has gradually upgraded its members' equipment. Better bullet-proof vests and communication equipment used by police officers on beat are two welcome improvements. According to recent reports, the police authorities have plan to issue six more rounds of ammunition to each police officer as back-up. Though no one knows what the possible result will be in practical terms, at least it will bring about a positive psychological effect to the police.

Such arrangement really deserves serious consideration by the Administration. I hope the authorities concerned will move in this direction by not slackening in their efforts to upgrade the equipment for the police and improve the various measures relating to the performance of duty so as to give police officers more protection.

(2) Improve the image of the police force in the community and the relationship between the police and the people -- no doubt, there has been a great improvement on the image of the police force as well as their relationship with the people over the last two or three decades. However, as Hong Kong people are getting more receptive to the concept of human rights, they are now more aware of their own rights and may demand more from the police officers. As a result, the odds are that the police officers and the people will find themselves more likely to be in a confrontational situation. It is essential for the authorities concerned to improve the relationship between the police and the people as well as the police's image in the community. When a positive image of the police is established in the community, it will not only be conducive to crime fighting and maintenance of public order, but will also make police work more attractive to the people, thus improving the recruitment situation. A cordial relationship between the police and the residents, coupled with an improvement of police manpower would ensure the police officers a more satisfactory job and boost their morale.

(3) Allocate more resources to the police -- with shortage of manpower and low morale, the police would find their job even harder, should there not be allocation of sufficient resources. The forecast for the police expenditure in the coming financial year shows that the budget for the police for 1992-93 will be \$62 million less than that of the previous year. The reduction is obviously in line with the cuts in other departments. However, I feel that public order is essential for a community. We must have a strong police force to maintain law and order. At present our police force is suffering from the shortage of manpower and widespread low morale. Though sufficient allocation of resources may not solve all these problems, I am sure it will improve the situation to a certain extent. I find it totally unacceptable that the resources for the police will be cut rather than increased in the coming year. I urge the Government to reconsider and provide the police with more resources.

In conclusion, the shortage of manpower and the widespread low morale in the police force warrant our serious attention. The Government should take urgent measures to rectify the situation, bearing in mind that Hong Kong could not have a healthy development in an absence of good public order which can only be achieved



by a competent and efficient police force.

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

MR SIMON IP: Mr Deputy President, in the days of the great western movies, we were entertained to scenes of bank robbers shooting it out with lawmen and escaping across the Rio Grande into Mexico to enjoy their loot with impunity. What we are seeing now in Hong Kong is not so different, though it is anything but amusing. Our latter day cowboys armed with automatic weapons and grenades go out to rob, maim and kill. Instead of riding south across the Rio Grande, they escape northwards across the bridge at Lowu or the sea at Deep Bay or where along our border with China.

Each day brings news of violent crimes being committed in Hong Kong. Robberies with violence and crimes involving the use of firearms are a daily occurrence. Shoot-outs between police and criminals are now common. Last weekend, we saw a robbery in which three people, including a police officer, were shot after robbers armed with automatic pistols opened fire during their escape. The policeman, on motorcycle patrol, was shot in the back twice. He is reported to be in stable condition and I hope he will soon recover. He is lucky to be alive, but he would have been luckier not to have been shot.

The incident must have been one of the most savage attacks on a policeman seen in Hong Kong. He was not in pursuit. He had not even got off his motorcycle. He had not confronted the robbers and had not drawn his pistol. This is cold blooded savagery we can no longer tolerate.

Only yesterday, two jewellery shops were robbed by armed gangs and over 50 shots were reported to have been fired. Innocent people were taken hostage, but fortunately they were released unharmed. Even the police have said that the violence used was on a scale never before seen in Hong Kong. It is inconceivable for anyone to discharge 50 rounds of ammunition during a getaway unless they intended or were prepared to kill. The incident could have resulted in carnage. It was a miracle that no one was killed, but it was probably more by the grace of God than by the ineptitude of the gunmen. This kind of wanton violence must be stopped. Law and order is the most serious problem facing Hong Kong today.

According to information released by the Government, robbery with firearms has

risen from over 250 cases in 1989 to over 400 cases in 1990 and nearly 550 cases in 1991 -- more than double in two years. The Government must find out why this is the case and what can be done to stop it.

The Government has admitted that the police force has experienced difficulty in recruitment. The police are working below full strength. This translates into longer working hours for policemen who are working overtime without overtime pay.

In the Government's draft Estimates for 1992-93, the establishment of the police is to be reduced by 700 posts. This will mean either a reduction in service or continued heavy workload for the incumbent officers. This cannot be justified at a time of increasing crime.

The budget for the police is to be increased by 8.3%, but inflation is estimated to be 9.5%. This results in a net decrease in real terms. The Government's austerity programme must not be applied to the police, especially when Hong Kong has just experienced a large surplus and the budgetary measures announced by the Financial Secretary last week are expected to produce substantial reserves over the next few years.

In law enforcement, as in medicine, prevention is better than cure. The deployment of massive manpower for a manhunt after a robbery, though absolutely necessary, is perhaps not the best use of manpower. More attention must be given to crime prevention by deploying more policemen on the beat, increasing the number and frequency of mobile patrols and providing better training and equipment for police officers. Consideration must be given to replacing the standard firearms issued to policemen to put them on equal terms with the armed criminal. It is unfair on them and on the community for them to be handicapped by inferior weapons which reduce their ability to defend themselves and the community. Greater human resources are also needed to create special task forces and to enhance intelligence.

All this requires money. And despite the Government's austerity and cost-cutting exercises, I am firmly of the opinion that the Royal Hong Kong Police Force requires more resources, not less. The Financial Secretary said in his Budget speech last week that the police and other disciplined services have been given funds they need to do the job. The question that must now be asked in the light of surging violent crimes is whether the job is that which is expected of them by the community. I urge the Government to consider urgently the factors which have given rise to the upsurge

in violent crimes and the means of combating it, including a review of the human, technical and financial requirements of the police force and the pay and conditions of employment of police officers in order to attract greater numbers into the force.

The Government must also continue to explore means of mutual co-operation with the authorities in China to prevent the flow of arms into Hong Kong and to assist in returning fugitives to Hong Kong to face justice.

The public, too, should be educated to adopt greater security measures to protect their own property and so minimize the ever increasing risk of their being victims of crime.

The courts, too, have a part to play. Judges and magistrates must take account of the mood of the community against violent crimes and the need to pass sentences in deterrence. Perhaps it is now time for new tariffs of sentences for violent crimes to be reviewed by the courts. I agree that the Attorney General should take appropriate cases to the Court of Appeal to seek higher sentences if necessary. Mr Deputy President, I think it is unfortunate that during this debate reference has been made to the Bill of Rights implying that it may have caused a lowering of police morale and that the rise in crime may be due to the repeal of laws which violate the Bill. I believe this is both misguided and oversimplistic. The Government itself has officially announced that the Bill has not caused concern in the area of law enforcement and there is no ground for coming to a different conclusion at this time.

In concluding, I would like to pay tribute to the police force at all levels. They are doing a job which is made increasingly difficult by changing conditions. They do their valiant best to protect this community, often endangering their own lives in the process. They deserve our wholehearted support, both moral and financial, in their efforts to fight crime.

With these words, Mr Deputy President, I support the motion.

MISS EMILY LAU (in Cantonese): I rise to speak in support of the motion moved by Mrs Peggy LAM.

I agree to my honourable colleagues' views on how to boost police morale, solve manpower shortage, upgrade police equipment and increase resources and so on. I will

therefore not waste time speaking on these again.

It is common knowledge that the problem of law and order is getting more and more serious. As Mr McGREGOR has just said, it seems we are at our wit's end to deal with the problem. This is worrying and we do not know what to do. The Chinese Government has been blamed for this. Although I believe the Chinese Government should be held largely responsible for this, Mr Deputy President, the senior management of the police force of Hong Kong cannot shirk its part of responsibility as to why such a serious problem has developed. I am not pointing my finger at Mr LI Kwan-ha, the Commissioner of Police. I think it is the responsibility of the whole senior management of the force and the officials of the Security Branch.

Seldom does the Government take action against officials for dereliction of duty. Nor have there been any officials sacked because of this. I am not hinting that the Commissioner of Police should resign but I think it is a serious matter. Why has the problem of law and order become so serious in recent years? Is the police force really at its wits' end? Is it that the force has no strategy or plan to deal with the problem? If there is, show it to the public. The Legislative Council is willing to render its support by voting funds to the force. But I do not think this will immediately solve the problem. Therefore, I agree with Mrs Peggy LAM that the Government should review the senior management of the police force. But I do not know whether the problem can be solved simply by review. The Government has developed a liking for commissioning consultants to solve problems and the Finance Committee has time and again endorsed funding for consultancies. In fact, we have not been too happy about that. But the present case is probably an exception. If the police and the Security Branch are really unable to deal with this serious problem, the Government may need to commission overseas consultants. We do hope that we will have an excellent police force to deal with the upsurge in violent crime. The return of Hong Kong to the communist regime after 1997 is a cause for worry to many people. But the deterioration of law and order in the territory is even more worrying! Therefore, I would like to urge the Government to face the problem squarely and consider whether the senior management of the police force needs to be reorganized.

In recent years, I heard many police officers of the lower and middle ranks complain about the senior management of the force and this has been fully covered by newspapers recently. A saying has it that: "An oak is not felled at one stroke." A lack of communication between the senior and lower levels in the force is a problem. A lack of strategy to tackle the situation is also a serious problem. I hope the

Secretary for Security will elaborate on this in his reply.

Mr Deputy President, many of my honourable colleagues have made a number of suggestions about how to maintain law and order. I would like to offer one more suggestion about how to deal with robberies of goldsmith shops. Although not all robberies take place at goldsmith shops, there were 153 cases of such kind last year. More than 10 robberies of goldsmith shops happened in the first few months of this year. Yesterday's robbery was even more shocking! Will the Government consider requiring goldsmith shop owners to use unbreakable glass and change the whole design of the security system so as to strengthen the security of their shops? There will therefore be less ready access to the shops and robbers will not be able to run away with gold ornaments easily simply by breaking the glass of the showcases with axes. Should there be more doors in the shops? Although this may attract fewer customers, I believe it is a useful way of deterring robbers. I think goldsmith shop owners will oppose such a move because their business will be affected and the design proposed will be very costly. But I do hope the Government will take this point into consideration.

Finally, Mr Deputy President, I share Mr Simon IP's view. Unfortunately, some colleagues have talked about the Bill of Rights as if police morale were dampened because of the Bill of Rights. I have talked with many police officers and many of the lower and middle ranks do have such thinking. However, officers in the senior echelons have never mentioned that there is such a problem. They also said that the police force of Hong Kong had been given greater power than their counterparts elsewhere; therefore, the exercise of police powers subject to the Bill of Rights will mean no more than falling back to draw level with countries upholding human rights. Obviously, the senior management of the police force has not explained this to the junior ranks and that is why the latter have been perplexed by this. I hope the Government will not forget that the Bill of Rights, which the Governor first announced in 1989 would be promulgated, is already a standard. All other laws must follow this standard. Laws which are against this standard must be repealed. I hope the Government will not withdraw from this target.

With these remarks, I support the motion.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, before I deliver my prepared speech, I would like to make a brief response. My colleagues have mentioned a very important argument, that is, "Heavy penalty is essential in turbulent days." I

believe that many people would interpret this saying as that if we impose heavy penalty, then we will have a stable and peaceful society. However, I think it is too simplistic and unscientific.

According to a study of a sociologist in the United States, over the past 30 years, some of the 50 states of the United States have carried out death sentences but the number of serious crime in the 50 states are more or less the same. Here I would like to point out that there are actually no simple and easy solution to serious crime, regardless of whether or not we impose cruel or other unimaginable penalties. At present, armed robbery and other serious crimes are related to many factors including:

(1) firearms smuggling into Hong Kong;

(2) easy access to and escape from the place where the crime is committed on the part of the criminals;

(3) a great difference in living standard between China and Hong Kong, hence the enormous attraction; and

(4) problems of manpower shortage and inadequate equipment in our police force.

I feel that if we are to contain crime, we need to upgrade the police equipment and increase its manpower, prevent firearms from being smuggled into Hong Kong, round up suspects and improve the communication links between Hong Kong and China. I personally think that it is an oversimplified conclusion to say that if we use heavy penalty then the problem will be solved.

Mr Deputy President, I now turn to my prepared speech.

A survey conducted by the Central Fight Crime Committee in 1989 estimated that the report rate of general crime was only about 34%, in other words, approximately two thirds of crimes took place unreported. If this situation is not to be improved, I am afraid that it will be meaningless for us to discuss here how to improve the efficiency of our police. The reason is that although the detection rate of our police is as high as 45%, yet it only accounts for 15% of all crimes committed; with 85% of the culprits still being at large. In his Policy Address in 1990, the Governor saw the duty to report crime as an important responsibility for the public. But I wish to point out that if the police does not try its best to improve its relations

with the people as well as its image in the community, crime report rate will not be increased simply through the Announcement of Public Interest (API) on TV.

We know that there are a number of reasons holding residents back from reporting crime. But I think the two major reasons are:

(1) Do not bother to do so: they feel that the procedure for reporting crime is too complicated and time consuming. Besides, they are also afraid of retaliation by the criminals. The police has always stressed that measures are taken to simplify crime reporting and to improve the procedure for identification parade. However, most people still think that crime reporting is a hard job. In my opinion, the police should continue to explore further measures to protect the personal safety of the witnesses and maintain their dignity, especially in cases which may make the witnesses feel uncomfortable, such as those of sexual assault involving female victims. I would also like to suggest that the police should learn from the experience of the Independent Commission Against Corruption (ICAC) because people generally feel that it would be more comfortable for them to report crime to the ICAC and that the Commission would give a witness better protection.

Some of my colleagues who are also members of the United Democrats have contacted a number of shop operators in some areas. To one's surprise, it is found that the shop operators feel that it is worth paying protection money to the triads. They said, "The police cannot protect us round the clock and it takes only one minute for the triads to smash up our shops." Generally speaking, people do not believe that the police can give them effective protection. I think that people's confidence in the police is not necessarily related to the police officers' ability. However, it is still important for the police to make frequent presence in the street. Just now Rev FUNG Chi-wood has cited an example that the number of policemen on beat patrol in Tuen Mun has been reduced by half. As a matter of fact, there is a shortage of police manpower in a number of new towns at present (police manpower on Tsing Yi Island has a shortfall to the tune of 20% to 30%). On the outlying islands and in the rural areas, manpower on beat patrol is particularly insufficient. Sometimes in the night time there is no beat patrol but only mobile patrol. People do not believe that police can offer them effective protection. And the insufficient presence of the police officers makes it easier for criminals to know how to evade the police patrols. A report in the press earlier showed that there is no policeman on Lamma Island at night. My opinion is that to enhance people's confidence in the police, the first thing the police must do is to make their presence felt. This idea is in line with the

suggestions just made by other Members, namely, to allocate additional resources, improve the establishment of the police force and put more police officers on beat patrols.

(2) Another major reason why people are reluctant to report crime is that some police officers have ruined the image of the force. Some district board members, who are also members of the United Democrats, have received a lot of complaints from residents against the police about their impoliteness (mostly from grassroots level). In my opinion, the Government should allocate more funding to improve the relations between the police and the ordinary people, rather than enlisting the help of some famous singers to sing on TV to urge people to report crime. It would only further dampen people's confidence in the police when they find that some police officers they bump into in daily life are so different from the polite and efficient police officers it is used to be depicted in promotion films. My view is that the relations between the police and the residents can be improved in several ways, including the provision of appropriate education for policemen (especially the rank and file officers) to make them understand their responsibilities as civil servants and the need to observe the law and human rights when exercising their power. In addition, police manpower should be improved and communication links with community organizations, residents' groups and schools and so on, should be enhanced in order to assist and encourage them to prevent crimes. Five years ago, the police officers in Kwai Ching District liaised with a number of mutual aid committees and together they installed some anti-theft facilities in some public housing blocks. That is a valuable, direct and recommendable measure to boost police-residents relations, which not only enhanced the liaison and understanding between the police and residents, but also forged their cooperation in fighting crime.

However, I still believe a healthy social environment is indispensable to the maintenance of a good public order. Therefore I stress that the Government should attach importance, in addition to security matters, to the education of teenagers and the improvement of the living conditions of the lower income group. Nowadays the problem of juvenile delinquency is getting more and more serious. One of the major reasons is that a number of teenagers are reluctant to go to school and they cannot acquire correct values from society. Under the circumstances, they will easily fall prey to triad members after leaving school. At a seminar held the other day, someone engaged in counselling pointed out that many students who drugged came from single-parent families. This shows that a large number of behavioural and crime-related problems are in fact derived from our social problems. If more



resources could be allocated to the education of teenagers and the provision of counselling service for students, such as increasing the number of school social workers and outreach social workers, we may prevent these teenagers from going astray. While the Government claims that it lays stress on improving public order, it cuts down on the expenditure on education and social welfare. This is no more than lifting a rock only to drop it on one's own feet.

The Commission of Police, Mr LI Kwan-ha, shifted the duty of explaining crime rate to sociologists. And sociologists would tell us that the widening gap between the rich and the poor is usually a major factor leading to social instability. Statistics collected over the past few years show that the gap between the rich and the poor is widening in Hong Kong. There is a tendency in the latter half of the transition period that the expenditure growth on social services will lag behind the economic growth. While people at the grassroots level are suffering a lot from high inflation, they find that the assistances they receive from the Government are shrinking, thus further eroding their living standard. When they are unable to make a living in Hong Kong's money-oriented society, some of them may resort to criminal means.

A number of Legislative Councillors representing the commercial and industrial sectors are very concerned about the problem of law and order because a stable social environment is vital for investors. However, I would like to draw their attention to the fact that increasing spending on social welfare and social services is instrumental in improving our social stability through narrowing the gap between the rich and the poor. I hope my honourable colleagues from the commercial and industrial sectors will bear this in mind when they consider the expenditure on social welfare in the future.

Mr Deputy President, with these remarks, I support Mrs Peggy LAM's motion.

MR GILBERT LEUNG (in Cantonese): Mr Deputy President, the maintenance of public order can be divided into two major domains: to fight crime and to prevent it. As for combating crime, I propose that the Government should consider the following recommendations:

(1) to strengthen the police manpower and enhance the quality of the police force by means of training;

(2) to expedite the modernization of police equipment; and

(3) to improve the efficiency of report rooms by modernizing the equipment there such as using the word processing system to streamline the crime reporting procedures so as to encourage the public to come forward to report crime.

I believe many of my colleagues who speak today will focus on crime fighting. Therefore, I would like to place my emphasis on the other area, that is, how to prevent crime.

Frankly speaking, what the Administration has done on crime prevention is unsatisfactory. Maintaining public order is one of the top priorities of the Government, but seldom does the Government conduct any in-depth and comprehensive study into the causes of crimes. As a result, it fails to prevent crime from happening and cannot combat crime effectively or find out the cause of the crime even after its happening.

At present, there are Police Public Relations Branch and the Fight Crime Committee under the Police Force. However, according to the Draft Estimates for 1992-93, as far as crime prevention is concerned, the projected expenditure and establishment under this objective takes up only 1% of the whole force. It can be seen how the Government has neglected the work of crime prevention.

Since the Administration has failed to take preventive measures with regard to law and order, the new towns in the New Territories are now suffering the adverse consequences. Over the past decade, the Administration has developed new towns on a grand scale and move hundreds of thousands of urban residents to the New Territories away from their relatives and friends. However, they have not been provided with adequate community facilities and supporting services. Consequently, the brand-new communities have become hotbeds of crime. In 1990, the number of cases reported to police in the New Territories was some 4 000 cases more than the 1989 figures, representing an increase over 16%, surpassing the figures on Hong Kong Island by 8% and in Kowloon by 3%. The state of order in new towns is more evident by comparing the crime rate in Tuen Mun with that in Yuen Long which also lies in the New Territories. The 1990 crime figures in Tuen Mun were 2.4 times as much as that in 1982, while the figures in Yuen Long were only multiplied by 1.38 times during the same period. Viewing from this, the crime rate in new towns has been "rocketing up". More

unsatisfactorily, despite the fact that the crime rate has "soared up" in Tuen Mun, the police did not increase its manpower correspondingly.

What the Government can do at present is to work out a remedy for such a situation. The Government should draw lessons from the experience and introduce adequate preventive measures in new towns so as not to repeat the same mistakes. Take Tseung Kwan O as an example, it was a sparsely populated district a few years ago and has now a population of 100 000 people. In a decade's time, it will be able to accommodate 250 000 residents. Whether Tseung Kwan O will become a paradise for living or a hotbed of crime depends on the policies to be adopted by the Government on various aspects. At present, the crime rate of Tseung Kwan O is not very high; but I do not wish to criticize the Government in this Chamber three to five years later for the high crime rate in Tseung Kwan O due to its ineffectiveness in combating crime.

Crime prevention work may fall within the responsibility of the police force and that of other government departments.

On the part of the police, the force should conduct a detailed and comprehensive analysis on crime so as to find out the general factors leading to crime and should promote community relations in a more active manner so as to encourage the public to be co-operative with the police. Adequate staffing for patrol and investigation duties should also be maintained too.

As a matter of fact, crime prevention work outside the police force, that is, work which is to be assumed by other government departments, demands more of our attention though it has long been neglected by the Government. What the Government always lays stress on is the combat of existing crime, but it seldom looks into the possible crime opportunities to be created by economic changes. Neither does the Administration pay attention to the potential impacts brought by its various policies and measures on law and order. Hence, it has been enmeshed by its own policies from time to time. The Government undertook the development of new towns on a large scale but failed to assess the social problems that might emerge under such developments and thus did not take any preventive measures for the situation. The deterioration of law and order in new towns is an example.

As regards the provision for social welfare services in the Budget published recently, sufficient care has not been given to the youth. Funding for activities organized by youth centres has been greatly curtailed. This is another example of bad performance by the Government. The curtailment of spending on youth centres has

indicated that the Government has overlooked the importance of the role played by these centres in crime prevention. Such a discriminatory reduction in fundings has also reflected that the Government has not assessed the various needs of different districts and that it has taken the reduction as a financial adjustment as a whole without taking into account the potential impacts of such a move on youth education and social security.

In view of this, the Government should conduct an "assessment on law and order" before implementing its new policies and measures. This is to ensure that it will fully recognize the potential impacts of its new measures and to take preventive measures correspondingly. It should abandon its passive attitude towards crime prevention and the stopgap measures which are ineffective in combating crime. This is similar to the current practice of the Government to undertake environmental assessment before reaching a decision on any major projects. Both are aiming at taking preventive measures before any damages are done and enabling Hong Kong people to enjoy a more peaceful and safer living environment.

With a view to urging the Government to step up the work of crime prevention, I make the above remarks and support the motion.

PROF FELICE LIEH MAK: Mr Deputy President, it is time for hard decisions: will we allow law and order to deteriorate or will we stop crime? The population has increased; however traditional values have eroded and our police force has shrunk. Hong Kong is very wealthy and attracts Mainland opportunists. Our laws render it difficult to convict criminals; police power is limited and southern China is unable to contain criminal activity. These conditions have fostered a rising crime rate in our city. With an increasingly permeable border there is every reason to believe that law and order will continue to decline.

Hong Kong is becoming more dangerous. Juvenile crime has grown 25% in the past two years in certain areas. Armed robbery, as has been mentioned by many, is up 40%. Thirty-three police officers were injured, including two dead, in 1991. Shopkeepers, during the Chinese New Year period, handed out \$1,000 laisee packages to teenagers for protection. The total value of stolen goods in 1981 was \$268 million. Ten years later, in 1991, approximately \$1.5 billion in money and goods were stolen. It takes only one hour to steal a car and smuggle it across the border. Smugglers are now docking not only in Tai Po, but Causeway Bay, Tsing Yi, Stanley and Sai Kung.

A number of factors have contributed to the present decline in law and order. The public's indifference to reporting crime prevents a thorough evaluation of the problem. Many people do not take appropriate safety precautions until after they are victimized. Children are left alone by their parents and schools are unable to maintain discipline. Trouble-prone juveniles often drop out of school and into gangs and petty crime. Good parenting has seemingly become passe.

The police force is under great pressure. Constables work long hours for low wages in the most dangerous conditions. They are called upon to do everything and anything, from solving marital disputes to rescuing cats, to apprehending gunmen. Many districts have reduced the number of beat officers by as much as 45% over the past 10 years. The situation is exacerbated by official attempts to hide the problem. The government figures on manpower shortfall are highly suspect because establishment reductions and redeployment figures are not included and this has been highlighted by the Honourable Mrs Selina CHOW. Thus we have a police force that, on the surface, reported that 96 people were dropped from 1990-91, but also had 19 fewer vacancies. With a growing population and crime rate, establishment figures should be increasing rather than decreasing.

The criminal justice system has frustrated police efforts. Press coverage of the challenge posed by the Bill of Rights to current law enforcement practices gives the impression that criminal behaviour is being encouraged -- and the police are confused. The decision of the Attorney General's Chambers to prosecute some cases and not others has appeared arbitrary to the police, discouraging attempts to build cases. Opportunistic lawyers have sold the knowledge of police surveillance tactics acquired in criminal trials to drug dealers and syndicate leaders. We have, to a certain extent, handcuffed the police instead of the criminals.

Having said and heard so many problems being enunciated in this Council this afternoon, I would like to turn to a number of solutions and my proposal has 12 components.

First, we must define the role of the police. Police officers are not social workers, nor firemen, nor doctors, nor labour counsellors, nor are they prison guards. The responsibility of the police is to maintain law and order through an active presence on the street. Situations that do not require a police officer should be referred to more appropriate agencies.

Second, policy guidelines should be established and should be clarified. The current confusion over the Bill of Rights needs to be clarified for the officers and for the patrols on the beat. They must know if and when and how new legislation affects their duties.

Third, better training and equipment are required to deal with the new criminal reality on the streets. Armed robbers are extremely dangerous and there is no excuse for inadequate training or equipment in handling this situation. The police force must ensure that every officer is prepared to act with composure and confidence in protecting himself and the people around him in life threatening situations. However, by increasing the police ability to deal with dangerous armed robbers, the public may also have to take an increasing risk because there invariably will be escalation.

Fourth, salary and manpower need to be reviewed and revised. Police constables are leaving as quickly as they are recruited. The salaries need to be competitive with other potential careers. We must increase the number of officers on the beat and take them out of their cars. The United States of America and the United Kingdom lost the war against crime on the streets by putting their beat cops into squad cars.

Fifth, promotion must be based on merit. Seniority and administrative convenience have been given too much consideration in promotions; the best person should get the job. Leadership will come from those who are capable of bearing it.

Sixth, the police force needs better public relations and a good spokesperson. In the interests of accountability, public relations are critical to every government department. The force can no longer assume that the public will notice quiet but effective law enforcement. Accomplishment, such as the low incidence of criminal activity over the New Year, should be trumpeted.

Seventh, education can prevent crime and help police officers. Public knowledge about crime, the police force, the reporting process and legal proceedings will help maintain law and order. Potential criminals must think twice before acting, and victims should be encouraged to report information to the police.

Eighth, crime prevention should be addressed. Efforts to guide and encourage positive social behaviour in high-risk schools must be maintained and increased. Schools should play a bigger role in identifying and eliminating criminal influences.

Ninth, we must rethink the death penalty. It should be maintained for certain crimes, not -- and I would like to emphasize not -- because it serves as a deterrent but because every other nation in the region has it. And as criminal activities, especially drug trafficking, increase through Hong Kong, it would be a mistake to further encourage the involvement of the territory by not having the death sentence.

Tenth is a rather radical proposition. We must convince China to lower the import tax. Smuggling is a profitable enterprise because China demands a high tax on luxury items. We have to concede that we have lost the war against smuggling and can no longer rationalize the cost in terms of personnel and equipment. If China wants to curb smuggling, the best way to do it is to lower the tax rate. Smugglers' profits would be cut and China would actually collect more revenue from the increasing legal business.

Eleventh, a Special Task Force on Organized Crime should be established consisting of police officers, immigration officers, inland revenue staff and legal officers; they should all pool their special knowledge and abilities together to target the top people in organized crime. We have often been told that the police know exactly who the top people in organized crime are -- get them then!

Twelfth, government departments must become accountable to public scrutiny. We need transparent management and operations in order to guard against an upsurge in bribery and corruption.

These ideas will hopefully improve the current situation without entailing great costs. If present trends continue violent crimes will increase, officers will become increasingly demoralized, and more of us will become victims. Only our police force, with our co-operation, can restore law and order. Let us help them meet our high expectations.

MR MAN SAI-CHEONG (in Cantonese): Mr Deputy President, I believe we all agree that when the law and order situation in a society is in jeopardy, the police force will have to shoulder greater responsibility in maintaining public order. But while we demand our police force to be more efficient and have better performance, we should think carefully of the means to achieve this purpose. I think, in order to maintain law and order in Hong Kong, we must have a constantly improving police force and improvement of the police equipment and strengthening of the force retraining

programmes are indispensable.

As far as the force retraining programmes are concerned, I know that the police force basically offers three types of retraining programmes for serving uniform police officers at present: first, programmes purely on theory for those who have joined the Force for one to two years; second, programmes with both theory and practice for those who have five years of service; third, programmes also combining theory with practice mainly for those who have ten years of service. I think the above retraining programmes are very important to the improvement of the police officers' quality and their abilities in performing their duties. These programmes cannot be scrapped but should be strengthened in some ways. However, it has been suggested recently that owing to the long-standing problem of manpower shortage in the Force, the authorities concerned should consider reducing these retraining programmes so as to release more officers to carry out daily duties. I also heard that the Force intended to make such changes. If this is true, I think this will be detrimental to the object of improving the quality of the Force.

As we know, Hong Kong is an ever-changing society which keeps on advancing forward. In order to cope with the new situation and needs in our society, we have to amend the legislation and introduce new legislation, many pieces of which are related to the execution of police duties. If the police officers have to perform their duties effectively, they have to keep abreast of the new legislation. For example, with the passage of the Bill of Rights Bill some time ago, police officers need to have a better understanding of police powers and execution of duties. The retraining programmes being offered by the Force for the police officers at present will provide an opportunity for the Uniform Branch police officers to be familiar with up-to-date legislation and enable them to perform their duties more effectively. Therefore, from this point of view, the retraining programmes for serving police officers are definitely of great value and are worthy of great emphasis and support by this Council in today's debate. I think these retraining programmes should be retained as far as possible and even strengthened.

Apart from training of officers, improvement of police equipment is another very important means to improve the quality of the police. In the past, we learnt from the publicity materials of the police that the authorities concerned hoped to build a sophisticated and well-equipped force. I agree to this aim. In fact, we have also seen that the present police equipment has shown marked improvement when compared with that of the past. Recently a friend from the Force said to me that the



communication devices available to the Uniform Branch police officers now are so advanced that it only takes a press of a button to enable the console to tune in to the latest situation at the scene of crime. This will of course enhance the operational flexibility of the police officers in emergencies and step up the support from the back-up. Obviously, such improvements in the police equipment not only help to improve the quality of the Force but also strengthen the self-defence of the police officers in performing their duties. This will indirectly help to boost the morale of the Force and the recruitment of police officers. Therefore, I urge the authorities concerned to keep on improving the equipment of individual police officers as well as the equipment of the Force as a whole. All along, the public has been concerned about the fact that the Uniform Branch police officers carry too heavy a load. If the Force can reduce the load of these police officers through further improvement of the equipment, I believe this would help them carry out their duties and boost the public confidence in the Force.

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

DR SAMUEL WONG: Mr Deputy President, I do not think there is a quorum in the Council.

DEPUTY PRESIDENT: We do now have a quorum, Dr WONG.

DR SAMUEL WONG: Thank you, Mr Deputy President. The motion refers to the community's strong concern over violent crime and gang activities and urges the Government to take appropriate measures including those that affect the police. I will return to the important point that this complex problem is only partly the direct concern of the police. But first I want to comment on the community's strong concern.

Hong Kong has a low and fairly steady crime rate. But for such a rich city with no significant unemployment the community can be excused for considering it too high. A closer look, however, reveals the real concern. Violent crime, robberies (especially those involving firearms), and burglary are on the increase. Furthermore, official statements tend to compare 1991 with 1990 giving increases of a few percent. But the dramatic increase has been going on steadily since 1986. Violent crimes 39%, burglaries 32%, robberies 72% and robberies involving firearms or the like 300%. And on these crimes the detection rate is only a third of the general crime detection rate.

So what happened in 1986?

In 1986 we were about to enter the final decade before the transfer to Chinese sovereignty. Could a feeling of desperation among some have started then and grown ever since? Or could the triads or some foreign power bases have decided it was time they established a position? The Year Book for 1986 reported a sudden concern about triad activities. Also in 1986 the termination of the touch base policy and increased freedom of travel in China were beginning to take effect and the only sources of income for the illegal immigrants were illegal. On the other hand outward processing in Guangdong has just started, leading to a huge annual increase in cross border traffic in people, transport and containers and with it increasing immigration and customs problems of detecting illegal entry and smuggling of firearms.

So 1986 was a critical year, but the events I have mentioned were mostly political and economic -- not fundamentally criminal. They were all, indeed, outside the purview of the police. And that is true of many factors which could influence violent crime. Accordingly, I am today going to focus on the matters of general security and political, economic and social trends which might affect violent crime. For my thesis is that we are dealing with a very complex social problem and that the measures to be taken must be carefully analysed and organized if they are to be effective.

So what else could have happened in Hong Kong over recent years to influence a rise in violent crime? At this stage I only ask "what could have happened", not "what did happen?" Naturally a lowering of morale, standards or effective manpower in the police would encourage criminals to extend their activities. Similarly a failure by the police to keep up with the sophistication of criminals would enable the gangs to operate more freely, as would a low detection rate on violent crimes.

But many matters of general security are outside the jurisdiction of the police. Apart from the increased customs and immigration difficulties I have already mentioned, a lowering of effectiveness of the Independent Commission Against Corruption could also make crime easier. Similarly, laxity in security in the private sector or in the screening of staff by security firms could encourage violent crime.

Even further from police influence are the political issues; many, as I have said already, related to illegal immigration or to 1997. But other issues could apply, for example over-effectiveness of the emphasis on human rights could be acting to

the advantage of the criminals.

There are economic issues too. An over-dependence on insurance could lead to lax security and make crime easier. It could also result in increased premiums leaving less to be spent on security. The increased sophistication of crime could offer higher rewards. And any indication that rich people, who can afford the best lawyers, are less easy to convict could put affluent members of crime syndicates at their ease. Similarly, failure by courts to bring complex crimes to a satisfactory conclusion may encourage criminals to become more sophisticated.

Finally social issues are perhaps furthest removed from the responsibility of the police. Crime could be influenced by a deterioration in ethical standards caused by breakup of families in the brain drain or by a lowering of ethical standards taught in schools. Nearer home the influence of uncensored violence on television and film could encourage a criminal element.

I am not, of course, suggesting that all my selected examples do in fact apply. I am only saying they could apply. In some cases the reverse may be true from what I have suggested. What I have tried to show is the complexity and breadth of the problem.

I believe it is dangerous to speculate on the subject and I therefore urge the Government to commission a research study on the causes of the disturbing level and yearly increase in violent crime and gang activities. I suggest the study would need to be independent -- the police could scarcely be expected to be objective being involved themselves -- perhaps by a team from one or more universities, but naturally with the fullest co-operation of the police, the Government, the ICAC and the courts.

And it needs to be done quickly.

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

MR HOWARD YOUNG (in Cantonese): Mr Deputy President, law and order is closely linked with people's livelihood. All opinion polls conducted recently have listed law and order, inflation and housing as the three foremost matters that constitute the public's prime concern. However, people of various social backgrounds or income groups may have varied views on the problems of housing and inflation. Depending

on whether they live in public housing or owner-occupied flats, people have different attitudes towards the housing problem. But the problem of law and order is another matter. Hong Kong people need an efficient police force with high morale, which I believe is the consensus of all regardless of their social backgrounds. This consensus is not only shared by Hong Kong people but also visitors from overseas. Members may recall that some tourists happened to fall prey to robbers last year and the year before. During a recent shootout, an innocent tourist was injured and later sent to hospital for treatment.

The tourism industry is worried about the adverse effects of a deteriorating law and order situation on Hong Kong's travel business. Yet I also believe that if this problem is blown out of proportion, it will do no good to Hong Kong. The Security Branch as well as the police force have supplied lots of statistics to OMELCO's Security Panel, pointing out, often through comparison with New York and London, that Hong Kong's crime detection rate is by no means lower than that of other cities while its crime rate is comparatively lower than other cities. Scientific as these statistics may be, they cannot cover up the trend of an upsurge in armed robbery. Besides, we are living in Hong Kong, not London or New York.

Quite a number of officials think that efficiency and morale seem to be two unrelated matters. Is this not too mild a way of putting it? Does it smack of window dressing? It is undeniable that Hong Kong's police force has outshone many other police forces in the world in terms of professionalism and training. But we must not relax our alertness because of this. We must first have resources before we can have an efficient police force with high morale. The Government's budget proposals have given rise to a lot of discussion recently. Many people are talking about "tapping new revenue sources and cutting expenditure" and the Director of the Hong Kong and Macau Affairs Office of China, Mr LU Ping, has also commented on the issue of "tailoring expenditure to revenue." While we are talking about "expenditure cutbacks", let us not forget that our "revenue" is now bigger than "expenditure" after all, no matter whether we look at it from the Financial Secretary's viewpoint of tax increases (tapping additional sources of revenue) or China's viewpoint of "tailoring expenditure to revenue". Therefore when we lay out resources, we hope to send a signal to the Government: no Member of the Legislative Council wants to see the resources set aside for our police force being curtailed by reason of "expenditure cutbacks". What has worried us is the talk of cutting the police establishment. Although the Administration has said that vacancies have never been filled and so the effect will be minimal, yet first of all I would like to ask whether or not the

vacancy rate has been played down indirectly in numerical terms so as to give us a false signal to relieve us of worries? The recruitment exercises conducted to fill the vacant posts of police constables have often fallen short of target. This is the result of the play of market forces. I hope the Government will make an unbiased assessment of the labour market today. Are the salaries and conditions of service offered to police officers attractive enough to make them stay in the force in the long term having regard to the tight labour market? Moreover, police morale will also be adversely affected by the working environment such as the structure of the establishment, work pressure and so on. Moreover, do we need to review the system of work shifts?

I visited Yuen Long and Tuen Mun Police Stations not long ago. In the course of casual chats I found that some policemen, after coming off a shift, have to go on another shift, with a rest period at home of less than one day in between. Does this type of mental pressure adversely affect their morale? This is worth pondering over.

I will not dwell further on conditions of service, establishment or equipment as they have already been mentioned by many people. All these are internal factors, but we also need to consider some external factors:

The first factor relates to the Judiciary. To say whether a job is efficiently done or whether it can maintain staff's morale, not only do we need to see how much effort has been put into it, but we also need to see what the "result" is. After a criminal is arrested by the police, prosecution proceedings will be instituted. If the police officers concerned feel that the sentence given by the court is too light, this, I believe, will be a blow to their morale. I am of the view that if we treat criminals leniently, that means we are treating the public harshly. I feel that the courts should pass heavy sentences on criminals at this time when the public is so concerned about the law and order situation. Severe punishment is not meant to be a form of retribution, but it will serve as a deterrent.

The second factor relates to legislation, which is the duty of us, Members of the Legislative Council. A while ago a number of Members referred to the offence of loitering and the Bill of Rights. I think we must consider whether all the requirements can be balanced and, in the light of the need for crime prevention, whether it will result in the police force being rendered incapable of carrying out its duties.

Mr Deputy President, recently a writer has published a fiction describing Hong Kong's social conditions as 1997 draws near. The author describes a situation where, even before 1997 arrives, criminals and triads have gained control over Hong Kong from a powerless and helpless government. Though this is fiction according to the flights of fancy of the author, I think as 1997 draws near, people indeed are having some sort of a "1997 Deadline" mentality, which has led to psychological readiness on the part of some to commit crime or take risks. I am of the opinion that China should look squarely at this situation because at present the firearms used by the criminals and the means of committing crime are related to the smuggling activities, which some Members mentioned earlier on. We often hear that the police have been discussing the matter with the Chinese authorities. I hope it will not be just empty talk. I do not want to see a situation like "Though footsteps on the stairs are heard, yet no one is coming down" or "Though it thunders, yet no rain is falling". China has appointed scores of Hong Kong people as advisors during the transition period. I hope they will reflect to China in a more direct manner the law and order problem which is a cause of worry to Hong Kong people and urge the Chinese authorities to take corresponding measures on their side of the border so as to help Hong Kong solve the problem.

I support the motion.

MR WONG WAI-YIN (in Cantonese): Mr Deputy President, many people are apt to say that civil disturbances or unrest will invariably arise upon a change of government. It is true that Hong Kong is now faced with the prospect of a change of sovereignty in 1997, though the changeover is still in the distant future. Yet the June 4 event in 1989 was indeed a great shock to the Hong Kong community and since then many people have been living in great anxiety. Many people, especially the rich ones, felt as if the end of the world had arrived and one after another they arranged to have their money, business and family members moved out of Hong Kong. Our Government has been looked upon as a sunset government; and given its style of administration in recent years it is undeniably true, from an objective point of view, that the Government is adrift without a drive to commit itself. Take a look at some of the facts: the Government's veto on the establishment of a Central Provident Fund, the expanded scheme of labour importation, policies on Vietnamese boat people, the BCC incident and repeated increases in charges for public services in recent years, namely, rates, water tariffs and postal charges, to mention a few. More to it, this year the Housing

Department undertook a drastic increase in rentals of public housing while the Financial Secretary, despite the favourable condition of a substantial surplus, failed to initiate measures to relieve the burden of the lower and middle income groups; instead he tried every possible means to cut expenditures of government departments where, in many cases, the services provided are tied closely to the livelihood of the public, such as welfare services, education and the police force. The above well illustrates the lack of commitment on the part of the Hong Kong Government. To the vast majority of Hong Kong people who cannot afford migration and who inevitably will stay in the territory, it seems that the most they can do will be to voice an endless stream of distress and discontent. Here I would like to urge the Government not to regard 1997 as marking an end to the present administration but to make greater commitment to the people of Hong Kong so that Hong Kong will be more stable and the people who are to stay will have greater confidence.

Mr Deputy President, the motion for debate today, which has been a subject of great concern, is law and order in Hong Kong. Members of Meeting Point, Mr Fred LI, Mr TIK Chi-yuen and I, have been very worried that law and order would further deteriorate. So the Government should really work harder to re-establish a highly efficient police force which, with the confidence of the public in them, will deal a head-on blow to crime. I am very grateful to many Members for their concern regarding the state of law and order in Tuen Mun and Yuen Long, which lie within my constituency of New Territories West; they have been worrying about the shortage of police manpower, the upsurge in crime and the youth problem in the districts. I would not dwell any more on this subject for the time being but would like to urge the Government to pay more attention to it.

I will instead dwell briefly on the following areas which include the morale and equipment of the police force, Sino-Hong Kong co-operation in combatting crime, the image of the police force and the public's co-operation.

Regarding the morale of the police, many Members have mentioned the present manpower shortage which has resulted in the police officers feeling mentally stressed because of heavy workload. This is particularly so given the inharmonious relations in recent days between the senior and junior officers and the uncaring attitude of the senior management within the force. In my view communication between the senior and junior officers should be enhanced so as to allay the public's concern about the police force. I would like to point out here one of the reasons for the low morale of the police. I have come across many policemen in Tuen Mun and Yuen

Long and most of them were angry and upset with their deployment to the Vietnamese boat people detention centres. They believe that the responsibility of a policeman should be to maintain law and order so as to protect the life and property of the residents. But now substantial manpower from the police force has been engaged in manning boat people centres and in repatriation. This has as a matter of fact undermined the morale of the police. I hope that arrangements will be made as soon as possible so that officers from other departments, for instance, the Correctional Services Department, will take over the duties in the boat people centres so that more policemen can be redeployed to street patrols.

Next I would like to turn to the question of equipment. We are not in a battle field; so there is no need to upgrade the firepower and equipment for fear that any upgrading may put at risk the lives of our innocent residents. But Meeting Point would suggest that urgent actions should be taken to protect the safety of the police officers, for example, to provide better bullet-proof vests and to avoid putting lone officers on the beat. We see that police officers have in the past risked their lives for the sake of maintaining law and order, and we believe that they will continue to do so in the future. So something must be done to ensure the safety of these officers while they are discharging their duties.

On the question of Sino-Hong Kong co-operation, I would say that one of the most important tasks is to identify ways to stop the flow of illegal firearms into the territory. It is understood that nowadays many violent crimes are committed by illegal immigrants armed with smuggled firearms. They are employed by local crime syndicates where arrangements have been made for their return to the Mainland upon completion of the crime, which explains why our police force can hardly deal with this problem of violent crime. In the light of this, greater co-operation between Hong Kong and the Mainland would seem to be an effective way to smash these crime syndicates. Here Meeting Point would suggest that special attention should be given to the above matter by the Cross-border Liaison Group and, if necessary, a Special Border Security Task Force be established with the aim of stopping the influx of illegal firearms and hence improving law and order in the territory.

Turning to the image of the police force, it is not uncommon to hear people say that police powers are excessive or that there is likely to be an abuse of power. I do not believe that this is generally the case. But there will inevitably be black sheep in a family as large as the police force; so in no way should we allow a handful of bad elements to damage the reputation of the entire force. Unfortunately we have



often received complaints regarding abuse of power by the police at Members' offices in various districts. In most cases when we suggest referring these complaints to the Complaints Against Police Office the complainants will very often express doubt as to the effectiveness of complaining to the police against one of its own members as, so the complainants believe, bureaucrats tend to close ranks whenever criticisms against them arise. Why should there be such a reaction? I believe the authorities concerned should give more thought to it. Or should we consider setting up an independent commission to handle these complaints so as to win greater confidence of the public? More to the point, it is a known fact that there are undercover triad agents within the police force. Only when these triad elements are identified and brought to court will the image of the police, and consequently the public's confidence in the force, be improved and full co-operation between the police and the public be possible. Given the continued effort in simplifying reporting procedure and in ensuring the safety of the witnesses, the public will be most willing to provide information to help track down criminals. With the police and the public standing by each other, I believe their joint effort will certainly succeed in combatting crime.

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

SECRETARY FOR SECURITY: Mr Deputy President, I have listened carefully to the points made by Members this afternoon. I am grateful for the support they have expressed for the police force, and for the suggestions they have made for tackling crime in Hong Kong.

The Government recognizes and shares the concerns which have been expressed about recent trends in crime in Hong Kong. Although the overall crime rate is almost exactly the same as it was 10 years ago, and less than in several years in the early 1980s, we have seen a change in the pattern of crime. Violent crime increased by 3.9% last year; this increase was due largely to a rise in robberies, in particular robberies with firearms or imitation firearms. Vehicle thefts remain at a high level and smuggling, which decreased significantly for several months after the new laws were enacted last April, has again been high for the past six months. There is also worry about triad activities and the increasingly high profile they take.

At the same time, there have been successes, and we should not lose sight of these. In 1991 we saw significant decreases in the offences of wounding and serious assaults, and in certain categories of crimes against property. Triad related crimes decreased

by 4%.

Members have referred to the need to improve the efficiency of the police force. Like any large organization, the police force benefits from a regular review of its operations to ensure that its resources are put to the most effective use; and these reviews do take place regularly. They are particularly important in the present tight labour market when all employers are faced with increasing labour costs and difficulties in recruitment. The police force management has continued to make every effort to counter the effect of manpower shortages and has achieved some success. There are now some 250 more police officers on the street every day than there were a year ago.

Many Members have mentioned police equipment. By any standards our police force is very well equipped and we are committed to ensuring that it remains so. Equipment is regularly reviewed and upgraded. It is not and has not been the case that the police have been denied the equipment they need to do their job because of financial constraints. We rely on the police to advise us on any upgrading of weapons or equipment they require. If they have any additional requirements, we will give them our support.

There has indeed, in recent years, been considerable investment in new equipment and modern technology for the police which has helped to achieve increased efficiency and savings in manpower. To mention a few examples, the Computer Assisted Fingerprint Identification System has helped to resolve a number of serious crimes which the manual system could not resolve. Deployment of police officers has become more flexible and effective as a result of the Command and Control Computer System. The Criminal Intelligence Computer System introduced in 1989 is being expanded to include the Narcotics Bureau and the Commercial Crime Bureau, and so to improve investigation work. The 1992-93 Budget makes provisions for further upgrading of police communications equipment and the installation of thermal images for anti-illegal immigrant operations on the border. 1992-93 will also see the delivery of 21 new launches for the marine police. These will help to curb criminal activities at sea.

I will not dispute that the police are suffering from a manpower shortage. Recent experience, however, gives some cause for cautious optimism that police recruitment and retention of manpower is improving. In the past six months, recruitment at junior police officer level has picked up. At the same time, wastage has declined. The net result has been a slow increase in police strength. We must ensure that this trend

continues. Finance is not a constraint. As the Financial Secretary said during his Budget speech, there is ample provision in next year's estimates to enable the police to recruit up to the capacity of the Police Training School to train additional junior police officers.

The Government is committed to ensuring that police pay and conditions of service properly reflect their duties and responsibilities in a competitive labour market. The pay rise for junior police officers in September 1990 was a recognition of their special role in maintaining law and order. We have also sought to improve retention by improving the provision of accommodation for junior police officers. At present 85% of eligible junior police officers are accommodated in staff quarters. By 1994-95 the percentage should reach 95%. We will keep pay and conditions of service for police officers under regular review to ensure they are adequate in attracting and retaining staff. If it becomes clear that the pay for junior police officers is not attracting sufficient recruits, then clearly we must examine and review their pay.

Several Members have referred to police "morale". I have always thought that this was the wrong use of the word "morale" which suggests that the police are performing their duties reluctantly and inefficiently. That is emphatically not the case. The police continue to carry out their duties and responsibilities with dedication, determination and courage. That is the true measure of morale and we should recognize the hard work and achievements of the police, not diminish them. The police, understandably, have their concerns in the face of an increase in violent crime and the use of firearms, and we must seek to address their concerns.

There are a number of measures which we can and should take, and are taking, to improve the ability of the police to tackle crime. First, we must seek to obtain better public support in the fight against crime, and also to target more effectively triads and other forms of organized crime. The police have recently altered the emphasis of their operations with precisely this aim. The Criminal Intelligence Bureau and the Organized Crime and Triad Bureau now work more closely in combating triads. The police place greater emphasis on the targeting of specific triad activities. There is greater central control at a senior level on the targeting of activities and personalities, the deployment of resources and monitoring of organized crime. Regional anti-triad teams have been established. These initiatives have led to arrests and disruption of triad activities in a number of areas.

We also recognize the need for more effective legislation against organized crime. The Organized Crime Bill is now being revised to take account of public comments expressed during the three month public consultation period and the debate in this Council last December. It is important that the Bill, when enacted, should be effective in tackling organized crime and consistent with the Bill of Rights Ordinance. This is not an easy balance to strike but we are working very hard at it. I hope to introduce a Blue Bill into this Council later this year.

The fight against crime will not be successful without the support of the public. There are a number of measures which have already been taken or are under consideration to encourage the public to assist in combating crime.

First, the police have recently reviewed and are in the process of streamlining reporting procedures.

Secondly, there is an ongoing programme to refurbish reporting rooms in old police stations and to make them more user friendly.

Thirdly, one-way viewing facilities for the identification of suspects by witnesses are now in operation in four police stations and two more will come into operation this year.

Fourthly, the police are considering how to improve the present arrangements for the protection of witnesses, especially in cases of triad crimes and where intimidation is feared.

Fifthly, we intend to strengthen publicity to encourage the public to report and give evidence against triads who interfere in their daily lives.

Much of the increase in crime which is of major concern is imported crime. Smuggling and the use of firearms in robberies are part of an increase in cross-border crime which Hong Kong has experienced in recent years. Co-operation with China is essential in tackling such crime and we are actively pursuing this. High level delegations of Public Security Bureau Officers from Peking and Guangdong Province have visited Hong Kong late last year and early this year. The Commissioner of Police and other senior officers have on several occasions visited their counterparts in China to discuss cross-border crime. We intend to build up this liaison to combat cross-border crime such as smuggling and the importation of

firearms.

Mr Deputy President, we are very much aware of the importance of a well equipped and well motivated police force to our community. Our prosperity and stability rest upon the maintenance of law and order. The necessary measures will be taken to ensure that the manpower, efficiency and equipment of the police force are maintained at a high level.

MRS PEGGY LAM (in Cantonese): Mr Deputy President, first of all, I would like to thank all my honourable colleagues for supporting today's motion. This reflects the concern of the Legislative Councillors and the public over law and order and their determination to fight crime.

The views of Members in today's debate can be said to be unanimous. Therefore, I do not intend to repeat them. But I would like to point out that Hong Kong police officers are generally regarded as excellent officers. Even though they are in a very difficult situation and inadequately equipped, they, in upholding the citizens' lives and property, confront the gangsters bravely even at the risk of losing their lives. Their bravery and devotion to duty are praiseworthy and admirable.

I am glad to hear the Secretary for Security say that he will do his best to improve the efficiency of the police force and upgrade police equipment. I am sure the Government will positively and seriously consider the views and arguments put forward by Members today. I also believe the Government will ensure that the suggestions made in today's debate be realized soon, so that the confidence of the public in law and order and the authority of the police force will be restored and the crime rate lowered. I am looking forward to hearing the good news.

I would like to stress once again that policemen, as frontline workers in upholding law and order, need full support and assistance. I am sure the Legislative Councillors are willing to take the lead in rendering them support and assistance.

Finally, I would like to thank my honourable colleagues for their active participation in today's debate and support for the motion.

Thank you, Mr Deputy President.

Question on the motion put and agreed to.

Adjournment

CHIEF SECRETARY: Mr Deputy President, I move that this Council do now adjourn.

DEPUTY PRESIDENT: Mr Martin BARROW has given notice to raise a matter for reply by the Government. Could I remind Members that in an adjournment debate there are 45 minutes for Members to speak. At that point or after all the Members wishing to speak have spoken, whichever is the earlier, I will call upon the Secretary for Security to reply.

Voluntary return programme for Vietnamese migrants

7.53 pm

MR MARTIN BARROW: Mr Deputy President, much has happened and much has been achieved since this Council debated Vietnamese migrants last June. At that time, emotions were running high and there was a proposal to end the policy of first asylum. Fortunately for Hong Kong, that proposal was soundly defeated. The October agreement with the Vietnamese Government has halted arrivals over the past four months, and a steady stream of boat people have departed. We can now take a more considered view.

Refugees

Good progress has been made in resettling refugees, the numbers remaining having dropped from 12 000 two years ago to around 4 000 today. It is, however, disappointing that the British Government has only accepted 1 083 during the last three years, although it promised to take 2 000. Britain should be urged to take up its remaining commitment without further delay. It is also disappointing that the United States took only 768 people last year, less than the numbers taken by Australia and Canada.

## Better communication

An increasing number of the 53 000 asylum seekers stranded in Hong Kong do now recognize that their future must lie back in Vietnam. However, if we want these people to join the voluntary repatriation programme we need to improve communications at all levels.

We are dealing with human beings, people who have invested money and hope in trying to start new lives overseas. These men and women have many of the same aspirations that we have in Hong Kong. We should understand that they will return to Vietnam only with great reluctance. Hong Kong's policy is firm and must not change, but it should be enforced sympathetically and unemotionally. Communication is the key.

If the voluntary repatriation programme is to have credibility, the asylum seekers must have a full explanation of how the programme works. People understandably want to know exactly where they stand. If they volunteer to return, what happens next? How much delay will there be? Where will they be held while they wait? What funds will they receive and when? Will they be expected back in their home village? When will the United Nations visit them in Vietnam? I would suggest that well-printed leaflets should be produced explaining these points. Perhaps videos, posters and other communication material could be considered.

Vietnam is changing rapidly. Many of the people in our detention centres left before these changes had taken hold. Their information is out-of-date. They need to be given the facts about Vietnam today. 16 000 people have now returned under the voluntary programme and there has been no evidence of maltreatment. This important message must be explained and reinforced by as many sources as possible. Details must be given of the European Community's aid programme to villages, and other aid programmes.

But I do not see how these messages can be put over with the level of counselling which is now available. If we are going to succeed, we need to have in Hong Kong additional Vietnamese speakers and interpreters. How many Vietnamese speakers who really understand the situation in Vietnam today are working in the camps? As I understand it, there are around 40 people described as "counsellors", but they have many other tasks in addition to explaining the situation in Vietnam. Forty counsellors for 53 000 asylum seekers. Clearly, this effort should be greatly

expanded.

We need to consider new channels of communication. I have received a letter from the editors of Freedom Magazine in Whitehead Camp. They say:

"As representatives of asylum seekers, we must state that we do not adopt the view that we have the right to tell any of our compatriots that they must go home. What we prefer to do is to seek out and publish information which helps our compatriots to make a well-informed decision regarding the reality of their future prospects. Asylum seekers need to know about economic recessions, levels of unemployment and instance of prejudice in the resettlement countries. They need to know the United States policy towards Vietnam, they need to know about the emerging international business prospects. They need information regarding the policy of reform in Vietnam."

Are the Government and the UNHCR providing this information?

The voluntary agencies also have a useful role to play. They have many dedicated workers who are in close daily contact with the asylum seekers. They are trusted by the asylum seekers and they know their concerns. I would urge the Government and Members of this Council to maintain a dialogue with these agencies.

There are bound to be rumours and counter-rumours in the detention centres. There will be false hopes. To counter these distractions, I would encourage the Government and the United Nations to be as open and frank as possible, and to find and recruit people who can put over the truth. It is not high pressure salesmanship that is needed, but rather communication which can build trust and credibility.

Some of these initiatives will require additional funding, and I believe this is something which Members of this Council should consider. The more the process can be speeded up, the quicker the burden on the Hong Kong taxpayer can be eased. We should be willing to consider supporting the funding of counselling and other programmes which will achieve the objectives of speeding up the voluntary repatriation programme.

Less bureaucracy

There is currently too long a delay between the time that a person volunteers to return and the moment that he or she actually gets on the plane. This delay causes



uncertainty and frustration.

Bureaucratic procedures imposed by the Vietnamese authorities must be eliminated. Vietnamese government officials should be resident in Hong Kong to specifically handle these programmes. They should be able to authorize returns, without paper work flowing back and forth to Vietnam. The British Government can play a role too, by building up its Hanoi staff and working full time with the authorities and the UNHCR in monitoring and supporting the programmes.

The root cause of the problem

Let me now turn to the root cause of the problem, which is the Vietnamese economy. The current poor state of the country is, of course, a result of mismanagement by the Vietnamese Government. However, they have now set themselves on a track of reform programmes and there has been significant progress in recent years. In the face of these changes, the continued refusal of the United States to lift its trade embargo and normalize relations remains, frankly, bizarre.

It is disappointing that the United Kingdom is making little effort to press the United States on this important and urgent matter. In answer to a question on this point in the House of Commons on 5 November 1991, the answer was merely that the British Government was "keeping in touch with the United States." More recently in the House of Lords, the Minister responsible for Hong Kong reported that this was "a question for the United States".

May I suggest that this is very much a question for the United Kingdom and Hong Kong Governments, who should be pressing much more actively for a change in the United States position. Quite apart from humanitarian concerns, it is now obviously in the United States' geo-political and commercial interests to move on this issue. I urge the Hong Kong Government to give a positive response on this point, not the usual: "This is a foreign affairs issue and we have no comment."

Members will recall that this issue was covered in our recent letter to Vice President QUAYLE, following his ill-considered intervention last month. At the same time, members of the business community in Hong Kong have been supporting lobbying efforts in Washington. The American Chambers of Commerce, both in Hong Kong and elsewhere, have also been active.

I have no doubt that lifting the embargo would encourage those stranded in Hong Kong to volunteer to return. It would not, of course, mean an immediate boom in the Vietnamese economy, but it would provide a catalyst for improvements and give a significant psychological boost to those who are worried about returning.

Other countries are already increasing their relationships with Vietnam and initiating small but important aid programmes. I believe there is a case for Hong Kong considering what it too might do to help. I quite appreciate that, with the huge burden that has already been imposed upon us, it may seem inappropriate for Hong Kong to provide aid to Vietnam. It is, of course, the British Government which should fund such an initiative, but some modest additional support by Hong Kong could be important. I know that, through local voluntary agencies, some Hong Kong people are already contributing individually to the reconstruction of Vietnam, but an official grant from Hong Kong would be a powerful symbol of our community's wish to resolve this matter speedily and humanely.

## Conclusion

In conclusion, we must all recognize Hong Kong's remarkable achievement over the past 17 years. 195 000 people have arrived in this tiny territory. 152 000 have been resettled elsewhere or have returned to Vietnam. Nobody has been turned away. Hong Kong can be proud of this record.

However, it is in nobody's interests to have thousands of people sitting in our detention centres. It is in everybody's interests for those who are not refugees to be encouraged to return to Vietnam as quickly as possible. To achieve that goal, we should give the asylum seekers as much information as possible, we should streamline the procedures for repatriation, we must push for an end to the American embargo against Vietnam.

Things are, at last, moving in the right direction -- but they need to move more quickly. Thank you.

MRS RITA FAN (in Cantonese): Mr Deputy President, Hong Kong people's expectation of the voluntary repatriation scheme is well defined and clear -- they hope the boat people will leave Hong Kong for a new life in their home country as soon as possible. It is incumbent upon the Hong Kong and British Governments to try all means within

their power to fulfill the wish of Hong Kong people. May I suggest the following ways to encourage more boat people to return home.

Firstly, boat people should be provided with correct information. UNHCR and the Hong Kong Government should make concerted efforts to tell the boat people about the measures under the repatriation scheme, the living conditions of the boat people after returning home, and the policies of foreign countries, especially the United States, of refusing to accept non-refugees. This will prevent the boat people from rejecting the voluntary repatriation scheme on the ground of misleading information and save them from being puzzled by distorted and untrue propaganda. Upon learning the real state of affairs, they can make a correct choice.

Yesterday I received a suggestion from an interpreter who once worked in a boat people detention centre. I would like to reproduce his suggestion here. He suggests that a one-hour programme in Vietnamese language, to be organized by UNHCR with the help of the Hong Kong Government, be broadcast at the centres daily to supply the boat people with all kinds of important information and news. He said that inside Vietnam stories of real people and their experience are being publicized. These stories tell of the returnees from Hong Kong who are now living a settled and happy life in Vietnam. Why should we not consider using such information to make boat people further understand that Vietnam has changed a great deal since they left there. I think this suggestion is worth considering by the Government.

Secondly, the Hong Kong and British Governments need to further discuss with Vietnam on the speeding-up of the repatriation of boat people. Yesterday a group of Hong Kong people who are very concerned with the boat people problem returned from Vietnam. They submitted their report and suggestions to Members of OMELCO. They opined that if the Hong Kong Government or the British Government should provide some aid to the Vietnamese Government, say, helping them to set up some transit centres or repatriation facilities, the Vietnamese Government would, it is believed, have the bona fide intention to take back more boat people. At present, the Vietnamese Government has its own problems. This of course is the Hong Kong delegation's impression but they frankly told us about it. After listening to what they said, we promised them that we would follow up this matter at OMELCO's Security Panel meeting to be held tomorrow. Nevertheless, I think it would be better for me to tell it here than to wait for the Security Panel's meeting. I hope the Hong Kong Government will, through the British Ambassador in Hanoi, find out what types of aid the Vietnamese Government needs. If the aid required is reasonable which we may be able to consider,

we should give it some thought.

Thirdly, I think the British Government must assume the responsibility as Hong Kong's sovereign state and the maker of our foreign policies. The British Government should make strong representations to the United States, to the following effect:

(1) that the United States should desist from making meaningless statements causing interruptions to the voluntary repatriation scheme; and

(2) that the United States should lift the economic sanctions imposed on Vietnam. The reasons for this have been given by the Honourable Martin BARROW earlier on.

Certainly I understand that as the presidential election of the United States is just around the corner, the United States Government may have its own problems. However, I do not think the British Government should do nothing at this stage to gain the United States Government's co-operation just because of these problems. Secondly, the British Government should earnestly motivate the European Community to provide aid for Vietnam. On the other hand, the United Kingdom should, through diplomatic channels, try its best to speed up the repatriation of boat people

I feel that the British Government is not doing its best in this regard. Though I am aware that when the British Foreign Office Minister visited Hong Kong, he said that he had tried his very best in this respect, yet, to us, the development so far is obviously not positive enough. I suspect that as the general election is drawing near, therefore nothing is more important than Britain's domestic politics. That is not what I want. I hope that today's debate will press the Hong Kong Government once again to request the Foreign Office to do something positive. If we can secure the co-operation from all sides, I believe that when the Hong Kong residents see the developments get under way, they will give their support accordingly.

MR HUI YIN-FAT (in Cantonese): Mr Deputy President, in late October last year, the British and Vietnamese Governments reached a new agreement on the repatriation of non-refugees stranded in Hong Kong, bringing a gleam of light to the seemingly hopeless voluntary return programme. However, I am not optimistic about the chance of resolving the boat people problem before 1997. This is mainly because initial statistics indicate that even without any new arrivals, the number of non-refugees in Hong Kong stands already at 53 562 as at the end of January. If these Vietnamese

are to be repatriated at an average of 650 people per month, it will take six years and nine months, that is, from now to December 1998, to complete the whole programme.

Moreover, even though there have been indications that Vietnam and the United States are changing their stance on the repatriation programme, we in Hong Kong will be unable either to foresee or forestall any unpleasant incidents in future which may obstruct or interrupt the voluntary and orderly return programme. To cite a simple example, Mr QUAYLE, the Vice-President of the United States who has been described as naive and ignorant, said at the United Nations Human Rights Conference held early last month that the majority of the boat people arriving in Hong Kong were political refugees, and should be eligible for resettlement. An immediate result of such a totally groundless and irresponsible remark was a sharp increase in the number of boat people withdrawing from the voluntary return scheme. The drop-out rate had risen from an average of 10%-15% to 40%-50% each day. These boat people were given the false hope that they might still have a chance of resettlement.

While Mr QUAYLE and some Americans having the similar thinking must be sternly rebuked, more should be done to correct their misconception on the matter. Since the screening procedures have been conducted in strict accordance with the Comprehensive Plan of Action and everything is open and above-board and monitored by the UNHCR, why does the Government not arrange for these people to visit Hong Kong through the invitation and sponsorship of the UNHCR so that more people can see for themselves the actual situation and have their misbelief dispelled.

The above incident demonstrates that the voluntary repatriation scheme is extremely fragile and vulnerable. It is therefore necessary for Britain, Hong Kong and Vietnam to enhance their co-operation to ensure that the repatriation programme can proceed in full speed. The merits of so doing are obvious. On the one hand, we can be relieved of the boat people burden before the change of sovereignty in 1997. More importantly, with accelerated repatriation, the overcrowded living condition in Vietnamese centres can be ameliorated, thus minimizing the chance of recurrence of the tragedy of last Chinese New Year day.

On the other hand, as the Hong Kong Government is pushing ahead with the austerity policy now, I do not like to see the Government making any more generous spending with the taxpayers' money on the boat people. The Government should, on the one hand, exert stronger pressure on Britain and Vietnam to ensure that the repatriation programme can be implemented with no delay. On the other hand, it should continue

to appeal to international organizations to fulfil the obligations of the international community and provide economic assistance to Hong Kong and Vietnam. The United States and Britain should, in particular, take the lead for other countries to follow.

Mr Deputy President, Hong Kong will have to face a lot of uncertainties during the latter part of the transitional period. It is therefore imperative that the Government should resolve the boat people problem which is straining our resources and constitutes a latent crisis in our society.

Mr Deputy President, with these remarks, I support the motion for adjournment.

MR JIMMY MCGREGOR: Mr Deputy President, I have listened many times in this Council and its committees to what I believe to be misguided and emotional comments directed against the Vietnamese in our midst. Most of these remarks are made as a result of frustration and the feeling that the problem was one which could not be solved. I have argued consistently in favour of a humanitarian approach towards these poor people who left their homes in desperation seeking a new life. I have also argued consistently for retention of the first port of asylum policy. There were many voices in Hong Kong demanding an end to it.

We have now turned the corner and the Government must be congratulated on keeping its head and sticking doggedly to its international obligations. Thank God that it did or we should have had to face damaging criticism from our friends across the world. We are now able to help the Vietnamese as a nation to begin the long process of international rehabilitation in terms of trade, commerce and industry. We can take a positive and helpful position. Indeed, we are already doing so with trade missions going to Vietnam, with substantial Hong Kong investment already in position there and more on its way, and with a useful trade flow already moving. This is only a beginning and much more is possible. My constituency and its members will continue to move constructively in expanding the Hong Kong-Vietnam connection. It is therefore imperative in this situation that Vietnam be given access to world markets in a manner and to an extent that will not discriminate against that sad country.

The United States will, I hope, put aside its historical dispute and lift its trade embargo. It might even be possible for the United States to give Vietnam MFN entry as a specific concession, renewable annually, and dependent upon evidence of

changes in the closed economic regime and greater attention to human rights. Vietnam has greatly suffered for over 50 years and desperately needs help now.

I must also mention the import regime of other countries in this connection. The European Community also does not accord full access to its markets for Vietnamese goods; there are very considerable restrictions. These hold back Vietnamese potential for trade earnings. Britain must surely do all it can to reduce these EC restrictions, quite apart from the United States ones. I asked Lord CAITHNESS to consider this matter carefully during his recent visit to Hong Kong and he promised to do so.

I agree with Mr Martin BARROW that if it is at all possible we should help Vietnam financially with a grant of some kind to show goodwill, but the greatest help we can give is the economic support we already provide. Hong Kong, in its history, established a proud record of relief and support for many waves of economic migrants. We have never been cruel to helpless people coming under our care. I am happy that we now see the end of the ordeal, or the beginning of the end of the ordeal for the Vietnamese in our midst and that we have treated them with honour and with sympathy.

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, in the light of the sudden reduction in the number of Vietnamese boat people joining the voluntary return programme recently, it is worrying if the repatriation scheme can be smoothly implemented. There are already more than 57 000 VBP stranded in the territory and it is essential that the governments of Hong Kong, the United Kingdom, Vietnam, the United States of America and other countries make extra efforts to resolve the VBP problem.

There are, at present, 27 268 VBP screened out as non-political refugees. It is imperative to send them back to Vietnam. It is hoped that they will join the voluntary return programme. Otherwise, it will be inevitable that they be subjected to the orderly departure programme.

The following are of utmost importance if more non-refugee boat people are to be encouraged to return to their home country voluntarily:

(i) The United States Government must adopt a firm stance, explicitly pronouncing the impossibility of accepting the boat people, who are screened out as non-refugees, to resettle in the United States. In fact, the possibility for the non-refugee boat

people to be resettled in other countries is extremely low; there are still a number of refugees stranded here who are not accepted by any countries for resettlement, not to mention the non-refugee boat people. We have to send these boat people the message of no chance of resettlement in other countries. If this is done, they will be willing to join the voluntary return programme. On top of that, the United States must at once stop opposing the orderly departure programme.

(ii) In order to attract more boat people to return to their home country voluntarily and rebuild their home there, the United States must lift the economic sanction on Vietnam and immediately re-establish economic link with Vietnam so as to rejuvenate its economy as soon as possible. It is very encouraging to learn that the United States, out of humanitarianism, is willing to provide Vietnam with an aid scheme amounting to US\$19 million, as revealed by the Assistant Secretary of State Richard Solomon during his recent visit to Vietnam. Moves in this direction by the United States Government are welcome.

Apart from the above, I would like to suggest two points in attempting to radically solve the Vietnamese boat people and the Vietnamese refugee problem:

(i) The United Kingdom Government must commit itself to accept more refugees stranded here and actively lobby other countries to follow suit.

(ii) Hong Kong has shouldered a far greater amount of expenditure in caring for the boat people than the United Kingdom. The United Kingdom has paid \$80 million in the year 1991-92 while Hong Kong has paid \$885 million, that is to say, ten times that of the United Kingdom. The fact that the United Kingdom is the sovereign state of Hong Kong should mean that the United Kingdom is obliged to take up the responsibility in shouldering a greater portion of expenditure in the caring of the boat people.

Mr Deputy President, I so submit.

MISS EMILY LAU (in Cantonese): Mr Deputy President, Hong Kong is a "refugee society". An extremely large proportion of Hong Kong people were migrants who had fled from the communist regime in China and were given asylum by the Hong Kong British Government. As I am myself also a descendant of refugees, I will always consider the problem from the viewpoint of humanitarianism. I hope Hong Kong can, whether at this moment or



in the future, always lend a helping hand to the politically oppressed. In my opinion, however, the non-refugees should be repatriated. I fully agree with the various comments put forward by Mr Martin BARROW; so I am not going to repeat his comments in my speech.

Mr Deputy President, the only thing I wish to mention in my speech is the responsibility of the United Kingdom Government. In terms of help rendered to the Vietnamese, Hong Kong people have set a glorious record: the number of Vietnamese arrived at or born in Hong Kong since 1979 has hit a total of 202 000. In other words, Hong Kong has accepted more than 200 000 Vietnamese among whom 128 000 have resettled in foreign countries and more than 16 000 of them have been repatriated to Vietnam either voluntarily or otherwise leaving more than 50 000 still stranded in Hong Kong. Meanwhile, Britain accepted 14 187 Vietnamese. As Mr Martin BARROW has just pointed out, Britain merely accepted 1 000 Vietnamese in the past three years. I feel that what Britain has done is inadequate. We all know that the issues of Vietnamese refugees and Vietnamese boat people come under British foreign policy. No matter whether we agree or not, the policy is decided by the United Kingdom Government. Despite all that, the number of Vietnamese they accepted is so small. As regards the expenditure, how much Britain has spent on the Vietnamese? The caring of the Vietnamese has cost \$5.056 billion since 1979. Hong Kong and the United Nations have paid \$3.939 billion and \$691 million respectively, while the United Kingdom Government has only paid \$426 million, 8% of the total expenditure. It is very scanty indeed and this has already been mentioned in the meeting of the Security Panel. Mr Deputy President, I hope, from now on, Hong Kong's taxpayers should no longer pay an extra cent to support these Vietnamese. We have been, out of humanitarianism, accepting them, and hope that they can resettle in foreign countries or be repatriated. I hope the Hong Kong government will relay to the United Kingdom Government the fact that close to \$4 billion paid by the Hong Kong people is already enough. From now on, we do not want to pay any more money and I hope the United Kingdom Government will immediately shoulder all the responsibility. People may argue that we are just attempting the impossible, but I believe the request is right in principle and I hope all my colleagues will support it. It will, as a result, impose very great pressure on Britain; yet I hope it will try to do its best in finding a solution to this difficult problem as quickly as possible.

Thank you, Mr Deputy President.

DR YEUNG SUM (in Cantonese): Mr Deputy President, I support in principle the repatriation of Vietnamese boat people to Vietnam. According to the Comprehensive Plan of Action and the International Covenant on Human Rights, those screened out as non-refugees should be repatriated to their country of origin. The Hong Kong Government has, over the years, implemented procedures to determine the identity of boat people. These procedures are subject to the scrutiny of UNHCR and other concerned groups on VBP. If the boat people are aggrieved at the decision on their status, they can lodge appeal through a proper channel. There is of course room for improvement so that the boat people can be treated in a fair manner. According to the statistics, up till 9 March this year, 31 682 boat people have been screened, of whom 4 414 have been screened-in as refugees and 22 268 have been screened-out. It can thus be seen that not all Vietnamese boat people stranded in the territory are political refugees. The above figures can also refute the recent statement made by the American Vice President, Mr QUAYLE that all Vietnamese boat people stranded in Hong Kong are political refugees.

Regarding the repatriation of boat people, there are two points worth noting. Firstly, the American Government should not oppose any further the orderly repatriation programme implemented by the Hong Kong Government. As a matter of fact, the recent forced repatriation of Haitian boat people back to Haiti by the United States Government could reveal the double standard adopted by the United States Government in judging the act of Hong Kong Government. In order to facilitate a smooth implementation of the voluntary repatriation programme, I hope the United States Government would consider improving its relationship with the Vietnamese Government and lifting the economic sanction against the country.

Meanwhile, the United Kingdom Government should also try its best to negotiate with the Vietnamese Government with a view to speeding up the repatriation of boat people stranded in the territory. And as Rev FUNG Chi-wood has pointed out, the United Kingdom Government should increase its commitment on the expenses of the boat people.

Secondly, I hope that the Hong Kong Government should be more transparent in repatriating the boat people and should refrain from the use of force as far as possible so that the international image of Hong Kong will not be tarnished. We should learn a lesson from the previous repatriation exercise.

Lastly, there are about 58 000 boat people in Hong Kong awaiting repatriation.

The Government should keep a vigilant eye on the sentiments of those detained in closed camps. The recent fighting amongst boat people further proves the need to accommodate separately the boat people from North Vietnam and those from South Vietnam. In fact, the anxieties during the waiting period will add fuel to the long-standing conflicts between these two groups of people.

Mr Deputy President, the plight of boat people stranded in Hong Kong is sympathetic. Hong Kong people have done a lot for the boat people and are concerned that they might have to look after the boat people forever. The United Democrats urge the Governments of the United Kingdom, the United States and Vietnam to shoulder greater responsibilities and to work hand in hand to solve the refugee problems of Hong Kong. For those who are justly screened-in as political refugees, countries other than Vietnam have the obligation to accept them, whereas for those who are screened-out as non-political refugees, they should be repatriated to Vietnam as soon as possible.

MR HOWARD YOUNG: Mr Deputy President, the matter for reply today is Voluntary Return Programme for Vietnamese Migrants but in addition to the voluntary programme we also have the exercise of mandatory repatriation. I believe that we should not only put the emphasis on one and neglect the other. If and when necessary, we should also find ways and means of continuing the other programme in order to encourage more migrants to join in the voluntary programme.

At the risk of going off at a tangent to the topic raised by Mr BARROW, I would like to use this opportunity to pay tribute to all those who took part in the very difficult exercises in both the mandatory repatriation programmes and the voluntary ones, in particular, the mandatory programmes. The first one was quite a trauma for many people but I think, all in all, it has shown that if Hong Kong is determined to do something it can do it well. All of this was due to the meticulous planning by the security departments, the UNHCR and the Civil Aviation Department that resulted in minimum disruption to the airport operations on the first occasion. In fact the second occasion was a great improvement on that as well.

Yesterday, I was with Mrs Rita FAN when we met this group that was concerned with the Vietnamese migrants. I believe that in considering what action we should take we should recognize that there are things that we can do but cannot control -- there are some things that we can do but also control. Under those that we cannot control

is that we can shout till the face is blue for the American Government to lift the embargo, for them to take on whoever they deem to be political refugees, and also to give aid to Vietnam, but this is not our purse-string and therefore we cannot control it.

There was one suggestion yesterday that we should consider whether the building of a transit centre in Vietnam would in fact help to speed up the process. This concerned group who had recently come back from Vietnam said that one of the factors that was inhibiting the smooth processing of the returnees in Vietnam was lack of facilities. I believe we should explore whether, for a reasonable sum of money, Hong Kong could contribute to such a facility in Vietnam. If we could in return see a speeding up of the process we might find that we would be saving our resources and funds in the long run.

The second thing that I believe we can do and also control is related to the suggestion in the letter addressed to Mrs FAN which she read out earlier, that is, how we can communicate to the Vietnamese migrants in the camps now that there is a future there and that they will not be persecuted on their return.

I believe that in addition to exploring whether we can sponsor Vietnamese officials to come and explain it, perhaps there are live examples of people who have actually gone back over the last few years and have not been persecuted, have been able to stand on their own feet economically, and might be willing to come back, if sponsored by Hong Kong, to tell their fellow countrymen in the camps here now that for them going back is the only way out. I believe if we can find some Vietnamese people willing to do that, it will not be wrong to give them, at our expense, a slight perk of enjoying Hong Kong's designation as a "shopper's paradise" for a few days, in return.

MR WONG WAI-YIN (in Cantonese): Mr Deputy President, there was an absurd war in contemporary history. It was the Russo-Japanese war which took place on Chinese territory. The major victim of this war was neither Japan nor Russia, but China. Now, the fact that Hong Kong has to shoulder the greatest share of responsibility in dealing with the Vietnamese boat people problem arising from the war between the United States and Vietnam is equally absurd. For the past ten years or so, Hong Kong people have been very unhappy with the Hong Kong Government's adoption and manner of implementation of the overall boat people policy and related policies. Their

grievances focus on matters ranging from the drain on our economy, the nuisances generated by the Vietnamese boat people to the Government's indifference to local organizations' and even to district boards' views. All these points have been mentioned on many occasions, and I am not going to restate them in my speech.

While we are here discussing the voluntary return programme for Vietnamese boat people, Meeting Point is in full support of orderly return. Just now, many Members have suggested various ways to accelerate the pace of the voluntary or orderly return programme. The acceptance of greater responsibility by Britain is one of the ways out. International co-operation and endeavour is necessary in resolving the problem. In particular, the United States must hasten normalization of relations with Vietnam and increase its economic aid to Vietnam for the rebuilding of the Vietnamese society. Meeting Point fully supports all these views. We believe, however, that the co-operation of the Vietnamese Government is also an essential factor towards the solution of the problem. It must indicate its bona fide intention to receive the boat people sent back under the orderly repatriation programme. It must also try to do its best in stemming the outflow of illegal emigrants and contain the corrupt and unlawful migration activities. In addition, the Vietnamese Government should issue more passports for its citizens to leave their country in an orderly fashion for the purpose of reunion with their relatives overseas.

Some Members have just mentioned the apparent lull in the influx of boat people these days as grounds to rationalize the preservation of our first asylum policy. Is the situation that optimistic? I believe we can only come to a conclusion after a period of observation. We have learnt from experience that it would be pure wishful thinking to imagine that the problem could be resolved by relying on others. So Meeting Point feels that the Hong Kong Government should be resolute. It should, in the first place, set a timetable for orderly repatriation, sending back a certain number of Vietnamese boat people within a fixed period. If the voluntary return programme is not proceeding so well as expected the Hong Kong Government should seek the international community's understanding. As a matter of fact, the greatest hindrance to the success of these measures originates from the United States. Being the sovereign state of Hong Kong, Britain should step up communication with the United States. Should the voluntary repatriation programme eventually prove to be a failure, the Hong Kong Government must reconsider the implementation of the mandatory repatriation programme. In that case, the Hong Kong Government must work harder to improve the fairness and pace of the much-criticized screening process and to provide more aid to the Vietnamese boat people. Take the translation service as an example.

More time should be allowed for the boat people to enunciate the reasons for fleeing from Vietnam. Meeting Point absolutely supports the return of Vietnamese boat people, through various means, to their home country to start a new life. Hong Kong can then lay down the heavy burden it has been carrying for more than ten years. We sincerely hope that the Hong Kong Government and our sovereign state Britain will on the one hand continue to seek endorsement and understanding from the United States and the international community, while on the other hand draw up a definite timetable for the implementation of the orderly repatriation programme.

Thank you, Mr Deputy President.

8.35 pm

SECRETARY FOR SECURITY: Mr Deputy President, I am glad to have had the opportunity today to listen to Members' views on the subject of the voluntary return programme for Vietnamese migrants. Some four and a half months after the conclusion of our agreement with Vietnam on the repatriation of the screened out is a good time to take stock of what we have achieved since then, where we now stand, and what are the prospects for the future.

Repatriation is going well. In the first seven months of 1991, some 2 000 people returned from Hong Kong to Vietnam; in the past seven months, almost 8 000 have returned. The voluntary repatriation scheme has developed momentum, and I expect that this will be maintained. Over 270 people returned on today's flight, and the total this month should again exceed 1 000. It is no coincidence that this upturn in the voluntary repatriation programme and the equally significant drop off in arrivals have taken place at precisely the time of the conclusion of our agreement on repatriation with Vietnam last October.

The effect of the increase in the numbers returning to Vietnam, and the absence of new arrivals, has been a reduction in the overall population of some 7 000 in the last five months.

I share the wish of Members who have spoken this evening that repatriation should be accelerated. We will continue to do all we can to achieve this and to encourage more volunteers to return to Vietnam.

It is clear that almost all those who have left Vietnam in recent years have done so because of the lack of economic prospects in Vietnam. I agree entirely with Mr BARROW that the lifting of the United States embargo on Vietnam, access by Vietnam to funds from the international financial institutions and the normalization of relations between the United States and Vietnam are very important in improving economic prospects in Vietnam, and should give a great boost to voluntary repatriation. We and the United Kingdom Government have left the United States Government in no doubt that in our view the ending of the United States embargo would help to resolve this problem by offering better prospects to those now in Hong Kong if they return to Vietnam, and by removing the incentive for others to leave Vietnam. From our point of view it cannot happen too soon.

The real constraint on the voluntary repatriation scheme in recent months has been the numbers which the Vietnamese Government feels able to accept back and reintegrate. There are two schemes to assist the reintegration of returnees in Vietnam -- the UNHCR scheme and the European Community scheme. The UNHCR scheme is geared to direct help to the individual, although small sums in addition are given to the local community to which people must return. The UNHCR is now considering whether the emphasis of the scheme might be changed to give more assistance to local communities. We support this. The European Community scheme is newer, and potentially much more significant in scale. The assistance covers job training, loans to establish small businesses and infrastructure projects in some of the poorer areas from which migrants come. The European Community and the Vietnamese Government have very recently signed a new agreement extending the initial pilot scheme into a full two-and-a-half-year programme covering 17 provinces, including all the areas from which migrants have come. This full programme will be worth over US\$110 million. We welcome this initiative from the European Community, which should greatly assist the reintegration of returnees, and so promote voluntary repatriation.

We also recognize the importance of giving people in the camps as much information as possible about how life in Vietnam is changing and about the treatment they will receive on return. It is not easy for the Hong Kong Government to do this directly. We do not have staff who can speak with authority about conditions in Vietnam, and we are always likely to lack credibility to those in detention centres. We therefore rely heavily upon UNHCR, all of whose 200 staff here are engaged in counselling whenever they visit the camps. The 40 or so staff posted permanently to the camps are engaged full time on counselling, some fluent in Vietnamese and others working through well qualified interpreters. But the Government has established a small team

of Correctional Services welfare officers experienced in counselling. They have concentrated on new arrivals, and had considerable success. We also welcome the initiative of the American Government to post to this region for one year a senior American official with eight years first-hand experience of Vietnam and fluent in the language. His job is full-time repatriation counselling, and he will spend half of his time in Hong Kong.

There is no better incentive for voluntary return than the experience of those who have returned to Vietnam and re-established themselves successfully there. Over 16 000 persons have now returned to Vietnam from Hong Kong in the past three years, over 20 000 from the region as a whole. There has been no substantiated case of persecution or mistreatment of anyone who has returned. To ensure that guarantees are upheld, the UNHCR monitors the treatment of everyone who goes back whether under the voluntary or the mandatory return scheme. Groups of international non-governmental organizations that visited Vietnam in May and December last year found no evidence of mistreatment. In addition, there is now a widespread network of EC offices and foreign voluntary agencies working in the main areas from which migrants come. They, and the foreign press visits that are increasingly frequent to Vietnam, all serve a monitoring function, as do regular visits to returnees by staff of the British Embassy in Hanoi, which has been strengthened for the purpose by the addition of two members of staff, one from the United Kingdom and one on attachment from Hong Kong.

In conclusion, our agreement of 29 October 1991 with Vietnam on repatriation has worked well. It has certainly been as successful as I had hoped in stemming arrivals and in stimulating voluntary returns. We now need to build on this promising start by increasing the pace of return. The lifting of the United States embargo on Vietnam and normalization of United States-Vietnam relations will be an important factor, and we shall continue to press for this. We are seeking to increase the momentum of voluntary repatriation by extending the present arrangements for non-voluntary repatriation to the long-term screened-out population. We are, in conjunction with UNHCR and the European Community, considering how the present reintegration assistance to Vietnam might be restructured and improved. We have also, together with UNHCR, expanded counselling in the detention centres, in particular the flow of accurate and reliable information back from Vietnam. All of these efforts should contribute to the message we need to send to those in our camps: that their future must lie in Vietnam, not in wasting their lives and the lives of their children in detention in Hong Kong.



Question on the adjournment proposed, put and agreed to.

Next sitting

DEPUTY PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 25 March 1992.

Adjourned accordingly at a quarter to Nine o'clock.

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