

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 18 November 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 FINANCIAL SECRETARY

THE HONOURABLE NATHANIEL WILLIAM HAMISH MACLEOD, C.B.E., J.P.

THE ATTORNEY GENERAL

THE HONOURABLE JAMES KERR FINDLAY, O.B.E., Q.C., 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 HUI YIN-FAT, O.B.E., J.P.

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

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

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

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

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

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

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

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

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

DR THE HONOURABLE LEONG CHE-HUNG, O.B.E.

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

THE HONOURABLE VINCENT CHENG HOI-CHUEN

THE HONOURABLE MOSES CHENG MO-CHI

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

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

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

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

DR THE HONOURABLE LAM KUI-CHUN

DR THE HONOURABLE CONRAD LAM KUI-SHING

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE 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

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

DR THE HONOURABLE TANG SIU-TONG, J.P.

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

**ABSENT**

THE CHIEF SECRETARY

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

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

**IN ATTENDANCE**

MR MICHAEL LEUNG MAN-KIN, C.B.E., J.P.

SECRETARY FOR TRANSPORT

THE HONOURABLE JOHN CHAN CHO-CHAK, L.V.O., O.B.E., J.P.

SECRETARY FOR EDUCATION AND MANPOWER

MRS ELIZABETH WONG CHIEN CHI-LIEN, I.S.O., J.P.

SECRETARY FOR HEALTH AND WELFARE

MR ANTHONY GORDON EASON, J.P.  
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

MR IAN ROBERT STRACHAN, J.P.  
SECRETARY FOR SECURITY

MISS DENISE YUE CHUNG-YEE, J.P.  
SECRETARY FOR TRADE AND INDUSTRY

MR KWONG KI-CHI, J.P.  
SECRETARY FOR THE TREASURY

THE CLERK TO THE LEGISLATIVE COUNCIL  
MR CLETUS LAU KWOK-HONG

**Papers**

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

*Subject*

Subsidiary Legislation	<i>L.N. No.</i>
Schedule of Routes (China Motor Bus Company) Order 1992 .....	365/92
Rectification of Errors (No. 4) Order 1992 .....	367/92
Regional Council (Fees for Official Signatures and Miscellaneous Services) (Amendment) Bylaw 1992 .....	368/92
Waste Disposal Ordinance (Cap. 354) (Application) Notice 1992.....	369/92
Waste Disposal (Chemical Waste) (General) Regulation (L.N. 20 of 1992) (Application of Regulation 4 and Parts III, IV, V and VI) Notice 1992 .....	370/92
Lingnan College Ordinance (72 of 1992) (Commencement) Notice 1992.....	371/92

## Sessional Papers 1992-93

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|--------|---|---|
| No. 24 | — | Annual Report of the Director of Accounting Services and the Accounts of Hong Kong for the year ended 31 March 1992                                     |
| No. 25 | — | Director of Audit's Report No. 19 on the Accounts of the Hong Kong Government for the year ended 31 March 1992 and the Result of Value for Money Audits |
| No. 26 | — | Pneumoconiosis Compensation Fund Board Annual Report 1991   |
| No. 27 | — | Vocational Training Council Annual Report 1991-92   |

**Oral answers to questions****Overseas and Mainland properties offered for sale in Hong Kong**

1. DR HUANG CHEN-YA asked (in Cantonese): *In view of the increasing number of overseas and Chinese properties put on sale in the territory as well as recent press reports concerning disputes arising from the transactions of uncompleted flats in China, will the Government inform this Council:*

- (a) *what measures are in hand to increase the awareness of the citizens of Hong Kong towards the risk involved and their rights in such property transactions; and*
- (b) *whether it is necessary to negotiate with the relevant government authorities of these overseas countries and mainland China on appropriate measures to provide better safeguards for consumers in Hong Kong?*

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, the Government is alert to the need to increase investors' awareness in the purchase of overseas properties put on sale in Hong Kong. Therefore, the Financial Secretary, on various occasions recently, has urged the public to exercise prudence. A buyer must find out clearly what it is that he is buying before he enters into a commitment. In addition, we have invited the Consumer Council to step up its consumer education efforts and, in particular, to address the offer for sale in Hong Kong of properties in southern China given the increasing number of such offers.

So far, the Consumer Council has established useful contacts with the relevant authorities in the Guangdong Province and the Shenzhen Special Economic Zone. Based on the information gathered from these authorities, the Council has issued some very useful guidelines for reference by prospective buyers of properties in China. In addition, it has repeatedly urged consumers to be aware and, before putting down their money, to check that the overseas properties they intend to buy comply with the local regulatory and legal requirements. The Council plans to offer further guidelines in the December issue of *Choice*. I strongly recommend prospective buyers to read these carefully before acting.

As the Consumer Council has developed good contacts with many consumer protection bureaus overseas and as it is doing a very effective job to enhance consumer awareness, we do not consider it necessary at this stage to discuss with other government authorities. We will, however, continue to assist the Council in any way we can to help it to broaden contacts with more overseas authorities as necessary.

DR HUANG CHEN-YA (in Cantonese): *Mr Deputy President, it seems that the Government has passed all its responsibilities to the Consumer Council. Will the Government consider negotiating with the authorities of the overseas countries or mainland China to make it mandatory for the registration with the Securities and Futures Commission of overseas investment funds available in Hong Kong market and empowering the Commission to oversee the advertisements in relation to these investments to ensure that they contain accurate information? And will the Administration consider bringing under legislative control the registration of those engaged in the transactions of overseas and mainland properties put on sale here, and the advertisements and developers in relation to these transactions to ensure that the former does not contain false information and the latter has the ability to develop the properties?*

DEPUTY PRESIDENT: Secretary for Trade and Industry, you caught all that?

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, if I have not, I am sure Dr HUANG will remind me.

Dr HUANG's first question was that the Government seems to have passed its responsibility to the Consumer Council. To that, I would wish to say the Government is working very closely with the Consumer Council on this issue. As a matter of fact, the Government has urged the Consumer Council to step up its consumer education efforts. And, as I said in my main reply, the Government is ready to offer assistance to the Consumer Council in its contacts with overseas authorities, as necessary.

Dr HUANG's second supplementary question referred to whether or not advertisements relating to the sale of overseas properties in Hong Kong could be brought under some form of legislative control. I am advised that if the advertisements associated with overseas properties suggest that the purchase is for an investment purpose, they will fall within the scope of the Protection of Investors Ordinance. Consumers may refer these allegedly false advertisements to the Securities and Futures Commission for action.

Dr HUANG's third supplementary question, I think, referred to the ability of developers to develop the overseas properties. I believe this concerns the proper conduct of developers and agents in the property market. The Secretary for Planning, Environment and Lands is actively considering this issue.

MR LAU CHIN-SHEK (in Cantonese): *Mr Deputy President, I learned that some uncompleted flats in China are put on sale even before the foundation work has commenced. Does the Administration have the figures on these complaints? And will the Administration take the initiative to carry out investigations and release the information to the public?*

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, the information I have relating to complaints on the sale of properties in China, as far as the first eight months are concerned, is that there were a total of seven. According to information available to me, there has been no complaint received by the Consumer Council concerning the sale of properties in China for which either piling or foundation work has not yet commenced.

Mr LAU's second question, I think, referred to whether or not the Government would take a proactive stance to liaise with authorities in China concerning the provision of better safeguards for consumers when they purchase properties in China. Again, as I said in my main reply, the Consumer Council in fact has initiated contacts with a number of authorities in China, in particular with three authorities in Guangdong Province and authorities in the neighbouring Special Economic Zones, in order to understand the position in China better so that the Consumer Council can give better consumer advice to the people of Hong Kong.

DEPUTY PRESIDENT: Would Members limit their supplementaries to single questions, as we do have a queue for this one?

MR RONALD ARCULLI: *Mr Deputy President, with regard to part (b) of Dr HUANG's question could the Secretary for Trade and Industry inform us as to whether there are in fact any international agreements on consumer protection entered into between countries, and if so, the nature of these agreements?*

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, I do not have the answer to Mr ARCULLI's question. I will undertake to find out and provide a written reply. (Annex I)

MR CHEUNG MAN-KWONG (in Cantonese): *Mr Deputy President, if Hong Kong people are deluded by false advertisements or other deceptive means in the purchase of properties in China, will the Hong Kong Government assist through liaison with the Chinese authorities in a bid to recover damages so that consumer's rights can be protected?*

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, I think it is necessary to point out that, generally speaking, Hong Kong courts have no jurisdiction to entertain an action for the determination of the title to, or the right to possession of, any immovable property situated outside Hong Kong. As I said in my main answer, investors in Hong Kong must be prepared to take risks in making investment decisions and they do have the responsibility to find out clearly what they are going to invest in. However, when the transaction of overseas properties takes place in Hong Kong and money is obtained from the



purchaser by deception and in circumstances of dishonesty, there is a possible criminal sanction under the Theft Ordinance. Consumers may refer relevant cases to the police for action. There may also be a civil claim in misrepresentation or deceit relating to property transactions under common law and the Misrepresentation Ordinance.

MR FREDERICK FUNG (in Cantonese): *Mr Deputy President, in view of the fact that more and more Hong Kong people purchase properties or flats in China, is it possible for the Government to consider inviting officers of the relevant Chinese authorities to come here to receive complaints directly from Hong Kong people similar to the previous arrangement of the Security Branch in inviting Chinese public security officers to come to Hong Kong?*

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, the Administration is always willing to consider constructive suggestions and we will give Mr FUNG's suggestion due consideration.

### **Child suicide**

2. MRS ELSIE TU asked: *In view of the recent spate of child suicides, will the Government consider providing special training initially for heads of schools and teachers in charge of discipline to enable schools to handle such problems?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, basic training in child psychology and student counselling is an established part of pre-service and in-service courses provided to teachers by the Colleges of Education. In addition, in view of the increasing numbers of student suicides, the Government has recently provided special training for heads of schools and teachers in charge of discipline. This training takes the form of a series of seminars, conferences and workshops, including:

- (a) First, five seminars in June 1992 for teacher representatives of all primary and secondary schools;
- (b) Secondly, a Workshop on Adolescent Suicide in early November 1992 for principals and teachers of schools which had experienced fatal suicide cases;
- (c) Thirdly, 12 regional teacher development sessions for both guidance and discipline teachers of secondary schools held during the period from October 1992 to February 1993;

- (d) Fourthly, a conference and training workshop on the Adolescent Suicide Awareness Programme (ASAP) in October 1992, for school principals and professionals involved in teacher training; and
- (e) Fifthly, 10 training sessions and four training workshops, also on the ASAP, for teachers and principals of all primary and secondary schools to be held in December 1992 and January 1993.

The aim of the various courses I have mentioned is to enable each public sector school in Hong Kong to have at least two teachers (or one principal and one teacher) trained specifically in identifying and handling potential student suicide cases and preventing suicides from happening.

MRS ELSIE TU: *Mr Deputy President, would the Secretary clarify if the five seminars mentioned in paragraph (a) and the 12 regional sessions in paragraph (c) were for different groups of teachers, that is, one teacher one session; how long each session was; and whether there was any in-depth training or whether they were just like pep talks?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the five seminars mentioned in my main reply covered a total of 769 teacher representatives and lasted a half-day for each seminar. As regards the regional development sessions mentioned in sub-paragraph (c), these were also half-day sessions and involved 440 secondary school teachers. During these seminars, detailed guidelines on the preventive and post-ventive measures in dealing with student suicide were issued and discussed, and the measures include conducting a Secondary One orientation programme to help new entrants into secondary schools to adjust to changes in school life, developing a peer support system, and providing support to students who experience difficulties in their growth process. They also provide an opportunity for teacher representatives to share experiences on effective ways of delivering guidance service in schools, with particular emphasis on student suicide prevention.

MRS PEGGY LAM (in Cantonese): *Mr Deputy President, will the Secretary inform this Council of the numbers of student suicide cases in the past two years; of the age group they belong to; and of the reasons for such suicides? Has the authority concerned considered issuing to parents some information or guidelines on understanding and preventing student suicide?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr Deputy President, in the academic year 1991-92, there were a total of 21 student suicides, among them four involved primary students and 17 secondary students. The reasons behind these suicides are many. Investigations have revealed that nine were due to poor family relations, two due to learning difficulties and

another two arose from relationship problem with the opposite sex; three due to psychological factors; one due to health problem and another poor relations with fellow students while the causes of the remaining three were unknown.

As regards issuing guidelines to parents, the Education Department has in the past year published a number of pamphlets for parents, providing them guidelines and advice on how to take care of their children and help them solve their difficulties. The Department is also planning to issue a more detailed guideline early next year. The Administration will implement the recommendation of the Education Commission Report No. 5 by taking measures to enhance the co-operation between schools and parents.

MRS SELINA CHOW (in Cantonese): *Mr Deputy President, Mrs Peggy LAM has in fact asked part of my question, but in response to the Secretary's reply, I would like to raise a follow-up question. We all know that the problem of student suicide is not caused by one side only. Now that teachers and principals have to receive training and the Education Department has issued guidelines to parents, my question is whether teachers and principals will also be trained on how to work with parents in order to find out the root of the problem (because they may arise from school or from family)? How can these suicides be prevented through co-operation between schools and families and how can such co-operation be better promoted? Since such co-operation is a matter of attitude and determination, I hope the Secretary will elaborate on how the authority is going to encourage teachers and principals so that they would have the resolve and devotion to deal with the problem?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr Deputy President, one of the training sessions mentioned in my main reply, a very important one, is on how teachers and principals can communicate with parents and develop as far as possible a co-operative relationship. I entirely agree with Mrs Selina CHOW that this problem is many-sided. Under the Education Commission, there is already an advisory board on school counselling and guidance composed of principals, teachers, student guidance teachers, social workers, education psychologists and officers of the relevant departments, which regularly meet with representatives of parents and students to examine these problems. I understand this advisory board has recently looked into the student suicides in 1991-92 and will publish a detailed report by the end of this year. I hope this report will give us some guiding recommendations.

In the meantime, we will set up a Committee on Home-School Co-operation as recommended in the Education Commission Report No. 5 to examine in detail and to promote the various ways of co-operation between schools and families.

DR YEUNG SUM (in Cantonese): *Mr Deputy President, given that the causes of student suicides are complex and varied, will the authority concerned pay more attention to the role played by school social workers in this regard? If yes, will it aim at achieving the target of having one social worker in every school as early as possible?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr Deputy President, the Administration is always aware of and has been paying attention to the role of social workers in relation to this matter, and the Governor has also said in the policy address that the number of school social workers will increase in the next few years, though the target of having one social worker in every school can still not met. Also the Administration is going to implement the "whole school approach" in respect of guidance services as recommended in the Education Commission Report No.4 with a view to making improvements as far as possible in this regard.

MR FRED LI (in Cantonese): *Mr Deputy President, part of my question has been asked by Dr YEUNG Sum. But meanwhile, has the Secretary for Education and Manpower strengthened his liaison and co-operation with the Secretary for Health and Welfare; and other than deploying school social workers, has he considered other ways to solve this problem in collaboration with the Secretary for Health and Welfare?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr Deputy President, Members might have been aware that the Secretary for Health and Welfare and I are sitting on "the same side". We always maintain a close liaison at work.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr Deputy President, it has been found that many of the recent cases of student suicide were not directly related to schools, but they were described as "student suicides" and not "adolescent suicides". This has generated a lot of pressure on school teachers, so much so that they do not know what to do when dealing with students because they are afraid what they do may cause student suicides. Will the Administration take measures to relieve teachers of such unnecessary work pressure, and provide guidelines on how to handle students in order to prevent any well-meaning actions from being misconstrued and becoming a cause for student suicides?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr Deputy President, the various measures taken by the Administration cover three main areas. Most important of all is to assist teachers in handling these problems; the others being to improve the students' ability to cope with pressures and to strengthen the support of parents and family. As regards the

relief of teachers' work pressure, I believe that the various improvement measures mentioned in the Governor's policy address like the provision of more teachers, the reduction of class sizes starting from next year, and the other improvement measures recommended in the Education Commission Reports Nos. 4 and 5 will directly or indirectly assist in relieving the work pressure of teachers.

### **Mass Transit Railway extension to Tseung Kwan O**

3. MR GILBERT LEUNG asked (in Cantonese): *Will the Government inform this Council:*

- (a) *whether the Mass Transit Railway (MTR) extension to Tseung Kwan O would be completed by 2001 or before; if not, what the reasons for the delay in completion are;*
- (b) *whether preparations and commitments have been made by the Administration for the construction of the MTR extension to Tseung Kwan O, such as reserving land for the project, conducting financial feasibility study and setting aside funds for the construction works; if so, whether the specific details of such arrangements could be disclosed; if not, what the justification for not doing so is?*

SECRETARY FOR TRANSPORT: Mr Deputy President, as regards the first part of Mr LEUNG's question, whether and when the MTR could be extended to Tseung Kwan O is being considered in the Railway Development Study, along with other possible railway projects. The results of the study should be ready at the end of this year. As no decision has been taken to link the MTR to Tseung Kwan O, the question of completion date or delay does not arise.

As regards the second part of the question, the Outline Development Plan for Tseung Kwan O includes a land reservation for such an extension. Some necessary route protection expenses have also been incurred. A preliminary indication of the project's financial viability will be included in the Railway Study which I have just mentioned. However, it is premature at this stage to consider any funding arrangements unless and until a decision is taken to proceed.

MR GILBERT LEUNG (in Cantonese): *Mr Deputy President, will the Administration inform this Council whether implementation of the Airport Core Programme, in particular the Airport Railway project, will affect construction of the MTR extension to Tseung Kwan O?*

SECRETARY FOR TRANSPORT: Mr Deputy President, in transport terms, clearly it is necessary to set priorities for expensive projects such as railways. In the light of the decision to proceed with the Airport Railway by the MTRC, it is clearly necessary — and a commonsense approach also — to reassess the priorities of railway development in Hong Kong, taking account of the Airport Railway. Indeed, the 1990 White Paper already indicates clearly that in the light of the decision on the new airport, we will need to reassess the priorities of railway development in Hong Kong and this is now being undertaken in the Railway Development Study. And this, of course, in no way implies that funds are diverted to the airport projects; it simply means that there is a need to assess, in the light of the Airport Railway and associated developments, the integration of railway plans in Hong Kong.

MRS MIRIAM LAU (in Cantonese): *According to paragraph 11, point 7.5 of the Second Comprehensive Transport Study Report in 1989, revenue from passenger fares can cover railway operating costs and rolling stock depreciation even if the population of Tseung Kwan O New Town is under 150 000. Will the Administration inform this Council whether the population of Tseung Kwan O will reach 150 000 or exceed that number by 1996? If so, why has the preparatory work of the MTR extension to Tseung Kwan O not commenced yet?*

SECRETARY FOR TRANSPORT: Mr Deputy President, the Second Comprehensive Transport Study Report which Mrs LAU referred to did mention a figure of 150 000 as an indication of the likely population level which might cover railway operating costs and rolling stock depreciation. However, this in no way implies the financial and commercial viability of that particular project. A railway project is considered to be financially viable if revenue from passenger fares could cover the cost of construction, equipment and operation of the railway line and generate a reasonable financial return.

As regards the second part of Mrs LAU's question, the planning of the Airport Railway and the reassessment of railway priorities in Hong Kong in the Rail Study does require a reassessment of the priority of the MTR extension to Tseung Kwan O. This in no way implies that we are dropping the project or that the project is being shelved. We are planning and trying, in the light of these developments and the findings of the report, to prioritize the need for the railway.

MR LAU WAH-SUM (in Cantonese): *Mr Deputy President, given that the Administration has not come to any decision on the construction of the MTR extension to Tseung Kwan O and the population of Tseung Kwan O has increased in number, does the Administration have any plans to meet the transport demands of the local residents?*

SECRETARY FOR TRANSPORT: Mr Deputy President, there are at present three main road connections to Tseung Kwan O New Town. The first is the Tseung Kwan O Tunnel which was opened over a year ago and is still in fact only 20% used; there is ample capacity for the link to be used more fully in the years ahead. There are in addition two main roads to Tseung Kwan O, that is, Po Lam Road and Hang Hau Road. And all this infrastructure has capacity to meet demands forecast up to the year 2001. At the present time, transport connections are mainly through the use of buses and mini-buses. There are at present 13 bus routes and nine mini-bus routes connecting the New Town with the urban parts of Kowloon and Hong Kong. In addition, over the next few years there will be six new routes to be opened and there will be over 40 more buses to be added to the fleet of the KMB. We are adding, as necessary, more residential coach services; we are also considering the possibility of ferry links in the longer term future.

MR LAU CHIN-SHEK (in Cantonese): *Mr Deputy President, will the Secretary inform this Council, if there are other factors, apart from the Airport Railway consideration, that the Administration will take into account when deciding whether and when the Tseung Kwan O extension will be built?*

SECRETARY FOR TRANSPORT: Mr Deputy President, as I said in my earlier reply, I think the simple answer is that we need to reassess priorities as regards all railways in Hong Kong in the light of the railway to the New Airport, because a re-examination and integration of the railway network in the light of this new development is called for. There is no hidden reason for the Tseung Kwan O extension being at this stage delayed; there is no question of that.

MISS EMILY LAU (in Cantonese): *Mr Deputy President, the Secretary mentioned in his reply that the MTR extension would be constructed though no decision had yet been made. On the other hand, he also said that there was no indication that the project was being shelved. Residents complained to us that they had heard of these time and again and they were very confused and angry. It was clearly stated in the pamphlets for the promotion of sale of HOS flats in Tseung Kwan O that MTR service would be provided. In the light of repeated accusations by the residents that they were deceived, I would like to take this opportunity to ask if the Administration could explain to the residents of Tseung Kwan O whether the Administration did in fact deceive them or it is merely a misunderstanding?*

SECRETARY FOR TRANSPORT: Mr Deputy President, I believe that when a plan is made for a new town it would be legitimate for those involved in helping to build the new town to mention such plan in their advice to residents. I have not seen the pamphlet myself but I believe this was done in good faith by the

Housing Department. The fact is that there remains such a plan, but we have not yet decided on when and how to fund the particular project.

MR LEE WING-TAT (in Cantonese): *Mr Deputy President, Tseung Kwan O is a new town much nearer to the urban outskirts than Tuen Mun. Provided it has good transport links, it would have very high development potential. The Administration however puts on hold the construction of a trunk route for reason that it does not have sufficient funds. But would the Administration take a more positive view, that is better transport connections will help the population of Tseung Kwan O grow faster and this in turn may enable the Administration to build more flats and provide more accommodations. Will the Administration consider from this perspective rather than merely from the financial point of view?*

SECRETARY FOR TRANSPORT: Mr Deputy President, I think it would be very nice, in an ideal world, to have railways in every new town, every new development ahead of population intake. This would be excellent for developers who would have all facilities in place before they have people moving in. But in the practical world we have to consider the amount of investments required because railways are very heavily front-loaded investments; they need huge capital injection long before returns are forthcoming. So we must be very careful in considering how to invest and when to invest in such projects. In the case of the Tseung Kwan O line, we do take account of the benefits of a railway to the new town, and we do have route protection expenses incurred to ensure that as and when we decide to proceed we can proceed without much disruption to the new town in the future.

### **Education Commission Report No. 5**

4. MRS SELINA CHOW asked: *Now that the consultation period on the Education Commission's Report No. 5 has closed, will the Government inform this Council of the degree and substance of support expressed, and when policy decisions will be taken on various aspects of the report?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the Education Commission's Report No. 5 (ECR5) attracted wide and strong support. A total of 103 educational groups, community groups and concerned individuals have submitted written comments, covering over 520 pages of text. They have clearly put a great deal of thought into their responses. The Commission and the Government are most grateful to all those who sent in their views.



As for the substance of the responses, virtually all submissions supported the general approach of ECR5. Indeed, many expressed very warm support. Not surprisingly, some wanted faster progress and some wanted even more improvements. Many expressed views on details of implementation, which will provide helpful references for those responsible for implementing the recommendations, once they become approved policy.

A number of respondents wondered whether the Government would be able, or willing, to provide the resources to fund the Commission's proposals. As Members are aware, the Governor, in his policy address to this Council on 7 October, announced that we would be making a start in 1993 on a number of measures arising from ECR5. This demonstrates the Government's commitment to providing Hong Kong with the quality of education we need to sustain our social and economic development into the next century.

The Commission has now completed its assessment of the public response. The remaining ECR5 proposals, together with one further recommendation arising from the public consultation, will be submitted to the Executive Council for consideration. I hope that decisions will be reached before the end of this year.

*MRS SELINA CHOW: Mr Deputy President, will the Government give an assurance that measures introduced by the Administration and announced by the Governor in his policy address, which involve a faster pace and more expenditure than envisaged by ECR5, will not be adopted at the expense of other worthwhile and well supported recommendations of ECR5?*

**SECRETARY FOR EDUCATION AND MANPOWER:** Mr Deputy President, until decisions have been taken on the remainder of the ECR5 proposals, I regret that I cannot give that assurance today, although I think I can say that it is certainly the Government's intention that the improvement measures which have been announced by the Governor in his policy address will be implemented and that as far as possible they would not be at the expense of other desirable improvements.

*MR TIK CHI-YUEN (In Cantonese): Mr Deputy President, during consultation on the Education Commission's Report No. 5, a lot of people from the education sector and the community touched on the questions of floating classes and whole-day schooling. What is the assessment made by the Education Commission in respect of public response to improvements in these two areas? Moreover, when the recommendations of the ECR5 are implemented, will these two improvements be included?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr Deputy President, there is no mention or reference to the questions of floating classes and whole-day schooling in ECR5. Of course, the Education Commission will take into consideration the opinions conveyed as regards these two areas, but they are not related to the present Report. In the past sittings of this Council, particularly in my response during the debate on the Governor's policy address on 28 October, I had clearly explained the Administration's approach in respect of these two areas. Regarding the question of floating classes, we are actively considering how to reduce floating classes gradually, especially for Secondary V and below.

As for whole-day schooling, the following decisions have been taken. First, to introduce, as far as possible, whole-day schooling for new primary schools commencing from the coming school year in September. Second, to encourage, as far as practicable, existing primary schools to be converted to whole-day schools. Third, nonetheless we feel that we do not have all the necessary conditions in place, and thus are unable, at this stage, to draw up a firm timetable for full conversion to whole-day schooling.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr Deputy President, during consultation on the Education Commission's Report No. 5, a wide spectrum of views had been received from different quarters of the community and educational groups. Will the Administration inform this Council if the Education Commission will release its report on the summary of views collected so as to let the public know what has and has not been accepted and the reasons for not accepting them? If the Administration does not release this report, local groups may not know why their views have not been accepted; is this what a responsible open government would do?*

DEPUTY PRESIDENT: I think just the first part of the question, Secretary for Education and Manpower.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr Deputy President, it has been a general practice that after public consultation, we will consider carefully all the views collected and the decisions made by the Government will of course be made public. Members of the public, particularly those who have sent in their views may know whether their views have been accepted. If not, there are still a number of avenues for them to reflect their views or to seek explanations from the Government. Normally the Government will not publish such submissions or summary of such submissions, because as a matter of fact, we are not sure whether the people who have submitted their views want to have them disclosed.

MRS SELINA CHOW: *Mr Deputy President, how will the Government ensure that new measures in ECR5, together with other measures arising from previous ECRs already adopted, such as TTRA and the whole-school approach, will not create indigestion in the education sector and confusion amongst parents, and thereby rendering their implementation ineffective?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, I think there are two essential approaches. I think the first and most important approach is to ensure that these measures form a coherent package which mutually reinforce each other. And secondly, the approach would be to publicize and to train all those involved in the implementation of the improvement measures.

### **Dangerous buildings**

5. *DR YEUNG SUM asked (in Cantonese): With regard to the incidents of collapse of old buildings in Sheung Wan and Central in 1990 and this year respectively, will the Government inform this Council:*

- (a) of the findings of the territory-wide survey that it has conducted on buildings in Hong Kong;*
- (b) whether there are plans to disclose information on the specific buildings in each of the categories identified in the territory-wide survey and where they are located; if not, what the reasons are; and*
- (c) whether inspections will be carried out on a regular basis to ascertain the structural safety of all buildings?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the answers to the three parts of this question are as follows:

- (a) In the survey undertaken by the Buildings Ordinance Office (BOO) in 1989 and 1990, the 55 000 private buildings then existing were surveyed externally and divided into three categories. Categorization was intended purely to indicate priorities for further work by the BOO. Category I buildings were those found to be in a condition requiring early action. There were 210 of them and all have either been demolished or repaired. Category II were those requiring detailed inspection; and they numbered about 16 700. About 5 000 have since been subjected to full and detailed inspection by BOO staff; and, where necessary, repairs have been, are being or will be undertaken. The remaining 38 590 buildings were put in Category III. This meant they were unlikely to require major repair within the next five years.

- (b) As already stated, the categories were devised to indicate BOO work priorities. Inclusion of a building in Category II does not necessarily mean there is anything wrong with it. Inclusion in Category III does not mean a building does not require regular inspection, maintenance and repair. When the turn of a Category II building comes for inspection, either by BOO staff or an authorized person, the owners will of course be notified. In the meantime, the message we wish to get across to all building owners is not which category they are in but that, irrespective of category, with the benefits of property ownership goes the responsibility to ensure regular and effective inspection, maintenance and repair. In short, if in doubt, assume your building is in Category II and get on with looking after it. This will also provide prudent protection of your investment.
- (c) Inspection of the remaining buildings in Category II is continuing; and the recent enactment of Buildings (Amendment) (No. 2) Ordinance 1992, which empowers the Building Authority to require owners of buildings in suspect condition to have their buildings investigated by an authorized person, will help speed this process up by reducing reliance on the BOO to complete it. It will also enable the possibility of requiring owners to have their buildings investigated on a regular basis to be considered. This could in due course cover all buildings, whether they are now in Category II or III.

DR YEUNG SUM (in Cantonese): *Mr Deputy President, in reply to my question just now, Mr EASON said that the buildings in the surveys could be divided into three categories. Category I buildings were those requiring early action, that is the so-called "dangerous buildings". Category II were those requiring detailed inspection and they numbered over 16 000, while Category III were those that did not require major repair in the next five years. In the second part of his reply, Mr EASON said that when the turn of a Category II building came for detailed inspection, the owners would be notified. Will the Administration make public the information on Category I and Category II buildings for the sake of public safety? I ask this because I am particularly concerned about the safety of the elderly. Or we may look at recent incidents involving dangerous slopes. The Administration thought in the first place that disclosing such information would undermine public confidence and affect the value of flats nearby; but nonetheless disclosed it in the end for the sake of public safety. Does it follow that the same could be applied to Category I and Category II buildings as well?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, all the buildings which, in the surveys referred to, were placed in Category I have, as I said previously, either been demolished or repaired. The

question of announcing whether buildings are included in Category II so that members of the public or owners of the buildings can make a decision as to whether those buildings are safe or not does not match, as I have pointed out earlier, the basis of the categorization. Categorization is purely to indicate a priority for the Buildings Ordinance Office to return to the building and inspect it in more detail. That inspection may establish, and in many cases has established, that there is nothing wrong with the building and that nothing needs to be done to it. So, as I have said in my main answer, I do not think the question of Category I or Category II is relevant to whether or not owners of buildings should have their buildings checked over, maintained and repaired.

MR MAN SAI-CHEONG (in Cantonese): *Mr Deputy President, the Administration has adequate information on the state of old buildings in Hong Kong, that is, their degree of safety. If information is withheld for fear of causing public anxiety, then in the event of collapse of buildings that may put the safety of occupants or passers-by at risk, will the Administration, apart from having a moral responsibility, also be legally responsible for hiding the truth and withholding information?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I think it is clearly established in law that when a building is confirmed to be dangerous or potentially dangerous, it can be closed; and at that time notices will be gazetted and pasted on the site to the effect that that building is dangerous, and steps will be taken to evacuate the occupants.

DR SAMUEL WONG: *Mr Deputy President, in order to make owners more aware of the state their buildings are in, would the Government consider making it mandatory for property transactions to include a certificate on the structural stability of the buildings?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I do not think the Government would wish to take steps which would provide unnecessary obstructions in the process of dealing in property in Hong Kong. However, it will consider all possible means to ensure that, where buildings do compromise safety, this will be made known publicly.

MR TIK CHI-YUEN (in Cantonese): *Mr Deputy President, many squatter huts in the New Territories may have structural problems, particularly those very dilapidated ones. Does the Administration have any plan to carry out a survey on them?*

DEPUTY PRESIDENT: I do not think this really arises from the main question or answer, Mr TIK.

### **Traffic accidents involving police vehicles**

6. DR CONRAD LAM asked (in Cantonese): *Will the Government inform this Council how many traffic accidents involving police vehicles have occurred in the past three years and how many of these accidents have caused injuries or deaths to pedestrians?*

SECRETARY FOR SECURITY: Mr Deputy President, the number of traffic accidents involving police vehicles was 887 in 1990, 858 in 1991 and 689 in the first 10 months this year.

In 1990, 11 persons were injured in 10 incidents involving injuries to pedestrians. The corresponding figures for 1991 and the first 10 months of this year were 16 persons in 15 incidents and 19 persons in 17 incidents respectively.

During the past three years one pedestrian died as a result of a traffic accident involving a police vehicle.

DR CONRAD LAM (in Cantonese): *Mr Deputy President, in a traffic accident this year involving a police vehicle, in which one pedestrian was killed and two other injured, the vehicle was travelling at the time on a bus-only lane. Will the Administration inform this Council whether directives have been issued to police drivers sanctioning them to act against general traffic rules? If yes, what exactly are these directives?*

SECRETARY FOR SECURITY: Mr Deputy President, police officers are advised to drive with caution, even when attending emergencies. They are permitted to use bus-only lanes when attending emergencies. In the case of the incident that Dr LAM referred to which occurred in September this year, a Police Sergeant from Cheung Sha Wan was driving in Shing Tak Street. As Dr LAM has indicated, a young boy died tragically as a result of that accident. In that particular case the Sergeant has been charged with three driving offences and is due to appear in court on 12 January next year.

DR LAM KUI-CHUN: *Mr Deputy President, of the accidents cited, in what percentage was the police vehicle at fault, and what was the total number of police vehicle drivers prosecuted last year?*

DEPUTY PRESIDENT: In giving your answer, Secretary, clearly no answer may be given which is likely to prejudice a pending case.

SECRETARY FOR SECURITY: Mr Deputy President, the number of prosecutions over the past three years have involved 181 officers. In addition, disciplinary proceedings have been taken against eight officers. I do not think I have answered the first part of the question; can it please be repeated?

DR LAM KUI-CHUN: *The first part of the question is: Of the accidents cited, in what percentage was the police vehicle at fault?*

DEPUTY PRESIDENT: Subject to the caveat no question may be asked which is likely to prejudice a pending case. We know there is at least one pending case.

DR LAM KUI-CHUN: *I am only asking for a percentage, Mr Deputy President.*

DEPUTY PRESIDENT: Well, be guided by my ruling, Secretary.

SECRETARY FOR SECURITY: Thank you, Mr Deputy President. I do not know the answer to this question. I shall give Dr LAM a written reply. (Annex II)

MR VINCENT CHENG: *Mr Deputy President, has the Government got any statistics on the causes of these accidents? How many, for example, were due to reckless driving by police vehicle drivers — excluding the pending court cases — if an answer is at all feasible?*

SECRETARY FOR SECURITY: Mr Deputy President, we have done an analysis of the cases and the reasons for these traffic accidents. They are in fact very similar to all traffic accidents.

MR LAU CHIN-SHEK (in Cantonese): *Mr Deputy President, in traffic accident cases involving police vehicles, many people dare not come forward as witness. Will the Administration inform this Council whether there are measures to put their heart at ease if they testify against the police when the police is at fault? If yes, how is the Administration going to make these known to the public?*

SECRETARY FOR SECURITY: Mr Deputy President, where a government vehicle of any description, including a police vehicle, is involved in an accident, the accident is investigated thoroughly and we do encourage witnesses to come forward. Police officers are prosecuted, as I have said, and clearly we do seek to ensure that in all these circumstances the truth comes out.

MR WONG WAI-YIN (in Cantonese): *Mr Deputy President, some police officers told me that a certain type of police vehicles formerly owned by the British Forces were given to the police. There may be problems with the functioning of these vehicles which made them unsuitable for use in Hong Kong. Will the Administration inform this Council how many of the traffic accidents involving police vehicles each year, which exceed 800, are due to mechanical faults?*

DEPUTY PRESIDENT: Without passing judgment on the first part of the question, can you answer the second part of the question, Secretary?

SECRETARY FOR SECURITY: Mr Deputy President, I will have to give a written response to the specifics of how many accidents involved mechanical faults. (Annex III)

REV FUNG CHI-WOOD (in Cantonese): *Mr Deputy President, as far as I can recall, injuries and fatalities in traffic accidents in the past three years were due to, among other things, faults of police officers. With reference to the statistics given in the answer, is the accident rate of police vehicles high or low when compared with that of other types of vehicles? Is the Administration satisfied with that figure? Are there measures to improve the situation?*

SECRETARY FOR SECURITY: Mr Deputy President, an analysis of the last three years would show that in general, for all accidents, about 40% involved fatalities, injuries to pedestrians and slight injuries. Looking more narrowly at the Police Force, the statistics are between 1% and 3%.

MR PETER WONG: *Mr Deputy President, to what extent does skid-pan or high-speed training for police drivers help to minimize accidents, and can such facilities be made available to the Hong Kong driving public?*

SECRETARY FOR SECURITY: Mr Deputy President, the police provide very thorough training at the Police Driving School for their own drivers. Whether or not this could be made available to the general public is something that I will have to consider. (Annex IV)



MR JAMES TO (in Cantonese): *Mr Deputy President, in 1990 there were 887 cases of traffic accidents involving police vehicles; may I know the total size of the police fleet then? Given that there were more than two traffic accidents per day, would the police not agree that the problem is so serious that it needs to be addressed?*

SECRETARY FOR SECURITY: Mr Deputy President, I think, in response to the last question, I indicated that the number of police vehicles involved in fatalities and injuries was much lower than for the general statistics on accidents. The total size of the police fleet at present is 2 177.

### **Written answers to questions**

#### **Debris falling from expressways and viaducts**

7. MR ALBERT CHAN asked (in Chinese): *As many residential areas such as Sham Tseng and Hing Shing Temporary Housing Area of the Tsuen Wan district which are located beneath the viaducts of the expressways are constantly at risk due to falling objects and gravel from vehicles plying along the expressways, causing injuries to the residents in these areas from time to time, will the Government inform this Council:*

- (a) *what measures are in place to ensure the safety of these residents; and*
- (b) *whether there are plans to erect fences along both sides of these viaducts or implement alternative measures to improve the present situation?*

SECRETARY FOR TRANSPORT: Mr Deputy President,

- (a) The problem is tackled in two ways. First, the Highways Department vacuum sweeps all expressways three times a week to remove any debris. Second, the police regularly patrol all major roads and expressways and take action against vehicles carrying insecure loads. During the first nine months of this year, 3 908 drivers were prosecuted for this offence.
- (b) The Administration will take additional measures to prevent debris falling from these particular sections of road. These include:
  - (i) installing 1 metre high metal panels on top of the existing 0.8 metre high concrete parapets on the viaduct above Hing Shing Temporary Housing Area, and 1.8 metre high

aluminium boards at the edges of the viaduct above Sham Tseng. Work will start next month; and

- (ii) increasing the frequency of road sweeping above these two locations.

### **Immigration and customs facilities at the Hung Hom Railway Station**

8. MR STEVEN POON asked: *In view of the increasing number of people travelling to China by through train, will the Government inform this Council:*

(a) *whether there is any plan to expand the facilities at the Hung Hom Railway Station for immigration and customs clearance; and*

(b) *if so, of the details and programme of such plan?*

SECRETARY FOR SECURITY: Mr Deputy President, there are plans to expand the immigration and customs facilities at Hung Hom Railway Station. A contract for the air-conditioning of the Customs and Immigration Hall at the Station has been let and work will be completed in June 1993.

The Kowloon-Canton Railway Corporation will consider releasing part of the railway podium concourse to provide room for four more immigration counters on completion of the new South Exit in late 1994.

Apart from these short-term measures, the Corporation is reviewing all its through train facilities, including queuing areas, waiting areas, and immigration and customs facilities. This review should be completed around the beginning of 1994.

### **Civic education on political development in Hong Kong**

9. MR PANG CHUN-HOI asked (in Chinese): *In view of the growing influence of political developments in recent years on the general public and the approach of 1997, will the Government inform this Council of the following:*

(a) *apart from the work being carried out by the "Committee on the Promotion of Civic Education", what other measures the Government will adopt to enhance civic education so that the public can have a better understanding of and show more concern for the political development of Hong Kong; and*

- (b) *whether consideration will be given to organizing, through the District Boards, seminars on political development throughout the territory, so as to educate the public at the district level on the "one country, two systems" concept, the Basic Law and the local political structure?*

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, the Government has always attached great importance to the promotion of public participation in the development of representative government in Hong Kong. Our prime objective is to encourage the public to take part in elections by registering as voters and turning out to vote. In this connection, promotion activities include a wide network for the distribution of voters registration forms; extensive home, office and factory visits; and large-scale promotional campaigns at both central and district levels, such as, broadcasting of APIs, screening of slides at cinemas, distribution of posters, publication of press advertisements, organization of candidate fora for every constituency and their broadcast on TV and radio before elections. In 1991, the Government spent \$15.91 million for the promotion of voter registration and public participation in elections.

In addition to the above, special efforts are targetted at cultivating proper understanding and interest in political development among our young people. Elements of Hong Kong's political structure and development are incorporated in the school curricula for subjects like social studies, economic and public affairs at both primary and secondary levels. For students who do not study these subjects, they are educated on the political development of Hong Kong through school civic education programmes. To assist schools in arranging these programmes, the Education Department has issued a set of "Guidelines on Civic Education in Schools". The Department also organizes in-service courses and seminars for teachers and provide schools with teaching kit and pamphlets on topics like elections, the Sino-British Joint Declaration and the Basic Law and so on.

It is for district boards to consider whether to organize seminars on political development. However, district civic education bodies established under the district boards and other local organizations have been very active in supplementing the work of the Committee on the Promotion of Civic Education in this respect. To cite a few examples, the Working Group on Civic Education of the Tsuen Wan District Board has organized exhibition and stall games on "elections", the Working Group on Civic Education of the Wan Chai District Board has organized workshops for students on "Understanding the Significance of Elections", the Methodist Ap Lei Chau Centre has organized a carnival to enhance public understanding of the Basic Law and elections in Hong Kong, and the Central and Western Centre of Caritas-Hong Kong has launched a series of activities in the district to enhance public understanding of political development.

**Pre-primary education**

10. MR CHEUNG MAN-KWONG asked (in Chinese): *As kindergarten education has not been given due attention in the Governor's policy address, will the Government inform this Council of the following:*

- (a) *the respective numbers of teachers enrolled in Qualified Kindergarten Teachers Courses and Qualified Assistant Kindergarten Teachers Courses run by the Government, as well as the wastage rates of these two types of trained teachers in the past three years; the Government's current stipulation on the qualifications and recommendation on the remuneration of kindergarten teachers so as to ensure the quality of these teachers;*
- (b) *regarding the cases of kindergarten operators employing unqualified teachers and not adhering to the recommended salary scale, whether the Government will consider introducing legislation to monitor this situation and ensure reasonable remuneration for trained teachers, so as to encourage teachers to receive training and reduce the wastage rate; and*
- (c) *whether the Government will consider subsidizing a portion of the kindergarten teachers' remuneration; and bringing kindergartens into the scope of subsidized education eventually so as to alleviate the burden of parents; if so; what the plans are; if not, what the reasons are?*

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

- (a) (i) The numbers of teachers enrolled in Qualified Kindergarten Teacher (QKT) and Qualified Assistant Kindergarten Teacher (QAKT) training courses and the respective wastage rates of these two types of trained teachers in the past three years were as follows:

	<i>1989-90</i>	<i>1990-91</i>	<i>1991-92</i>
<i>Number of teachers enrolled</i>			
two-year part-time courses for QKT	237	281	196
12 to 16-week part-time course for QAKT	289	378	483

	1989-90	1990-91	1991-92
<i>Number of teachers serving in kindergartens</i>			
QKT	1 105	1 255	)Figures
QAKT	1 826	1 779	)expected to be
			)available in
			)January 1993

*Wastage figures  
(% rate in brackets)*

QKT	122 (11.0)	119 (9.5)	) ) )As above
QAKT	246 (13.5)	243 (13.7)	) )

(ii) The Education Ordinance (Cap 279) requires the principal of a kindergarten to be a Qualified Kindergarten Teacher or its equivalent. Kindergarten teachers have to be Registered Teachers or Permitted Teachers as stipulated in the Education Regulations. The required qualifications include:

- (a) a teacher's certificate; or
- (b) a certificate of status as "Qualified Teacher", "Qualified Kindergarten Teacher" or "Qualified Assistant Kindergarten Teacher"; or
- (c) full-time secondary education of approved duration (at present set by the Director of Education at three years).

(iii) The salary scales recommended in the Education Commission's Report No. 2, and revised on 1 October 1991, for kindergarten teachers are as follows:

<i>Grade</i>	<i>Master Pay Scale points</i>	<i>Salary value in \$ per month (as at 1.4.1992)</i>
QKT	10 - 18	9 305 - 14 220
QAKT	3 - 11	5 995 - 9 875

- (b) The Government's policy is to enable all to have access to kindergartens by providing fee remission to those who need it and by subsidizing the rent and rates of non-profit-making kindergartens. The Fee Remission Scheme is being improved to allow more parents to become eligible for financial assistance, thereby making it possible for the operators to improve the quality of their teachers. In this connection, the Government will consider the need for legislation to achieve a minimum proportion of trained teachers.
- (c) In view of (b) above, the Government has no plans to subsidize directly a portion of kindergarten teachers' remuneration or to bring kindergartens into the ambit of subsidized education at the present time.

### **Territorial boundaries**

11. MR JAMES TO asked (in Chinese): *Will the Government inform this Council:*

- (a) *whether the boundaries of Hong Kong have been altered over the past 50 years; if so, the number of occasions; and*
- (b) *whether the existing boundaries have been recognized by China, Britain and Hong Kong and will be effective beyond 1997?*

SECRETARY FOR SECURITY: Mr Deputy President, the boundaries of Hong Kong as defined in Chapter 1, Interpretation and General Clauses Ordinance, have not been altered over the past 50 years. The Hong Kong Government is currently negotiating with the Guangdong Provincial Government to arrive at an agreed boundary of administration between Hong Kong and Guangdong which will be recognized by both sides and operated both before and after 1997.

### **Countryside safety**

12. MR CHIM PUI-CHUNG asked (in Chinese): *In light of an accident in August this year where a hiker fell from a cliff and died as a result, will the Government inform this Council:*

- (a) *of the number of fatal accidents involving countryside visitors in the past three years;*
- (b) *whether the Administration has reviewed and improved the safety facilities at the scene after the occurrence of each accident, such as putting up warning signs, and so on;*

- (c) *what mechanisms are in place to identify dangerous excursion spots in the countryside and to ensure the adequate provision of safety facilities thereat; and*
- (d) *whether it will consider stepping up publicity to alert the citizens to the importance of safety during their visits to the countryside in order to reduce the number of accidents?*

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

- (a) Eight fatal accidents involving countryside visitors have occurred in the past three years. There were five cases of drowning, two cases of falling and one case of sunstroke.
- (b) The Country Parks Authority has investigated the cause of each accident occurring in the country parks. Normally, where a hazard is identified which cannot be removed or fenced off, signs will be put up to warn visitors. This was done after a fatal accident on Fei Ngor Shan in August this year, for example.
- (c) During the design of hiking trails, locations which may be hazardous are identified and measures are incorporated into the design to improve safety as far as possible. In addition, as a part of the day-to-day management of the country parks, if potential hazards are identified by the park staff, action will again be taken to remove the hazard or provide warnings.
- (d) The message of countryside safety has already been widely publicized. A bilingual booklet entitled "Stepping Out — A Guide to Outdoor Recreation in Hong Kong", which provides safety advice to visitors to the countryside, is available to the public free. Safety messages are also included in leaflets showing hiking routes and in advertisements shown regularly on television. To step up publicity, the Country Parks Authority has recently asked hiking groups to help promote the safety message. For example, the Hong Kong Federation of Countryside Activities has set up a mobile display on countryside safety and distributes leaflets to the public at the Country Park Visitor Centres.

### **Alleged wrong administering of injection**

13. MISS EMILY LAU asked (in Chinese): *In reply to a question on the allegedly incorrect administering of injections at the Prince of Wales Hospital at the Legislative Council sitting on 6 November 1991, the Secretary for Health and Welfare stated that investigations would be completed shortly and that the*

*results would be made public. Now that a year has elapsed, will the Government inform this Council whether investigations have been completed; if so, what the results are; if not, what the reasons for the delay are and when the results will be made public?*

SECRETARY FOR HEALTH AND WELFARE: After full investigation into the case, the Board of Inquiry concluded that medication had been wrongly but unintentionally administered to the two babies by the nurse concerned.

It was the Government's intention to initiate disciplinary action against the nurse but she resigned from the Civil Service. However, the Nursing Board is examining the case under the Nursing (Registration and Disciplinary Procedure) Regulations to see whether it should go for a disciplinary inquiry.

In this light, I am advised by the Attorney General's Chambers that it is inappropriate to make public at this stage details of the conclusions and recommendations of the Board report concerning the actions of the nurse. However, an extract of other recommendations was presented to the OMELCO Standing Panel on Health Services at the meeting on 5 August 1992: a copy is at Annex A.

As a result of this unfortunate incident, the Hospital Authority reviewed the drug administration procedures and practices in public hospitals. This was completed in June 1992 when the Authority announced a set of recommendations for improving the system. A summary of these recommendations together with the proposed time-frame for implementation is at Annex B.

Annex A

Extract of Board of Inquiry Report

Recommendation

24. The Inquiry Board recommended the following to be implemented -

(a) On drug administration

The standard practice on drug administration should be tightly monitored, by routine checking by nurse in-charge of ward during ward rounds, and random checking by Senior Nursing Officer. This should be reinforced positively by creation and nurture of a general awareness and environment by the nursing administration among the nurses for compliance of the standard practice. The regular circulation of the guidelines on standard practice should be reinforced and staff at an appropriate level should ensure this be done. The level was suggested at Senior Nursing Officer.



## (b) On training

As the incidents had aroused public interest and concern among nursing staff, the Board suggested this case, when concluded, be taken as a case study in nurse training as it could strike stronger impact on the trainees in view of the public concern. If the suggestion is accepted, pseudonyms should be used.

## (c) On drug storage

Proper storage of drugs in wards should be monitored. Apart from the standard procedures of acquisition and collection of drugs which were being in force, the layout of drug storage in each ward for immediate use should also be standardized. Though checking is the ultimate guard against wrong administration of drug, standard layouts would facilitate checking. It is proposed that a working group should be formed to examine in detail drug storage in wards and make recommendations for improvement.

Annex B

Hospital Authority Review of Drug Administration Procedures  
Summary of Recommendations and  
Proposed Time-Frame for Implementation

<i>No</i>	<i>Recommendation</i>	<i>Implementation</i>	<i>Time frame</i>
I	Hospitals to review/draw up guidelines on drug prescription supply/storage and administration in line with the recommended practice in Chapter Four of the report.	i) HAHO to discuss with individual hospital and if necessary, to provide assistance/support.	End 1992
II	Model Medication Administration record (MAR) to be designed according to the requirements in para 4.4 of the report and be made available on No-Carbon Required (NCR) paper for use of all hospitals.	i) HAHO to design model MAR. ii) Feedbacks to be obtained from hospitals on the design. iii) Printing on NCR paper for trial in wards of 1-2 hospitals. iv) Modification on design and printing for use of all hospitals.	Early 1993

<i>No</i>	<i>Recommendation</i>	<i>Implementation</i>	<i>Time frame</i>
III	Hospitals to review existing drug storage facilities on an on-going basis and to seek improvement to the facilities as well as the organization of drug storage inwards.	i) to be discussed at Hospital Drug Committee involving the Hospital pharmacy staff. ii) HAHO to provide assistance/support.	on-going review and action.
IV	Drug trolleys with separate receptacles for individual patients to be provided to wards.	i) HAHO to co-ordinate the replacement of drug trolleys in all hospitals with priority given to busy wards.	over three years
V	A standard reporting mechanism/format to be established to collect statistics of medication error.	i) HAHO to design reporting format. ii) Discussion with individual hospitals for implementation.	end 1992
VI	Hospital Drug Committees to be set up in all Hospitals to formulate and implement Drug Administration guidelines and to monitor the incidence of medication error.	i) HAHO to discuss with hospitals for arrangement either to set up Drug Committees or to adopt additional Terms of Reference for Existing Drug Committee.	end 1992
VII	Continuing education in the form of seminars and lectures be organized and information leaflets and drug bulletin to be prepared for dissemination to staff on a regular basis.	i) HAHO to draw up a plan.	Sept 1992
VIII	Basic computer facilities to be extended to all pharmacies for stock control purposes and to enable the provision of comprehensive drug labelling for inpatients and outpatients.	i) HAHO to draw up plan for phased extension of PHS to hospitals and specialist clinics.	Extension of PHS to acute hospitals and specialist clinics in two years.
IX	To explore the feasibility and financial implication for introduction of automation technology for the dispensing process.	i) Feasibility study to be conducted for trial implementation in 1 to 2 hospitals.	mid 1993
X	A Central Pharmaceutical Services Committee to be set up to monitor the implementation of recommendations made in this report.	i) HAHO to work out the Terms of Reference and composition of the Central Co-ordination Committee on Pharmaceutical Services.	Committee to be set up in June/July 1992.

**Illegal parking at night**

14. MR ALBERT CHAN asked (in Chinese): *Illegal parking, rampant on a number of roads after nightfall, not only jeopardizes the safety of pedestrians, but also obstructs the access of rescue vehicles to the scene in case of emergency, thereby seriously endangering the lives and property of residents. Will the Government inform this Council:*

- (a) *of the existing policy regarding illegal parking at night; and*
- (b) *of the measures that will be taken to improve the present situation in order to safeguard public safety?*

SECRETARY FOR TRANSPORT: Mr Deputy President,

- (a) The police will always take enforcement action at any time of the day against illegal parking in situations where emergency vehicle access may be affected, or where illegal parking poses a danger to life or property.

In other cases, the general enforcement policy must of necessity be a matter of police priorities and depend on the availability of manpower in a given area at a particular time.

- (b) Various measures are being taken by the Administration to reduce the incidence of illegal parking and to alleviate any obstruction or road safety risks it may cause. These include:
  - (i) using vacant government land for parking, under short-term tenancies;
  - (ii) designating night-only on-street goods vehicle parking spaces at suitable locations in industrial areas where traffic conditions permit;
  - (iii) including appropriate parking standards in the Special Conditions of private lots to ensure adequate provision of parking spaces;
  - (iv) erecting railings and barriers to deter parking on footpaths in areas where this is a particular problem, and on steep roads where illegal parking may be a safety hazard; and
  - (v) considering an increase in the level of fixed penalty fines for illegal parking so as to maintain their deterrent effect.

**Electronic output/storage in government departments and public organizations**

15. MR ROGER LUK asked: *Will the Government inform this Council:*

- (a) *whether specific measures have been taken to rationalize the computer reports produced daily in government departments and other public organizations such as the Housing Authority; and the extent to which other forms of electronic output/storage for example, microfiches, have been used for the purpose of reducing the volume of hard-copy paper output; and*
- (b) *whether there are any plans to promote the use of alternative forms of electronic output/storage in government departments and public organizations?*

SECRETARY FOR THE TREASURY: As regards part (a) of the question, the possible need for computer-generated reports is examined at the technical design stage. Measures taken to rationalize the production and distribution of computer reports can be broadly described as follows:

- (a) Exception reporting and summary reporting — This is widely used to provide management information and essential information for operational control. The aim is to present data selected on the basis of prescribed criteria in a concise and clear manner.
- (b) Electronic report dissemination — Where there are already established on-line data communication networks, government departments make use of them to distribute computer reports to selected user offices without the need to print hard copies. For example, statistical tabulation reports of the Census and Statistics Department (C&SD) can be searched, viewed and selectively downloaded to personal computers for further processing by staff of the department or users of other departments who have been given access to the C&SD network.

Where direct electronic data communication is not yet in place, the transfer of computer reports can be achieved by means of floppy diskettes. For example, the Housing Authority makes use of this technique to transfer material testing results between testing laboratories. Various government departments also use a similar arrangement to pass publication materials to the Government Printer for printing.

- (c) Electronic archives — Where there is an absolute need to retain voluminous computer reports, the use of magnetic tapes or microfilms as an alternative to paper records is very common. The

Information Technology Services Department has been providing Computer Output Microfilming (COM) services to government departments since 1982. Computer reports are directed automatically onto magnetic tapes which are then passed to the COM service for microfilm production. Major users of this service include Immigration Department, Treasury, Inland Revenue Department, Census and Statistics Department, Education Department, Social Welfare Department, Water Supplies Department and Trade Department. The use of magnetic tapes for longer-term storage of computer generated reports is also standard practice amongst all government departments.

As regards part (b) of the question, the Government continues to pursue the most cost-effective means of delivering information stored in, and output from, computers to its users in government departments and the public. For example, the Government is committed to promoting the use of electronic data transfer in close co-operation with the trading community. Electronic data interchange facilities are being developed to enable the processing of textile export licence applications and import/export trade declarations electronically through direct computer links with traders.

The use of imaging technology as an alternative form of electronic output/storage is also being pursued by the Government. Such systems have been implemented in the Housing Authority and the Inland Revenue Department. Projects are also in the pipeline for the Intellectual Property Department, the Information Services Department and the Registrar General's Department.

### **Triad involvement in repossessing buildings**

16. MR MAN SAI-CHEONG asked (in Chinese): *Recently, cases allegedly involving triad syndicates in bids to recover possession of buildings through intimidation tactics occurred in Wan Chai, Sham Shui Po and other districts, causing the affected residents to live in fear. In this connection, what measures will the Government take to help those residents and curb the occurrence of such incidents?*

SECRETARY FOR SECURITY: Mr Deputy President, when cases of triad syndicates attempting to recover possession of buildings through intimidation tactics are reported to the police, prompt action is taken to help the residents involved. The measures have been effective in curbing the occurrence of such incidents.

On receiving complaints or reports of an alleged crime relating to the repossession of buildings, the police will conduct investigations to ascertain whether any offence has been committed. Offences may include criminal

intimidation, blackmail, criminal damage or assault. Case enquiries include a background examination of the parties involved and checks on whether similar incidents, in which the landlord has attempted to repossess the premises, have been reported before. Consideration is also given to possible offences under the Landlord and Tenant (Consolidation) Ordinance, Cap 7, which provides for offences involving harassment and unlawful eviction of tenants. In appropriate cases, charges will be brought against those suspected by the police to have committed offences.

Where there is no evidence of any offence, the police will refer the case to the Commissioner of Rating and Valuation with a view to settling the dispute by mediation.

### **Nuisances caused by air-conditioning systems**

17. MR TAM YIU-CHUNG asked (in Chinese): *Will the Government inform this Council:*

- (a) of the number of complaints received by the relevant government departments in the past three years about nuisances in commercial/residential buildings caused by air-conditioning systems with inadequate insulation facilities;*
- (b) how these complaints were handled and the outcome; and*
- (c) whether there is any legislation to deal with the situation mentioned in (a) above; if not, whether consideration will be given to reviewing the relevant legislation with a view to introducing proper controls?*

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

- (a) The number of complaints associated with air-conditioning systems in commercial/residential buildings numbers several thousand each year; the Urban Services Department and the Regional Services Department received 4 678 such complaints in 1991. The majority of these complaints are about water dripping from air conditioners. Only one complaint regarding insulation has come to attention. This involved condensation forming on the floor of a flat which the occupier suspected was caused by the air-conditioning system of a photo-finishing shop on the floor below.
- (b) The Public Health and Municipal Services Ordinance (Cap 132) empowers the Urban Services Department and the Regional Services Department to deal with nuisances arising from the improper

functioning of air-conditioners. (Noise nuisances are dealt with by the Environmental Protection Department under the Noise Control Ordinance). The method of dealing with the majority of the nuisances mentioned in (a) is that a Health Inspector, when satisfied that a nuisance is caused, will give verbal advice on ways and means to abate the nuisance. The majority of complaints are resolved in this way. However, if the nuisance persists, a Nuisance Notice will be issued to the offender under section 127(1) of the Public Health and Municipal Services Ordinance. Any person who fails to comply with a Nuisance Notice is liable for summary prosecution under the Ordinance, but the majority of such Notices are complied with. In the case mentioned in (a), the occupier of the shop has been advised to provide a measure of insulation for the air conditioning system.

- (c) The legislation to deal with situation mentioned in (a) is outlined in (b). These arrangements are considered satisfactory and not to be in need of review at present.

### **Advertisements for the sale of overseas properties**

18. MR FREDERICK FUNG asked (in Chinese): *Will the Government inform this Council:*

- (a) *whether there is any legislative control over advertisements for the sale of overseas properties; if not, whether consideration will be given to imposing such control; and*
- (b) *whether there are official channels for complaints about misleading information in sales advertisements?*

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, where the transaction of overseas properties takes place in Hong Kong and money is obtained from the purchaser by deception and in circumstances of dishonesty, there is a possible criminal sanction under the Theft Ordinance. Consumers may refer relevant cases to the police for action.

If the advertisements associated with overseas properties suggest that the purchase is for investment purposes, they will fall within the scope of the Protection of Investors Ordinance. Consumers may refer these allegedly false advertisements to the Securities and Futures Commission for action.

There may be a civil claim in a misrepresentation or deceit relating to property transactions under common law and the Misrepresentation Ordinance.

Also the Consumer Council has good contacts with its overseas counterparts and is developing new contacts with relevant authorities in Guangdong and neighbouring Special Economic Zones. Consumers may refer complaints against allegedly false advertisements on overseas properties to the Council to see whether the Council can, through its contacts, verify the contents. Having collected the necessary evidence, the Council may expose the case to enhance consumer awareness and, where appropriate, refer it to relevant parties for action.

### **Data protection legislation**

19. MR ROGER LUK asked: *Will the Government inform this Council:*

- (a) *of the progress of the work of the Data Protection Legislation Working Group and the Law Reform Commission's Subcommittee on Data Protection, and of the arrangements that are in place to ensure that the work of the two groups is co-ordinated and co-operative;*
- (b) *of the target date for enactment of data protection legislation in Hong Kong; and*
- (c) *whether there is any evidence that European countries may stop exchanging data with Hong Kong on credit ratings, medical records, insurance details, and criminal records, and so on, if Hong Kong does not have its own data protection legislation within the next three years; if so, what measures will be taken to expedite the necessary preparation of the legislation?*

SECRETARY FOR HOME AFFAIRS: Mr Deputy President, to date, the Working Group on Data Protection Legislation under my chairmanship has examined the data protection legislation in force in a number of countries including Canada, Finland, Germany, the Netherlands, Sweden, the United Kingdom and the United States of America and assessed their applicability to Hong Kong. We have further deliberated on the features to be embodied in a legislative framework appropriate for Hong Kong, as well as the arrangements for the administration and enforcement of the protection scheme, such as the establishment of a data protection authority. Other aspects currently under examination include legal sanctions against breaches of data protection provisions, possible exemptions from compliance and other miscellaneous issues.

Since March 1990, the Law Reform Commission's Privacy Sub-committee has been examining the protection of personal information in recorded form. Its terms of reference are broader than those of the Working Group, not being restricted to automated data. It has so far held 46 meetings and intends to



publish its interim report on data protection for public consultation in February 1993. Taking into consideration the feedback received, the Subcommittee will finalize its recommendations of a proposed model on data protection legislation.

To ensure that the work of the Data Protection Legislation Working Group and the Privacy Subcommittee is co-ordinated, two members of the Working Group were appointed as members of the Subcommittee from the outset. In addition, the secretaries of the two groups maintain regular liaison.

The proposals put forward by the Privacy Sub-committee following the public consultation exercise will serve as a useful framework on which my Working Group will finalize its deliberations and devise an appropriate system of data protection legislation for Hong Kong, after having due regard to technical, financial and other constraints. The Working Group hopes to present draft legislative proposals to this Council for consideration in early 1994.

The Working Group is not aware of any instances where European countries have refused to exchange data with Hong Kong on the grounds that the latter does not have its own data protection legislation. However, the European Community Commission's revised draft Directive on Data Protection of 15 October 1992 envisages restrictions on the transfer of personal data to third countries which "lack an adequate level of protection". The current deadline set by the Commission for adoption of the Directive is 1 July 1994. It has further proposed to give an additional transitional period of no longer than two and a half years for processing operations which began before the entry into force of the Directive.

It can be seen from the above that the timing of our planned introduction of data protection legislation is in alignment with that of the European Community Directive.

### **Postal service**

20. MR HENRY TANG asked: *Will the Government inform this Council of:*

- (a) *the number of postmen deployed on delivery duties on Hong Kong Island, Kowloon and the New Territories respectively in each of the past three years; and*
- (b) *the target delivery time for local mail items, whether and to what extent the target has been achieved, as well as the measures that will be taken to ensure that the set target is met?*

## SECRETARY FOR ECONOMIC SERVICES:

- (a) The number of delivery postmen deployed by area for the past three years is as set out in the table below:

	31.3.90	31.3.91	<i>As at</i> 31.3.92	31.10.92
Hong Kong and Outlying Islands	512	531	553	580
Kowloon	603	631	618	626
New Territories	356	385	444	478
Total	1 471	1 547	1 615	1 684

- (b) The target delivery time for local mail items is delivery by the next working day after posting. Achievement of this standard is measured by a dedicated team within the Post Office, selecting sample mail bags for inspection. In 1989, 96% of local mail met the standard; the figure has since risen to 97%. This target does not apply to postings made in bulk which may take longer to process and deliver. To improve further on delivery times, the Postmaster General is considering the possible procurement of packet sorting machines.

**First Reading of Bills****TRADING FUNDS BILL****ROAD TRAFFIC (AMENDMENT) (NO. 3) BILL 1992****REGISTRAR GENERAL (ESTABLISHMENT) (TRANSFER OF FUNCTIONS AND REPEAL) BILL**

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

**Second Reading of Bills****TRADING FUNDS BILL**

THE SECRETARY FOR THE TREASURY moved the Second Reading of: "A Bill to enable certain services of the Government of Hong Kong to be financed under trading funds established by resolution of the Legislative Council on the recommendation of the Financial Secretary and for related matters."

He said: Mr Deputy President, I move that the Trading Funds Bill 1992 be read the Second time.

The Bill seeks to provide a framework for the subsequent establishment by individual resolutions of this Council of trading funds in certain government departments. A trading fund is a financial and accounting arrangement which would enable a department to operate more like businesses, where this is appropriate, while remaining as part of the Government. The objective is to improve the quality of service to customers.

A department would receive payments from its customers, in the private or public sector, for services provided under a fund. Such payments would be credited to the fund rather than to general revenue. The department would meet its expenditure from the fund, and it would be required to balance income and expenditure, taking one year with another.

This arrangement would enable a department which provides services on a cost-recovery basis to respond to the changing needs of its fee-paying clients more promptly. For example, if demand for its services increased, revenue from fees would also increase: the chief executive of the trading fund could then decide to use such increased revenue to acquire the additional resources necessary to maintain a good standard of service by, say, taking on more front-line staff or acquiring more equipment. Such a prompt reaction to changes in demand is inhibited by the existing systems of accountability under which funds are allocated at the beginning of each financial year.

Mr Deputy President, I wish to emphasize that the establishment of trading funds would not change the status of departments in any way. Departments operating under trading funds would remain government departments; their assets would remain government assets; their staff would remain civil servants.

A trading fund would be established by a resolution of the Legislative Council. The resolution would appropriate to the fund the assets employed in the designated operations and may provide cash injections both from the Capital Investment Fund and from the Loan Fund. The trading fund would normally be required to pay interest on any loan which it received and to repay such loans in accordance with the terms on which they are granted.

A chief executive would be appointed to control and manage each trading fund. He would be required to prepare an annual business plan and a medium range corporate plan which set out, amongst other things, the performance standard which his department would be aiming to achieve, investment and staffing proposals and financial projections. The business plan would be subject to agreement by the relevant Policy Secretary, and would provide the basis against which the performance of the chief executive and of the department in the coming year would be judged. It would enable the Policy Secretary to

satisfy himself that a good standard of service would be provided at a reasonable cost.

The chief executive would need to devise procurement and financial regulations appropriate to the trading fund's operation, subject to any direction the Financial Secretary may issue. Certain existing staffing controls, such as the creation of directorate posts and the creation of new ranks, would continue to apply. But, provided that financial and performance targets are met, trading funds would not be subject to establishment ceilings, and the chief executive would be free to adjust the non-directorate establishment of his department to meet its operational needs.

The majority of government fees and charges are prescribed by law. Adjustment to such fees and charges can only be made with the approval of the Governor in Council or by resolution of this Council. Such arrangements would continue to apply to a trading fund.

Clause 3 of the Bill provides for the establishment of individual trading funds by resolution of the Legislative Council.

Under clause 6, the Financial Secretary may issue directions to the chief executive for the control and management of a trading fund.

Clauses 7 and 8 provide that the chief executive will ensure that proper accounts are kept as required by the Director of Accounting Services and that the statements of annual accounts shall be examined and audited by the Director of Audit. It also provides that the Financial Secretary shall table the annual report, annual accounts and the report of the Director of Audit in the Legislative Council.

If the Financial Secretary is satisfied that there are surplus moneys in excess of reasonable future requirements of the fund, by clause 10 he may direct that such moneys be transferred into the general revenue. Further, if fees authorized by an Ordinance are structured so as to recover more than the cost of a service provided, the Financial Secretary may direct that a proportion of the fees collected be paid from the fund into the general revenue.

The winding up of a trading fund is provided for by resolution of this Council under clause 12.

The Companies and Land Registries in the Registrar General's Department are the first candidates for the introduction of trading funds. Subject to the passage of the Bill, separate resolutions to establish trading funds in these two Registries will be submitted to this Council. A programme for identifying other departments suitable for trading fund status will be developed separately.

*Bill referred to the House Committee pursuant to Standing Order 42(3A).*

**ROAD TRAFFIC (AMENDMENT) (NO. 3) BILL 1992**

THE SECRETARY FOR HEALTH AND WELFARE moved the Second Reading of: "A Bill to amend the Road Traffic Ordinance."

She said: Mr Deputy President, I move that the Road Traffic (Amendment) (No. 3) Bill 1992 be read the Second time.

In order to encourage disabled persons with walking difficulties to participate in community activities, it is the Government's policy to provide them with special transport services, and exemptions from payment of certain fees and duties on self-driven private cars. Thus, the first part of the Bill seeks to provide a proper legal framework for the exemption of disabled drivers from the payment of parking fees at metered parking spaces. The exemption will relieve disabled drivers from the burden of having to return to their cars at regular intervals to pay parking fees. We hope that this, and other concessions being offered to disabled drivers, would provide a further encouragement for them to fully integrate into the community.

If the Bill is approved, I propose to defer its commencement date by one month to allow the Transport Department to make the necessary administrative arrangements for the issue of new disabled person's parking permits.

As regards the second part of the Bill, it seeks to expressly empower the Governor in Council to make regulations to regulate traffic for the purpose of environmental protection. This will enable the Commissioner for Transport to implement traffic management scheme to minimize the impact of traffic noise on sensitive receivers. One of these schemes is the Tsing Yi Traffic Management Trial Scheme which aims to divert the flow of heavy vehicles on Tsing Yi Island. This Scheme will relieve the majority of Tsing Yi residents from night-time traffic noise and has the support of Kwai Tsing District Board. To ensure that local residents are fully apprised, relevant government departments will consult the Kwai Tsing District Board again before they formally launch the Trial Scheme.

Mr Deputy President, although the two proposals of the Bill promote two vastly different policy objectives, they do share a common goal, namely, to improve the quality of life of our fellow citizens.

*Bill referred to the House Committee pursuant to Standing Order 42(3A).*

**REGISTRAR GENERAL (ESTABLISHMENT) (TRANSFER OF FUNCTIONS AND REPEAL) BILL**

THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS moved the Second Reading of: "A Bill to provide for the amendment of Ordinances consequential on the transfer of the functions of the Registrar General and

certain functions of the Land Officer and the change of title of the Land Officer and the Land Office to Land Registrar and Land Registry respectively and for the repeal of the Registrar General (Establishment) Ordinance."

He said: Mr Deputy President, I move the Second Reading of the Registrar General (Establishment) (Transfer of Functions and Repeal) Bill. The Bill seeks to give legal effect to the re-distribution of the functions of the Registrar General's Department. This will involve the transfer of various statutory functions from the Registrar General and the Land Officer to the Director of Buildings and Lands, the Land Registrar and the Registrar of Companies. In addition, functions in respect of Chinese customary rights in New Territories land matters will be transferred to the Secretary for Home Affairs.

The Bill also seeks to preserve the rights of officers transferred from the Registrar General's Department to other departments. For example, legal officers will continue to be exempt from jury service and their voting rights in the legal functional constituency will be maintained.

The primary objective of the re-organization of the Registrar General's Department is to achieve greater efficiency in the delivery of services to the public. Because of the diversity and the complexity of the services delivered by the department, they would be better delivered by separate new entities and in some cases if they were transferred to other existing departments. Statutory functions which have already been transferred to separate new departments are those now performed by the Office of the Commissioner of Insurance, the Intellectual Property Department and the Official Receiver's Office. The Offices of the Official Trustee, Judicial Trustee and Official Solicitor have been transferred to the Legal Aid Department.

The remainder of the Registrar General's Department will be divided into two new stand-alone entities, namely the Land Registry and the Companies Registry. At the same time, the Legal Advisory and Conveyancing Section of the Department will be transferred to the Buildings and Lands Department.

As my colleague, the Secretary for the Treasury, has already pointed out in moving the Second Reading of the Trading Funds Bill earlier this afternoon, the Land Registry and the Companies Registry are intended to be operated on a trading fund basis. This will require them to deliver their services to the public in a more customer-oriented and efficient manner, while continuing to be part of the government organization.

Thank you, Mr Deputy President.

*Bill referred to the House Committee pursuant to Standing Order 42(3A).*

**Members' motions****A COMMUNITY-WIDE RETIREMENT PROTECTION SYSTEM**

MR TAM YIU-CHUNG moved the following motion:

"That this Council takes note of the Government's proposals in the consultation paper "A Community-wide Retirement Protection System" and urges members of the public to comment on the proposals or to suggest alternatives before the expiry of the consultation period on 31 January 1993."

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, I move the motion standing in my name in the Order Paper.

The long-awaited consultation paper on retirement protection has finally made its stage appearance but attracted surprisingly little response. Apart from a handful of press commentaries and a precious few seminars, one does not have the feeling at all that public consultation on such an important paper is going on. The response in the press is limited to the printing of comments of political groups and academics; the seminars are all discussions held within small circles. In casual chats with friends, I find that many of them simply are not aware of the Government's recommendations on retirement protection, recommendations that will have important effects on them. I feel that the public's present indifference is very incompatible with the important and far-reaching implications of the consultation paper. It appears that everybody's attention is being drawn to the political system. While I think that the political system needs to be discussed a great deal, I also think that retirement protection needs to be given more attention and consideration.

So I am moving the motion today. In doing so, an important purpose is to appeal to members of the public to express their views about a retirement protection system, doing so along many different channels and in many different ways and doing so before 31 January 1993, the closing day of public consultation. I also appeal to them to put forth counter-proposals for supplementing or revising the relevant recommendations, thus taking real and positive action in response to the Governor's initiative in promoting counter-propositioning as a trend. I think that the Government should not just sit there and wait to receive well-written position papers as it did in past rounds of public consultation; it should act with initiative to find out how the citizens feel and what they think. I think that, because retirement protection affects almost everybody, there are bound to be all kinds of thoughts and feelings about it. The public's thoughts and feelings may be very plain and crude. Still, as voices from the heart, they do not readily lend themselves to generalization in well-written position papers. Nor can their nuances be caught by one who relies on the stereotype public consultation process to which the Government is accustomed.

I have a few thoughts concerning how public consultation may proceed more satisfactorily during the next two months. First of all, I think that the Government should adopt a positive and aggressive approach. The Government should sponsor television and radio commercials and distribute public information leaflets and posters. It should make use of the media to draw the public's attention to the substance of the consultation paper. It should hold dialogues with the public to answer their questions and to provide them with the information they need. At the same time, it should find out what the public thinks by using questionnaire forms, taking public opinion polls, holding interviews and so forth.

Within labour circles, the six labour representatives on the Labour Advisory Board and the two labour representatives in the Legislative Council have held retirement protection question-and-answer sessions for all Hong Kong trade unions. I now appeal to all political groups, trade unions, labour organizations, community organizations and district boards to do more work among their members or within their districts to help the public consultation process.

In addition, I would like to appeal to the electronic and print media to create the right atmosphere for public discussions of the consultation paper. I hope that we will soon see many special programmes, question-and-answer sessions, public consultation meetings and so forth, where people from all trades may speak up on what they think, on how retirement protection will affect their respective trades, on what they expect from retirement protection and on what kind of retirement protection will be the best for them.

With regard to the substance of the consultation paper, I feel that it will be worth the public's while to pay attention to, and find the answers for, four questions. First, do you feel that the retirement benefits mentioned in the consultation paper are sufficient? Second, do you feel that the safeguards mentioned in the consultation paper are reliable? Third, are the retirement protection recommendations of the consultation paper suitable for your particular trade? Fourth, do you have better suggestions in your mind?

I will now talk about my own doubts and views concerning these four questions. I hope that the Government will respond to my doubts and give consideration to my views.

First, will the recommended retirement benefits be sufficient? The consultation paper recommends that "a level of retirement benefits equal to 40% of the average career earnings in real terms of the majority of the workforce should be adopted". There is a great deal that is unclear in the language of this recommendation. For instance, statistically speaking, what is the meaning of "the majority of the workforce"? What are the assumptions behind "earnings in real terms"? How are these assumptions derived? Also, the "career" concept is not clearly explained. In the public consultation process, the Government



indeed must use simple figurative examples to clarify the meanings of concepts. It should not confuse the public by using words with vague meanings.

Also, to talk about a figure of 40% as the level of retirement benefits is to make a very broad statement. It is simply not clear how a 10% contribution rate will lead to this 40% level of retirement benefits. The consultation papers' Appendix IV and Appendix V use assumptions of investment earnings, salary increases and CPI increases. It is not clear where these assumptions come from. Is the investment earnings assumption based on past performance? If so, which companies' past performance is it? Where does the estimate for salary increases come from? The CPI increase is assumed to be 5%. Why is it so different from the 8.78% that is the average for the past 20 years? Is this assumption not overly optimistic?

Appendix V uses two other assumptions. One is the assumption of no pension increases. The other is the assumption of cost of living pension increases, that is, the assumption that an individual receives salary increases throughout his working lifetime in line with salary inflation. The two assumptions lead to very different retirement benefits. Using the first assumption of no pension increases, monthly pension is only 33.4% of monthly salary, which is far below the 40% recommended by the consultation paper. But I think that, if you want to go on living after retirement, you must use the assumption of salary inflation. Therefore, I hope that the Government will elucidate the fact which is that, using the second assumption, a 10% contribution rate will not lead to a 40% pension.

Another thing is that the recommended retirement protection system will be of very limited attractiveness to those employees who are near the retirement age or whose salaries are low. This is because those who will not be making contributions for long or whose salaries are low will receive retirement benefits in amounts close to the amount of public assistance. One can imagine the many not-so-young employees who are now living in great hardship and who are looking forward to the day when they will be able to use retirement benefits to improve their living standard. They will still have to live in distress by relying on meagre old age allowances. As for those employees who are younger but whose salaries are low, they will, after making contributions for several decades, still have to share the same fate as the above-described not-so-young employees. Will the Government remain unmoved?

Secondly, are the safeguards reliable? I feel that the safeguards recommended in the consultation paper are not reliable at all. The consultation paper insists on private management for pension funds. But the risks of private management are known to all; they are very clear to the Government as well. Some academics have noted the absence anywhere in the world of examples of privately managed provident funds. This is in contrast to the prevalence of examples of successful management and operation by government bodies. Retirement contribution is to be compulsory; yet pension funds are to be privately managed. This is like forcing every employee to take a risk. Who can

bear to see his contributions of several decades, which are his hard-earned money, go down the drain? Therefore, if one really has the well-being of the millions of employees in mind, there should be a centrally controlled pension fund. This is our aspiration. It is also the necessary trend of development.

There is only one way out for private management. In the long term, it must make the transition to centralization. Therefore, the Government should make proper preparations for this transition to centralization. The Government should set up a transitional mechanism in advance, lest there be disorder at the time of centralization

Thirdly, are the retirement protection recommendations appropriate for all trades? The consultation paper has no recommendations for those who are paid by the day, those who are paid by the hour, those who are paid piece-rate wages, those who are temporary workers on a long-term basis, or those who will be making contributions for unusually short periods because they will be retiring very soon. I believe that we need to have more detailed information about all trades. The Secretary for Education and Manpower said that there would be "custom-made" schemes for all. I hope that the talk about "custom-made" schemes will not turn out to be an unfulfilled promise or a delaying tactic. I hope that, as a result of public consultation, the concept "custom-made" will take concrete shape.

Fourthly, are there better retirement protection options? The consultation paper notes that one term of reference of the Working Group is to assess the practicability of possible options. Regrettably, the consultation paper neither provides detailed descriptions of other options nor assesses them comprehensively and systematically. There is not a range of options to choose from. In the forthcoming round of public consultation, the Government should not regard its own recommendations as the only option. This would narrow the public's field of view. Instead, the Government should objectively provide descriptions of other options and provide ample information on them for consideration by the public.

In sum, the consultation paper is flawed in many places. Still, as the first step of practical work on community-wide retirement protection, which is unprecedented in Hong Kong, it is good news. I hope that the Government will apply remedies to the consultation paper where it is flawed. The Government should clarify the theories and assumptions used in computing retirement benefits, as well as the sources of statistics and the method of computation, and thus let the public understand what the consultation paper is talking about. At the same time, I hope that, provided with the views of the public, the Government will keep on improving this retirement protection plan.

Mr Deputy President, I beg to move.

*Question on the motion proposed.*

DEPUTY PRESIDENT: I would remind Members of the decision of the House Committee that Members' speeches be limited to seven minutes.

MR STEPHEN CHEONG (in Cantonese): Mr Deputy President, I can assure you and Members that I will not speak for over seven minutes today.

The present discussion is about the motion moved by Mr TAM Yiu-chung on "A Community-wide Retirement Protection System". I think the greatest concern in this matter is the Administration's commitment in the implementation of the scheme. The success of this scheme hinges on a strong commitment.

I do not think the Administration has demonstrated a strong commitment in the consultation paper. This is not only regrettable but is also worrying since the substantial amount of contributions made under the Administration's compulsory retirement protection scheme is to be administered entirely by private organizations. However, given the present political circumstances, this may be a time bomb for the future Hong Kong. In the light of the unclear political situation, the economy is likely to shrink and this may in turn affect private organizations in making administrative and operating decisions. In the event that the Sino-British relationship continues to deteriorate or even breaks up — I of course would not like to see this happen — private organizations may seek alternative and better bases to site their operations in the light of the worsening investment climate. They may be redomiciled and at the same time may transfer managerial staff out of Hong Kong.

If this situation really happens, there will be no way of recovering the contributions of all the employees of Hong Kong. How will retirement be protected then? In this important issue, I cannot see why the Administration is reluctant to take up the responsibility to centrally co-ordinate and manage the scheme unless the Administration wants to shirk its responsibility or the much-publicized scheme is just intended to let people have a taste of sweetness and when it comes to the actual implementation work, it would be done perfunctorily.

Here, I strongly urge the Administration to pledge full commitment to the implementation of this retirement protection scheme. I also hope other colleagues and social groups will urge the Administration to take up this responsibility as well. The Hong Kong Federation of Industries which I represent would support a central provident fund scheme. The Administration should not, in doing it by halves, come up with an imperfect scheme which would put at risk the long-term entitlement of all the employees of Hong Kong.

With these remarks, I support the motion.

MR HUI YIN-FAT (in Cantonese): Mr Deputy President, in recent policy-making, the Government has several times given conflicting choices to the public. The Governor's constitutional package provides one clear example. Nor is the consultation paper *A Community-wide Retirement Protection System* any exception. Frankly, unless the Government makes major changes in its recommendations therein, I will not dare commend them to the public.

As colleagues may recall, the Government agreed in November last year to study a compulsory retirement protection system only after it had rejected the setting up of a central provident fund. What prompted it to do so was no other than the fact that the introduction of directly elected seats and the reduction of appointed seats had brought about in this Council's voting pattern a major change that was very unfavourable for the Government. Actually, if we review how this Council and citizen groups, as well as academics, have been asking the Government again and again over the past 25 years to expedite the establishment of a community-wide retirement protection system, we will find that the Government, which is interested only in taking a piecemeal approach to problem-solving, is still lacking in sincerity today about setting up a sound retirement protection system for all the people of Hong Kong.

In my opinion, a major explanation for this is the Government's persistent reluctance to assume responsibility for the management of retirement contributions, to "become physically responsible for losses," as the saying goes. Thus, the Government all along used employer interests as a shield to ward off slings and arrows and repeatedly rejected the establishment of a central provident fund in which the Government necessarily had to participate. Then, when the voting pattern in this Council changed unfavourably for the Government, a Working Group was set up to conduct a review and make a study. In doing so, the Government seeks not only to neutralize public pressure but also to seize the initiative to devise a system in disregard of public opinion, a system that will provide the Government with both an opportunity and an excuse to disengage itself. The Government's attitude towards a universal retirement protection system is indeed disappointing.

One term of reference of the Working Group responsible for drawing up this consultation paper is "to assess the practicability of possible options for community-wide retirement protection." However, as far as I can see, the Working Group cannot escape the suspicion of being tendentious in its review of options and in its conclusions. The fact is that there are many feasible options other than the central provident fund. They include the universal retirement protection system put forth by the Hong Kong Society for Social Security and the centrally run compulsory retirement protection system which has the support of the Hong Kong Council of Social Service. However, in its consultation paper, the Working Group uses extremely strained arguments in the space of only three paragraphs to refute the advantages and the feasibility of all retirement protection options that require government participation. Such an approach to the review of options is tendentious, if not frivolous, and shows a partiality for a particular option.

In fact, much of the "employment-related retirement protection system" recommended by the Working Group is questionable. One important assumption supporting the feasibility of that recommendation is that "a figure of 40% of the average career earnings in real terms of the majority of the workforce should be adopted as the level of retirement benefits". However, the consultation paper fails to explain the method of computation. Worse yet, it ignores the cause-effect relationship where the longer a retired person lives, the less will his monthly benefit become.

Also, it can be said that employees about to reach retirement age, housewives and disabled persons with few employment opportunities will be totally without retirement protection. It is the intention of the Working Group that these people should only rely on assistance under the social security scheme, the amount of which will never be enough to support a reasonable living standard. Clearly, then, the Working Group's recommendations can at the most ease the heavy strain that the aging population of Hong Kong will bring to bear on social resources in the early part of the next century. They simply will not help to solve the community-wide problem of life after retirement.

I do not intend to reject the consultation paper totally. However, since it is a decision made by the Government after considering the voting situation in this Council, I urge the Government to adopt a serious attitude, to respond honestly to the future needs of society and to act in accordance with the wish of the public. Further, I would like to appeal to all citizens not to be turned off by the Government's unreasonable attitude and not to give up their opportunity to offer comments during the public consultation period, especially comments on the Government's insurance of retirement contributions against all financial risks and on universal pensions, lest the Government be provided with an excuse for deciding against all retirement protection options or for acting just as it pleases.

Mr Deputy President, the purpose of this Council's debate today is to heighten public awareness and to encourage the public to express their views. I have decided to propose another debate in this Council after the conclusion of public consultation. Thus, after gathering the public's comments, colleagues may further convey to the Government the clear position and intention of this Council with regard to the relevant recommendations.

With these remarks, I support the motion.

MR NGAI SHIU-KIT (in Cantonese): Mr Deputy President, for many years, I have been making known my stand inside and outside this Council concerning compulsory retirement protection. Though the Government has now finally decided to carry out the scheme, there is still room for discussion as regards the scheme itself. So colleagues in this Council have an obligation to point out clearly the problems that may arise, lest the Government's proposal should turn

into a wierd beast of a policy "that looks delicious but is inedible," a policy "that is too unpalatable to eat but too good to throw away."

In my opinion, two issues are central to the discussion of the consultation paper *A Community-wide Retirement Protection System* and they cannot be evaded. One is the supervision that will be needed when the system is implemented. The other is the system's side-effects on society as a whole.

In front of us is a consultation paper that does not have the word "compulsory" in its title. Still, the fact is that the system will be enforced and regulated by law. Employers and employees throughout the territory must obey the law willy-nilly.

The biggest difference between retirement contributions and private savings is that the former are compulsory while the latter are entirely voluntary. Also, it can be predicted that, in terms of monthly amounts, the former will far exceed the latter. Banks that manage private savings are supervised; this is the responsibility of the Office of the Commissioner of Banking. Since public interests and the economy are at stake, the Government rightly applies very strict standards to the banks that are permitted to open for business. However, for the supervision of the trustees charged with the management of this huge pool of contributions made month after month, the consultation paper has only some fragmentary recommendations to make. In sum, the Government is unwilling to define qualified persons and authorize them to manage retirement schemes; nor is it willing to assess the qualifications of those who are already managing retirement schemes in the marketplace. I think that this is extremely irresponsible of the Government. Citizens save voluntarily in amounts that vary, yet the Government has the Office of the Commissioner of Banking to protect their savings. Retirement contributions will be compelled by the Government and they will be made in amounts that are huge, yet the Government does not care what will happen to them.

I dare not say that managers of retirement schemes, with so much money dangling in front of them, will surely succumb to temptation and greed. Still, as Legislative Councillors, we must point out the by no means negligible consequences of insufficient supervision.

I suggest that the Government introduce legislation to lay down strict rules concerning the qualifications of managers of retirement schemes. This will provide a degree of protection for employers' and employees' contributions community-wide. The Government must clearly provide for the powers of the Registrar of Occupational Retirement Schemes, enabling him to intervene in a timely manner when problems are first detected. In addition, the Government may consider taking reference from the Financial Services Act passed in the United Kingdom in 1986, which strictly limits the investment activities of trustees. The institutional managers of retirement contributions in Hong Kong must be prevented from recklessly investing in high-risk portfolios, lest money from the contributions should go down the drain. It will be irresponsible of us

if we do not do our utmost to minimize opportunities for fraud and mismanagement. It will be a dereliction of duty on the part of the Government if it does not take the trouble to plug the loopholes.

Though legislation and proper supervision will help to minimize bankruptcies and frauds among managers of retirement schemes, they cannot prevent such things from happening altogether. Therefore, I suggest that a fund be established similar to that under the Employees' Compensation (Insurance Levy) Ordinance to protect the interests of both employers and employees. Even so, however, the remedy will be far from sufficient when a problem does arise. In sum, the interests of both employers and employees should be protected; nor can the Government shirk its responsibility.

Also, the problem of transferability of accrued benefits upon change of employment should be further researched. In Hong Kong, workers between the ages of 20 and 30 change employment frequently. If a worker is allowed to take his accrued benefits to his new place of employment, this will present a problem of account transfer involving the managers of more than one retirement scheme. Which side should pay the administrative expenses? This question ought indeed to be researched.

Mr Deputy President, a long time ago, in 1987, I already said in this Council that compulsory retirement protection would probably affect Hong Kong's economy. It cannot be denied that, for the employer who must pay at least half of the retirement contributions of all his employees, such payments amount to an increase in operating cost. This reality is one of the operating obstacles faced by entrepreneurs in medium-sized and small business. Clearly, in deciding to implement retirement protection, the Government is overlooking the difficulties of these entrepreneurs; nor does it seem to mind the idea's side-effects on the economy.

I must remind the Government of the cause-effect relationship between higher operating cost and higher inflation, of the adverse effect that higher operating cost may have on workers. Such interaction between cause and effect will affect Hong Kong's economic development and may give rise to problems in industrial relations. Until now, Hong Kong's industrial and commercial development has been characterized by its flexibility. Now, regulation will take the flexibility away. To say that this will not have an effect is deception and self-deception.

In addition, I repeat that the Government must proceed cautiously in implementing retirement protection, knowing what the economic effects of this will be. The Government should do its best to avoid being partial to any particular class. The Government should not, in the name of retirement protection, be actually promoting a policy which is a curious hybrid and full of holes. The Government, after making entrepreneurs sacrifice their advantageous business environment, may yet fail to produce an effective social

welfare policy. In the end, peace and order may still lie beyond reach. I hope that the Government will bear this point firmly in mind.

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

MR PANG CHUN-HOI (in Cantonese): Mr Deputy President, the labour sector welcomes the consultation paper on a community-wide retirement protection system introduced by the Government. Yet, the contents of the paper are found to be "shockingly" disappointing.

Hong Kong has achieved remarkable economic growth. But inasmuch as social security is concerned, we are lagging far behind many countries. While mainland China and Taiwan on both sides of the Taiwan Strait have already put into practice a universal social insurance system, Hong Kong is still operating a social relief system under which the Public Assistance Scheme plays a leading role. The scope of protection in the context of the local system is so limited and small that the unemployed and the retirees practically cannot be taken care of. Our backward social security system is indeed out of step with our economic growth.

The Government's plan to implement a compulsory retirement protection system should have improved our social security system. To our dismay, however, it is stressed in the consultation paper that the Government will not provide any financial guarantee to the accrued retirement benefits. As early as 1952, the International Labour Organization specified in the Social Security (Minimum Standards) Convention that a government has to shoulder the overall responsibility to ensure the financial and operational soundness of each service under the social security programme. Now the Hong Kong Government is trying to shirk its responsibility. This will not only be a breach of the international convention but will also undermine public confidence in the retirement protection system because they are worried that the contributions they have made for years will not be protected in the form of compensation in the event that the trustee institution winds up.

In response to the public demand for financial guarantee, the Government simply said, "the Government is not a banknote printing machine", "benefit comes, after all, from a price one has paid" and "at the end of the day, the taxpayers or contributors have to pay the cost", with a mere intention to make the public lower their colours. This is indeed extremely irresponsible. In any case, it is necessary for the Government to provide financial guarantee. At present, all the retirement protection systems financed by provident fund are enjoying government's final protection. Why does Hong Kong have to fly its own colours and repeat Singapore's past failure in respect of the privately run system which it put on trial for several years in the 1980s?

Labour sector has not been represented in the body responsible for drafting the consultation paper and not a single proposal that has been submitted



by the labour sector to the Government over the years has been accepted and incorporated in the paper. Furthermore, the proposed retirement protection model has never been or is not being implemented successfully anywhere in the world. It prompts me to ask why the Government does not choose a retirement protection model that has been successfully implemented for several decades in countries such as those in place in Singapore, Indonesia, Malaysia and India, where it is incumbent upon the Government to administer the provident fund scheme for as long as 40 years. Why must our Government be so "innovative" by coming up with a much criticized retirement protection scheme which has not been adopted in any other country?

At the end of last year the Government changed its mind and indicated that it was willing to run a compulsory retirement protection system in consideration of Hong Kong's aging population and the year-on-year increases in the Public Assistance and Old Age Allowances. However, I am afraid the proposal cannot solve the existing social problems. At present Hong Kong has 700 000-plus old people aged 60 or over, 400 000 handicapped and disabled people, 300 000 patients suffering from chronic deceases and 600 000 full-time housewives, making a total of two million people earning no salary at all. These people can neither contribute any money nor enjoy any protection.

As for the 10% contribution, it means that the contributors can only get back 30% of their wages after working so hard to contribute for as long as 30 years. Under such circumstances, the proposed provident fund scheme simply cannot provide the retirees with any real protection.

Finally, I would like to make it clear to the Government that the voices in our community are against the proposals set out in the consultation paper on retirement protection but not against the adoption of a retirement protection scheme by the Government. The labour sector's attitude is very clear. They are asking the Government to listen to public opinion when the consultation period is over and formulate a comprehensive retirement protection scheme enabling our citizens to be well looked after in their twilight years. The Government must not shelve the retirement protection on the pretext that the public is opposed to the contents of the proposed scheme. Our citizens are perceptive and they have been monitoring the Government's handling of the retirement protection issue.

Mr Deputy President, with these remarks, I support Mr TAM Yiu-chung's motion.

MR ANDREW WONG (in Cantonese): Mr Deputy President, retirement protection has been talked about for more than 20 years. Today, finally, this consultation paper on retirement protection has made its appearance in response to repeated urging. The Government, which had been dragging its feet for so long, suddenly appeared to wake up last year and decided to implement a retirement protection scheme. Comments made at the time noted that the

Government's decision was meant to please the directly elected Legislative Council Members, and of course the representatives of labour, who had been strongly urging for a central provident fund. Regardless of what the Government's real intention may be, I hope that, after this Council has discussed the consultation paper and gathered the views of the public, the Government will stop dragging its feet and will not again wait many years before really implementing a retirement protection system good for Hong Kong's workers.

I have studied the consultation paper and I have talked to some of my constituents. I would like to point out the paper's fatal loopholes. Remedies must be applied and changes made.

In the recommendations of the Working Group, the minimum retirement contribution rates of employees and employers are to be set by legislative means, but employees already protected by any existing, approved retirement scheme are to be exempted provided that the existing scheme provides for retirement benefits not less than those under the recommended new system.

I think that it is wrong to "set a minimum and exempt everything above it". Schemes that would be exempted may be different from one another in terms, in characteristics and in the contribution rate. True, the consultation paper recommends that, when an employee changes job, he should be able to transfer his minimum accrued benefits to a new scheme. However, it also recommends that, alternatively, these benefits may be frozen in the previous employer's scheme, where they cannot be withdrawn before retirement. What is more, two methods of freezing are recommended. These recommendations will lead to complex administrative processing and astronomical administrative costs because such transfers will involve amounts that add up to a huge sum of money. Also, as an employee grows old, his memory will deteriorate. Yet he will have to spend time and energy on tracing the number of accounts where he has contributions and on verifying whether the account balances are correct. This will really be bothersome. Is it our intention to have such a complex retirement protection system?

I suggest that the Government should regard its conceived compulsory retirement protection system as the "basic system." Uniform base figures should be set for employers' and employees' contribution rates; there should be no exemption whatsoever. This "basic system" needs to be established by new retirement protection legislation and made compulsory. While employers may of course offer better "retirement schemes", these better schemes should not be exempted, but it should be possible to treat their extra benefits as benefits under "extra-benefit schemes" that are operated voluntarily under the Occupational Retirement Schemes Ordinance. If an employee changes job, the transfer of his accrued benefits under the "basic system" will then be a simple matter. As for his accrued benefits under any "extra-benefit scheme", these may be frozen and/or withdrawn depending on whether the scheme is defined in terms of higher benefits or higher contributions.

Of course, my idea is not to encourage employees to change jobs constantly or to encourage employers to offer retirement benefits limited to those required under the basic system. On the contrary, my hope is that employers will offer better terms attractive enough to keep employees from leaving and that employees will have a simple retirement protection system which will pay them due benefits when they retire. Also, this kind of arrangement will cut administrative processing and administrative costs to the minimum. Accounts will be neat and easy to examine. There will be less mismanagement.

Mr Deputy President, over the years, I have always thought that a compulsory retirement protection system should be implemented. But I have been opposed to the Government's centralized operation of the system. My original fear was that such a huge and expanding pool of money from contributions might unintentionally become a pool of low-interest loan money made available by the citizenry to the Government and that this would affect the rate of return for the contributors.

Now, I have finally found a way to resolve my worry. I think that if the compulsory retirement protection system is to be the "basic system" of contributions, then it can be centrally managed by the Government under the supervision of an independent body. Because it is a compulsory system, all administrative costs should be borne by the Government. To assure contributors of due return at a rate that is not kept artificially low, I think that the pool of money from contributions may be divided into three parts and used in different ways. The first part is to be invested in high-risk portfolios. The second part is to be invested in low-risk portfolios. The third part is to be deposited with banks.

These rules governing the investment of retirement contributions should also be made applicable to the "extra-benefit schemes". In other words, all investments under occupational retirement protection schemes are to be governed by the same rules. This will prevent contributors from having their contributions wiped out.

Another thing is that the consultation paper recommends 65 as the retirement age. It further recommends that, if a person resumes working after retirement, he may participate in a retirement protection scheme voluntarily. I cannot agree with these recommendations.

I think that 60 should be the retirement age for Hong Kong's workers. When an employee retires or reaches the age of 60, he should be eligible for full benefits under the "basic system". If an employee does not retire at 60, or if he resumes working after retirement, he should continue to be protected by the "basic system". In other words, both he himself and his employer should continue to make retirement contributions until he really stops working.

I believe that all supporters of compulsory retirement protection have one basic thought, which is to enable workers, as they grow old, to live out the rest of their lives without want. Therefore, when implementing a retirement protection system, the Government must aim at simplicity and uniformity. It should not cause the system to operate under messy arrangements. Where things get messy, there are bound to be mistakes. Mistakes, if made, will have consequences borne not only by today's 2.7 million strong workforce and their employers but also by the countless who are yet to join the workforce.

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

MR LAU WAH-SUM (in Cantonese): Mr Deputy President, this consultation paper on retirement protection is mainly about implementing a compulsory retirement protection system for all of Hong Kong. It does not favour a central provident fund. The explanation for this, as given in paragraph 1.2, is that, with a central provident fund, the volume of funds that would be under centralized control for investment purposes would have a major unsettling effect on the financial, monetary and foreign exchange markets.

However, I think that, if there is a central provident fund, the investment strategy and the strategy for finding fund managers may still be centrally controlled. The funds may be separately invested by several dozen fund managers in different parts of the world. Effects on the financial, monetary and foreign exchange markets may still be averted in this way. Any impact on Hong Kong's monetary system will certainly not be very big. If we add the proposed compulsory retirement protection system to the 11 000 retirement funds already established by individual employers, all salary or wage earners are covered and the sum total of employees' and employers' contributions will not be much different from the volume of funds representing contributions to a central provident fund, assuming the same contribution rates. Therefore, the above argument against a central provident fund, which cites financial impact, is totally untenable.

The recommended retirement protection system is one that does not include medical insurance (paragraph 1.4). This, too, is unreasonable. Everybody knows that older people become sick more often. Therefore, the best retirement protection should include medical insurance, which is a special old age need. I remember that many suggestions were made about medical insurance during the discussions of the Group on Medical Insurance, which I attended. The proponents remarked that it was a pity that Hong Kong did not have a central provident fund, or medical insurance would have become a reality. Now, however, the responsible party for retirement protection is saying that medical insurance is not its responsibility.

Paragraph 6.8 of the consultation paper recommends against the Government's providing a financial guarantee to cover losses to beneficiaries of the retirement protection system. This being the case, it is very difficult for

contributing employees to have confidence in the safety of the system. In fact, retirement funds face two risks. One is the risk of investment. It will be very difficult to insure against this risk, which can only be reduced to the minimum through the formulation of a reasonable investment strategy. The second risk is the risk of losses arising from fraud. Because the retirement protection system is supervised by the Government, the Government must at least insure against this kind of risk. Retirement contributions are employees' life-time savings. So one cannot simply say that one is not responsible and leave it at that. The question of guarantee will not arise if there is a central provident Fund. In addition, a central provident fund will be the answer to various questions, as follows:

- (1) An employee, who changes employment after working for less than the required number of years in a company, will lose some of this employer's contributions.
- (2) The transfer of accrued retirement benefits following a job change presents a tough problem. However, if there is a central provident fund, this problem will be taken care of easily. (paragraphs 4.23 and 4.24)
- (3) A central provident fund will also solve the problem of retirement protection for self-employed persons and for employees paid by the day or by the hour. (paragraphs 3.11 and 3.12)

In view of the above, I think that a central provident fund will provide the best retirement protection.

I think that the public will find it worth their while to comment on many of the other recommendations of the consultation paper as well. Following are some examples:

- (1) The minimum level of contribution is set at 10% of basic salary (paragraph 5.8). Is this sufficient? According to paragraph 4.6, the level of retirement benefits should equal 40% of the average career earnings in real terms of the majority of the workforce. I agree with the Honourable TAM Yiu-chung that this statement is very vague. Citizens would be wrong to assume that their retirement benefits will equal 40% of their final salary. I believe that any expectation that a 10% level of contribution will result in retirement benefits equal to 40% of final salary will be very difficult to meet.
- (2) The maximum salary level for contribution purposes is set at \$15,000 a month (paragraph 5.10). Is this appropriate? I think not. By the time a person retires, \$15,000 will have ceased to be a large sum of money.

- (3) Will employees prefer to receive retirement benefits in one lump sum or in monthly installments? I think that, if there is a central provident fund, the vast majority of the employees will feel reassured enough to choose monthly instalments. Otherwise, they will ask to receive retirement benefits in one lump sum at retirement time. Also, an employee who chooses to receive monthly retirement benefits will have to pay double tax. His retirement contributions are income that has been taxed already. Will it be fair to ask him to pay tax on his monthly retirement benefits?
- (4) Should foreign workers be exempted from participation in a retirement protection system? I think that this question deserves looking into. Hong Kong's policy to import overseas labour is a temporary and not a permanent policy. Therefore, employers of imported workers should not have to contribute to their retirement benefits. Also, if an employer hires only one or two foreign workers (for example, Filipino maids), arranging a contribution scheme may prove to be very costly to him.
- (5) Should there be retirement protection arrangements for self-employed persons and for employees who are paid by the day or by the hour? Should medical insurance or savings be included in a retirement protection system? All these are questions worth the public's while to discuss and make comments upon.

Mr Deputy President, I hope that this debate will serve to arouse the general public to make more comments during the period of public consultation on such an important subject as retirement protection. With these remarks, I support the motion.

DR LEONG CHE-HUNG (in Cantonese): Mr Deputy President, Hong Kong has completely been beset by the two major issues of political reform and financial arrangement for the airport over the last month or so and could hardly catch a breath. I am glad that this Council now turns its attention to a different subject today and discusses an issue which is more significant than the above-mentioned two, that is the universal retirement protection system. However, it is regrettable that the Government has not given the issue due concern and attention. Forty-five Members of this Council jointly signed a letter urging the Government to guarantee the scheme against financial risks. And two representatives of them requested a meeting with the Governor but so far the Governor has yet to meet them because of his tight schedule. It makes one wonder how much importance the Government attaches to the scheme; a scheme which concerns everyone's well-being or at least concerns every employee's well-being.

After 25 years of public debate, the Government at last put forward a consultation paper today. But it is disappointing that the consultation paper is neither objective nor comprehensive. It gives one the impression that the Government has prepared a draft and set up the working group merely to rubber-stamp it. At the end of the day, one may wonder whether the Government has the *bona fide* intention to implement the retirement protection scheme. Or is it the case as reported by the press that "the Government is not necessarily going to implement the retirement protection scheme. If the public finds the document unacceptable, the Government may withdraw it or even abandon the scheme."

I do not believe that a responsible government will make the above-mentioned statement when it introduces such an important document for public consultation. I hope that the official responsible for this scheme will clarify the matter to this Council and disclose the Government's stance. Otherwise, any form of consultation and discussion is merely whitewashing and will amount to nothing.

Hong Kong needs a comprehensive and sound universal retirement protection scheme. Such a need has already been established in the debates over the past 25 years. We do not have to hold a debate here today. Furthermore, the Government has made its stance clear that it is not going to establish a central provident fund. I do not wish to dwell on this point here. So the issue that remains is how to implement a retirement protection scheme without central government's direct administration and commitment. However, the consultation paper laid before us contains too many inherent defects and warrants a re-writing.

- (1) The scheme is not comprehensive and complete enough. Mr Deputy President, a sound retirement protection scheme must be formulated with the protection of the entire community in mind. But the Government's consultation paper deals with the Public Assistance Scheme, the Old Age and Disability Allowance, medical insurance and retirement protection separately. This will leave long-lasting problems for the future development of the social protection scheme.
- (2) The scheme does not adopt a universal retirement system and only takes care of those in employment. However, those most in need of protection are invariably the retirees, the unemployed and those who do not hold a job such as housewives, the aged and the disabled.
- (3) The amount of retirement benefits under the scheme is too small, to the extent that it is far below the international standard. According to the consultation paper, if a person starts working at the age of 18 and retires at the age of 60, he is expected to receive a pension equivalent to only 30% of his basic salary when he retires after

having made contribution for 42 years. This ratio is far below the international standard which specifies a monthly pension equivalent to at least 40% of salary for employees who have made contribution for 30 years.

At this point I would particularly like to ask the Government why the retirement age is raised to 65. We should bear in mind that sometimes an employee would be forced to retire and even if he would like to continue with his employment, he may not have a job to do. According to the census statistics released by the Census and Statistics Department, in the age band of 55 to 64, the number of people in employment dropped from 56% in 1981 to 51% in 1986. The figure in 1991 went down further to 47%. Where the employment situation of female is concerned, it shows a notable fall. This group of people would become unemployed before the age of 65 but it is not yet the time to receive pension. How are they going to make a living?

Therefore, I think that it is absolutely improper for us to deal with different social groups separately in respect of the provision of retirement protection. The Government should implement a universal retirement protection system which streamlines and integrates the various existing schemes of provident fund, pension, old age allowance so as to put them under centralized management. The principle is that the young people in employment at present are to support the old people in retirement and by the time the young people grow old, they will receive their pensions in accordance with their respective length of contribution. Over 100 countries in the world have adopted this type of universal, community-wide insurance retirement protection system. It has been proved to be a workable system. I do not understand why the Government has steadfastly refused to consider this idea. The Government should make public the various options assessed by the Working Group, including materials on a universal retirement protection scheme.

Lastly, I totally disagree with the Government's "three noes" position in respect of the compulsory retirement protection scheme, that is, no contribution, no financial guarantee to cover losses or risks of the retirement protection scheme and no stipulation of the qualifications of the operators of retirement protection schemes. The Government leaves it to the market to decide on the scale of contribution and the investment of funds. If the Government plays no part in it, how can the contributors be provided with adequate guarantee?

As a medical practitioner and a representative of the Medical Constituency, I have been advocating that the Government should launch a comprehensive community protection scheme which integrates both retirement protection and medical insurance. In addition, the administration of the contributions made by the people should be monitored by the central government or an independent organization.



I would like to sound a note of warning on a recent view concerning medical insurance which urges the Government to encourage people to take out private medical insurance policies. It is claimed that with more people taking out medical insurance, the greater the expenses on public medical services can be reduced. I find that such an argument is putting the cart before the horse. It overlooks the fact that the Government remains the leading provider of our medical services. If the Government does not give a clear indication to the public as to the extent of public medical assistance it would make available in future, it is impossible to rely on the private insurance market alone to relieve or balance the ever-increasing medical bill.

In view of this, the heart of the matter is to find out the stance of the Government, the role it plays and the extent of its commitment. After having an idea of these factors, we can then seek other sources to pay for the medical services which the Government refuses to make commitment.

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

MR JIMMY MCGREGOR: Mr Deputy President, the Hong Kong General Chamber of Commerce is presently studying closely the Consultative Paper on the Community-wide Protection Scheme. In view of the very great importance of the subject, a number of specialist committees of the Chamber are involved in this study. The scheme set out in the Consultative Paper contains a great deal of material relating to principles and their practical application. The issue itself is controversial to some extent since, if adopted, it will be the first ever comprehensive mandatory retirement protection scheme for Hong Kong's working population. As such, and in view of the very large sums of money involved from the outset of the scheme, it is unlikely that the detailed views of the Chamber can be made available before late January.

I cannot therefore predict the outcome of the Chamber examination but I can promise that the proposals by the Government will be looked at constructively, sensibly and professionally. All employers in Hong Kong understand and support the basic concept of providing for the retirement of the workforce. And as we all know, employers are kind and caring people. We have come a long way since the days when labour had nothing to look forward to but charity and sometimes not even that. We have become a relatively wealthy community and more supportive and generous. We have a long way to go and indeed there will always be improvements to make. That is why we are now considering the Consultative Paper. That is also why a Committee of this Council has been working on legislation to extend protection to the present voluntary retirement schemes and to encourage more employers to begin such schemes to protect their workers.

The mandatory or compulsory retirement scheme is the next step forward. Speaking personally, I welcome the government initiative in putting forward the Consultative Paper. I have no doubt that there will be extensive examination of its contents and detailed submissions on its proposals.

I am personally very much in favour of doing all we can to protect our citizens in their old age and after they have contributed so much to our economic success.

MR PETER WONG: Mr Deputy President, the Government's consultation paper on a community-wide retirement system must be greeted as a positive step taken to extend the retirement protection network to all our working population. I commend everyone in Hong Kong to examine these proposals very carefully, since their correct determination will govern their income security when they retire. However, the proposals featuring compulsory contributions, benefits up to 40% of the median wage and transferability of benefits are viewed by some as being marred by the lack of any government financial contributions or guarantee for the security of funds.

The Government has put forward several reasons for its hands-off approach to employment related retirement schemes run by banks, insurance companies and trustees. These include difficulty in calculating the amount of compensation for failed schemes; government commitment could lead to further demands for social benefits, and financial guarantee may encourage reckless behaviour of fund managers resulting in heavy subsidies to make good losses.

I shall only deal with the last issue of losses. I agree that there is no way that any government could assume responsibility for market fluctuations of investments. To do so would increase the moral hazard of maximum return without regard to risk since losses would be picked up by the Government. Hence, government responsibility should only be considered for losses from fraud of the parties concerned.

#### *Potential risks*

The qualifications of insurers and trustees have not been clearly stipulated in these proposals. Any fund management company with \$1 million net asset can qualify. Under these circumstances, the risk of funds lost through investment failure, fraud and other malpractices is very real. Since there is no automatic bail out for failed schemes or bankrupt companies, we will be subjecting employees' life-long savings to a gamble which can jeopardize their income security during retirement.

In some countries, the government has legislated away its responsibility which is shifted onto the employers. The employers in turn have tried to limit their responsibility or made use of legislative loopholes. Monitoring by the Government can create the false impression of well-being on employees which

will turn into frustration when they eventually learn that their savings are not protected in the face of clever fraud. There will then be pressure to compensate. At the end of the day, either the employers have to pay again, or the professionals concerned will be charged for negligence to give some relief to the employees.

*Strong case*

Mr Deputy President, there is a strong case for the Government to shoulder some responsibility for the security of retirement benefits for Hong Kong's working population. Governments in our neighbouring countries are doing just that. The average worker likes to have as much take-home money as possible to be saved according to his own pattern and way of life. Some workers believe that contributions made to retirement schemes not only will erode their quality of life, but will also unfairly subsidize the non-contributors. It is also questionable whether people will accept a decrease in personal savings in an environment like Hong Kong where people desire so strongly to make extra money through investments. On the other hand, the employers eye with skepticism contributory retirement schemes which surely will increase labour and production cost, reduce Hong Kong's competitiveness, and impose a modified form of tax which eventually has to be passed back to the employees. Indeed, protection for labour in Hong Kong has for too long been left at the discretion of the employers.

Thus, a community-wide retirement system is considered instrumental in giving Hong Kong people a collective sense of security and social responsibility. In guiding Hong Kong people to accept their social responsibility, the Government can demonstrate that our capitalist society is also a caring society. It behoves the Government to assume leadership by taking up at least part of the financial responsibility for the community-wide retirement system.

I shall now move on to the technical details of the proposed scheme which still presents many unresolved problems.

- How can workers, who are approaching the age of 65, be ensured adequate income protection during retirement? Will some of them be subject to unreasonable dismissal due to the higher rate of retirement contributions especially in defined benefit schemes that employers will have to carry?
- Without fixing a minimum wage level, can low-income workers be expected to contribute a 5% to 10% of their monthly salary to the retirement schemes? Has the inflation rate and its effect on low-income families been adequately taken into account?

- Would the proposed separate account for locking in transferred benefits of employees changing jobs present an administrative nightmare? How would a switch from a defined benefit to a defined contribution scheme work?
- Apart from the irregularly employed, what provisions are there for self-employed who may move in and out of employment? Those working on fixed period contracts? And people with high dividend income and low salary?
- How much will the monitoring, administration and reporting by professionals cost and is the system affordable?

*Government commitment*

Mr Deputy President, my main concern over the proposed retirement system remains to be the security of retirement benefits from which the Government cannot abscond. It has been suggested by members of the accountancy functional constituency that the Government should make up to a 50% guarantee for the retirement funds for fraud only. In theory, I favour the setting up of an insurance scheme for all retirement funds with different premium ratings according to risk. Proceeds from the insurance scheme will be used to cover the loss of assets through fraud. This would save the establishing of a central fund which will be a drain on the administrative resources. The cost of monitoring the retirement schemes which sets the premium rating should be paid out of taxes. I would like to hear from the insurance experts whether such insurance is viable. Further, the qualifications of scheme operators, especially those of oversea-based schemes should come under a stringent supervision system.

In the prevailing political uncertainty, reluctance on the part of both employers and employees to participate in the proposed system is understandable. Thus, the financial commitment made by the Government will serve as a confidence booster which will lead the community towards better retirement protection for their future. Since the community-wide retirement system straddles 1997, it is necessary for the Administration to bring the matter up for discussion at the Sino-British Joint Liaison group at an appropriate time, as it has done with the civil service pensions.

With these remarks, I support the motion.

MR ALBERT CHAN (in Cantonese): Mr Deputy President, as everybody knows, Hong Kong does not have a sound retirement protection system. From the contacts I cultivated during many years of local community work and from my 10 years of social work experience, I know that life is rather hard for most of the elderly, who made contributions to Hong Kong's development in the past.

After retirement, most of them are not eligible for retirement benefits. Some have to subsist on meagre public assistance.

The 1991 census showed that 20% of all males above the age of 65, though past retirement age, were still working. This shows the need for retirement protection. Retirement protection has been under discussion for nearly 25 years; various sectors of society have been bringing strong pressure to bear in its behalf. The Government, finally changing its attitude, announced in October this year a plan called "a community-wide retirement protection system." I welcome the fact that the Government has finally heeded public opinion and come up with this retirement protection plan.

Mr Deputy President, in the Government's consultation paper, *A Community-wide Retirement Protection System*, many shortcomings remain. It is estimated that, if a compulsory retirement protection system is enforced, about \$20 billion will flow annually into the retirement contributions pool and this pool will have grown to a cumulative \$100 billion by the year 1997. How is this huge pool of money to be managed? What can be done to prevent its misuse, which would affect the livelihood of the citizens and might even buffet Hong Kong's economy? These are very important questions. My speech today will focus on the supervision and management of retirement schemes.

The purpose of having retirement protection is to protect citizens' livelihood after retirement. However, in its consultation paper, the Government indicates that it will not guarantee retirement schemes financially. At the same time, the Government fails to make regulations concerning the qualifications of individual or institutional managers of retirement schemes. For the citizens of Hong Kong, this is a potential cause for a major crisis. True, being able to choose to entrust the management of a retirement scheme to any bank, institution or insurance company will be in line with the principle of free market competition. However, retirement contributions usually represent employees' life-time savings. They cannot be divided up into separately insured lots, and they add up to a huge pool of money. The money would come to big grief should the managing bank, insurance company or institution get into trouble due, for instance, to improper management or investment, embezzlement or corruption. Citizens' life-time savings would then vanish. Given the huge size of this pool of money, its improper management would buffet Hong Kong's economy as well and might even touch off an economic recession. Right now, most of the institutional managers of retirement schemes in Hong Kong are of a medium size and lack sound professional management. Nor has the Government made law to spell out the qualifications of these fund-managing companies or to set minimum standards for their fixed and disposable assets. Given these legislative and institutional shortcomings, it would be reckless to turn over retirement schemes to ordinary insurance companies for management.

Therefore, for the more effective supervision of the institutional managers of retirement schemes, the Government indeed should act as the guarantor of last resort for all such schemes. The methods and standards of supervision must be further researched. The Government may borrow from the examples of the tourist industry insurance fund and the deposit insurance system. But the Government must get involved. All institutional managers of retirement schemes must be required to place insurance with the Government. Then, if any single retirement scheme is liquidated or becomes insolvent, the Government may make good the loss by using money from the insurance fund. Such central re-insurance can help to remove the Government's worries about contingent liabilities.

Also, the Government may wish to consider introducing legislation to require institutional managers of retirement schemes to specify a guaranteed rate of return on investments from retirement contributions. This rate of return, on average, should not be below the rate of inflation. Strict regulations should be made concerning the qualifications of the institutional managers. The Government may wish to consider setting up a representative central management body to take up the responsibilities for administrative planning and supervision. This body is to be composed of government officials, representatives of employers' associations, representatives of employees' unions, representatives of financial institutions and fund-managing companies, as well as representatives of the general public. Thus, it will be possible to have the retirement schemes more effectively supervised and managed and to have the interests of the citizens safeguarded.

Mr Deputy President, in the retirement protection proposal, there are shortcomings concerning the protection of the rights of participating employees. In the present draft legislation, only section 36 recognizes employees' right to set up an advisory body to convey their views to, and to seek relevant information from, employers concerning the use of retirement contributions and concerning the percentage of employees' contributions. However, such an advisory body has no statutory power and its representativeness is open to question. Opinions will often differ between employers and employees concerning how retirement contributions are to be used. For instance, employers who mean well may want to invest the contributions where the return is better but where the risk is also higher. On the other hand, employees, mindful of the fact that retirement benefits will be their source of subsistence later on, may not want to place a desperate neck-or-nothing bet, to have the contributions invested where the risk is high. Legally speaking, retirement contributions belong to employees, who therefore should have the right to participate in their management. Therefore, the Government may wish to consider taking institutional steps to expand the functions of the advisory body mentioned above, turning it into a management committee composed of employers, employees, professional experts and government representatives.

Mr Deputy President, the retirement protection system is a system that straddles 1997. The Government indeed should actively assume financial responsibility for it and, with a positive attitude, take all kinds of measures to make the supervision and management of the system more effective. Thus, the various misgivings of the people of Hong Kong about retirement protection may be laid to rest.

Mr Deputy President, I so make my submission.

MR VINCENT CHENG: Mr Deputy President, I support the introduction of a Compulsory Retirement Protection System which is indeed long overdue. My colleagues have spoken eloquently on the social benefits of such a system and I fully share their views. It is a shame for Hong Kong, which has one of the highest *per capita* income in the world, to have failed to introduce such measures earlier.

I will confine my remarks on how the system should work. First, the security of the money entrusted to the scheme operators. Unlike deposits in a bank which is a voluntary decision by those who own the money, the Scheme is compulsory. It would therefore be morally indefensible for the Government not to consider carefully the security of the money in the schemes which it forces people to put their money in.

While I do not think the Government should be responsible for bad investment decisions of the operators of retirement schemes, it ought to devise some means to ensure that the money would not disappear or be eroded because of frauds and if unfortunately, this ever happened, the burden of the financial loss would not fall entirely on the contributors of the money.

There are a number of ways to tackle this, although none of which can entirely eliminate such risks.

First, the schemes and their operators must meet high professional standards before they can be registered. There must be minimum prudential requirements in terms of capital adequacy, liquidity, reporting system, transparency, and auditing. Unless the operator has a solid capital base, he should not be allowed to manage funds exceeding a certain size. There must be rules on the ratio of capital to the assets under management.

Secondly, directors of such schemes should be approved by the Government as fit and proper. Since these institutions will be entrusted with vast sums of money, I do not see how they should be supervised by the Government on a less stringent basis than other financial institutions such as banks. I suggest the creation of an authority or commission to supervise such schemes. The Registrar is not in a position to do so given the resources and the structure.

A more stringent regulatory framework would certainly reduce the number of scheme operators. This is not necessarily a bad thing. Indeed, it would allow pooling of funds into larger sums which in turn would give scheme operators more flexibility in achieving a better balanced and less risky portfolio. It is also easier for the Government to supervise if there are fewer, but stronger, scheme operators. I believe there will still be a sufficient number of operators for employers to choose from.

While, for understandable reasons, the Government has rejected the call for a government guarantee of the schemes, the Government has, on moral grounds, to devise some measures to give comfort to those who are forced to contribute to the schemes. I suggest the creation of some sort of central guarantee fund with initial capital injection coming from the Government and recurring contributions from the various schemes. The size of the contribution should be determined by the size of the fund, based on an acceptable formula. The amount of the initial capital injection could be further explored.

Thirdly, the retirement age should be 60 rather than 65. In the Civil Service and many private institutions, retirement age at 60 is the norm rather than exception. I therefore urge the Government to lower it to 60.

Finally, the Government should announce as soon as possible the arrangements for workers paid on an hourly basis or a daily basis, and those who are self-employed. There is a large number of self-employed people in Hong Kong such as workers. They need to have similar protections for their old age. In addition, there are those who cannot find meaningful employment such as the disabled and hence will not benefit from such scheme. I hope the Government will hear their voices very carefully. We want a caring society.

Mr Deputy President, I support the motion.

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, Hong Kong's elderly population is steadily on the rise. According to the Census and Statistics Department, the number of persons aged 60 or above was 760 000 in 1991 and will have increased to 970 000 by the year 2001. A community-wide retirement protection system will help such an expanding elderly population by giving them adequate economic means to live out the rest of their lives. This community-wide retirement protection system should not be limited to provident funds, which have many flaws. The document in front of us says that only persons aged 65 or above should be eligible for retirement benefits. Actually, there already are 480 000 people aged 65 or above. 45 000 of them, or 9.3%, are receiving public assistance. The Working Group that drew up the consultation paper thinks that there is no need, in the context of the present retirement protection system, to make recommendations for this elderly group (that is, those who are receiving public assistance). The reason it gives is that allowances under the public assistance scheme, including old age allowance, will be sufficient to take care of the problems of those who are aged 60 or above and



who are below the poverty line. This statement shuts the door of social security on today's poor elderly. They must continue to live on public assistance, which is not enough to keep one adequately fed. I feel that this is a major flaw.

The consultation paper does not consider the case of the already-retired or the case of the about-to-retire. The former have made no retirement contributions; the latter will not be making them for long. Nor does the consultation paper consider the case of those who have made no contributions to retirement schemes but who have made considerable contributions to society. Among them are the housewives, who, in their old age, must depend on their children's support or live on their husbands' retirement benefits. Who are the biggest beneficiaries of the proposed system? I believe that the biggest beneficiaries will be the institutions responsible for the management of retirement schemes. They will be able to make money from an unending stream of retirement contributions; they will be able to live off this profit.

In the consultation paper's recommendations for a compulsory retirement protection system, we find at least three flaws. These flaws must be addressed during the reconsideration of compulsory retirement protection. I will cite three examples. First, the consultation paper, without assessing economic development prospects, makes three assumptions about retirement benefits. One is the optimistic assumption. Another is the pessimistic assumption. The third assumption lies somewhere in between. Let me talk about this last assumption. A person who began working at the age of 18 and who retires at the age of 65, after making retirement contributions for 47 years, receives monthly retirement benefits equal to 40% — 39.2% to be precise — of his monthly basic wage. In the estimates set out in the consultation paper's Appendix IV and Appendix V, a person who began working at the age of 25 and who retires at the age of 65, after making retirement contributions for 40 years, receives monthly retirement benefits equal to only one-third — 33.4% to be precise — of his monthly basic wage; while a person who began working at the age of 18 and who retires at the age of 60, after making contributions for 42 years, will receive monthly retirement benefits equal to less than one-third — 29.1% to be precise — of his monthly basic wage. These estimated retirement benefits are very clearly not up to the minimum requirement of the International Labour Organization's *Covenant on Minimum Standards of Social Security*, which is that anybody who has worked for not less 30 years should receive monthly retirement benefits equal to 40% of his monthly wage.

Here is the second example. A young person first joined a retirement scheme at the age of 18. His average basic wage is the median wage, that is, \$6,000 a month. He has worked continuously for 42 years. If he retires at the age of 60, his monthly retirement benefits, equal to 29.1% of his monthly basic wage, will be only \$1,746. Mr Deputy President, after making contributions for so long and being an earner of the median wage, he receives monthly retirement benefits of only \$1,746. This is a very low return on his many years' contributions. If his wage is below the median \$6,000, or if he works for less than 40 years, the monthly retirement benefits he receives in the end will be

even less. For instance, if his monthly wage is \$4,000, his monthly retirement benefits will be \$1,336 or less, probably even less than public assistance.

Here is the third problem. The consultation paper says that employees must have reached the age of 65 before they are eligible for retirement benefits. I should like to inform you, Mr Deputy President, that the retirement age in the Civil Service and in the private sector is now generally between 55 and 60. The proposed retirement protection system is intended to provide basic protection to the elderly after retirement. What, then, is to be done about this five-year gap? Are those people to have to wait for five more years in a no-income limbo before they begin receiving retirement benefits?

I have the following suggestions, which cover four fronts, to make concerning the consultation paper on compulsory retirement protection:

Firstly, I feel that we need a community-wide social security system. I hope that this community-wide social security system will protect not only the employed but also the elderly, the housewives, the chronically ill, the disabled and so forth.

Secondly, I hope that the protected will receive retirement benefits not less than the international minimum standard.

Thirdly, in such a system, the contributions should be managed and invested by the Government. This is the only way to assure the safety of retirement contributions.

Mr Deputy President, if the above is done, there will be four advantages:

Firstly, subject to a means test, needy elderly people who have never made retirement contributions will be able to receive monthly old age benefits equal to not less than 30% of the median monthly wage.

Secondly, those who have made retirement contributions for not less than 30 years, including low-wage earners whose contributions are relatively smaller, will be able to receive retirement benefits equal to not less than 40% of his basic wage.

Thirdly, those aged 60 or above will be eligible for retirement benefits.

Fourthly, middle to upper income people will be able to receive social security payments on top of their entitlements to provident fund payouts from their employers.

Lastly, I hope that the Government will make all pertinent information available to the public and conduct a full and real public consultation exercise. According to the consultation paper, a very important job of the Working Group is to assess the practicability of possible options of community-wide

retirement protection. However, the Working Group merely criticizes other options with the use of non-specific terms like "it does not appear," "it appears" and "it may be". I hope that the authorities concerned will publish information on the other options which they consider to be not practical or not feasible, so that all may study them and offer comments on them.

Thank you, Mr Deputy President. I support the motion.

MR MICHAEL HO (in Cantonese): Mr Deputy President, after years of efforts in striving for the establishment of a central provident fund, the Government has finally published a consultation paper on retirement protection system. The scheme is of paramount importance to the people in Hong Kong and it also entails an enormous amount of money. In view of this, people who are affected by the scheme should indeed take an active role in giving their opinions and pointing out any parts of the consultation paper which call for improvement so as to ameliorate this retirement protection scheme in such a way that the desirable policy objectives can be achieved to provide adequate protection to the retirees.

The United Democrats have all along been advocating that for a retirement protection scheme to achieve its objectives, two principles must be established. First, the scheme should benefit all wage earners in Hong Kong. Second, the scheme should be geared to the protection of people's retirement life by offering guarantee that the retirement protection scheme will be free of any risks. According to the first principle, we find that the proposals in chapter 3 of the consultation paper regarding the coverage of the system are apparently inadequate because the Government's proposals provide no protection whatsoever for employees over 60 years old who are going to retire. If one takes a look at the 1991 census statistics, one will see that those between 60 and 64 account for 56.3% of the working population or about 90 000 people. To them, the whole retirement scheme provides too little to be of any real help. The amount of money a 60 year-old worker receives when he retires five years later is practically insufficient to maintain his basic living.

Another aspect being overlooked is the protection of the low-income group. At present, 3% of our working population, or about 730 000 people, receive a monthly salary of less than \$4,000. Of which about 150 000 people are under 50 years of age. According to the calculation method of retirement benefits set forth in the appendix of the consultation paper, if a person's monthly salary is \$4,000, he is going to receive only a few hundred dollars as his monthly pension when he retires after contributing for 20 years. As a matter of fact, a low-income person would find the 5% contribution rate a heavy burden. Under the circumstances, they will try every means to evade making contributions and apply for Public Assistance instead when they realize that the pension they receive upon retirement would be less than the amount of Public Assistance they are entitled to. In view of this, such a protection scheme will be totally meaningless to these 100 000-plus people.

The consultation paper does not give adequate thought to the aspect of coverage. The United Democrats hope that during the consultation period, the Government will take due consideration of the opinions of the low-income people and those who are about to retire. The Government should also take their problems into account so that they can enjoy the benefits of such a retirement scheme as well.

Now let us turn to the second principle which concerns the risks involved in the retirement protection scheme. The general impression one gets from the whole paper is that the Government is not willing to make any commitment. Apart from drawing up legislation, we cannot see what role the Government will play. From the general public's standpoint, they hope that the retirement scheme will give their living after retirement real protection. We need a sound guarantee system to set people's heart at ease in making contributions. People will not have to worry that their hard-earned money will be irrevocably lost in the event of the failure of the retirement protection schemes. It is indicated in paragraph 6.8, chapter 6 of the paper that the Government will not provide a financial guarantee to retirement protection schemes. One of the reasons is that such a guarantee would produce an immense contingent liability for the Government. As a matter of fact, if the Government has the *bona fide* intention to make commitments, it may consider other alternatives such as the central re-insurance scheme rather than making a blanket denial of its responsibility to provide guarantee in the consultation paper. The correct approach is that the Government should express its readiness to make commitments and at the same time try to find out a solution which is acceptable to both sides.

The United Democrats hope that the Government will give due consideration to the request of the general public and interest groups for providing guarantee against risks after the consultation period so that people can contribute to the schemes reassuredly.

Apart from the necessary commitments against risks, monitoring is also very important. The Government depends largely on the Occupational Retirement Schemes Bill currently under examination by this Council when it comes to the monitoring of the retirement protection system. However, the Bill still does not afford sufficient protection of employees' rights. Since pension is the employees' assets, they have the absolute right to participate in the management and arrangement of their pension. The United Democrats hope that employees' right of participation be extended in the Bill so that they can have full participation in, and monitor, the retirement schemes.

Lastly, the United Democrats would like to reiterate that we consider a central provident fund the most suitable scheme to protect our workers. It is hoped that the Government will, during the consultation period, re-consider, actualize and implement a central provident fund scheme and to put into practice the two principles we have just mentioned.

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

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, a few days ago, I read a newspaper report that greatly puzzled me. According to that report, the Secretary for Education and Manpower said on a non-public occasion that, if the public did not accept the recommendations of the consultation paper on retirement protection, the Government might easily choose to withdraw them. What he implied was that the recommendations were good enough as they were and ought not to be criticized so much. It seems to me that he was trying to intimidate the public. "Take it or leave it. If you do not accept the Government's recommendations, you will have nothing, which is what you begin with." On behalf of the Hong Kong Confederation of Trade Unions, I offer the following comments on retirement protection.

On the whole, the consultation paper epitomizes the Government's intention to introduce a retirement protection system with minimal government participation. It simply fails to give any consideration to some very important questions. For example, will all those who should be protected be protected? Will there be operational loopholes? Will benefits be adequate?

The Hong Kong Confederation of Trade Unions thinks that the retirement protection system proposed in the consultation paper is inconsistent with three major principles: (1) The principle of universality, meaning that everybody should be able to stop working in old age. (2) The principle of reliability, meaning that retirement protection should be reliable, credible and guaranteed. (3) The principle of sufficiency, meaning that retirement protection should assure freedom from want.

The consultation paper has a very fundamental problem. It is that the authorities merely put forth an employment-related retirement protection system. Hong Kong's community-wide retirement protection system, as put forth, will exclude the one million housewives, the half a million elderly people, the 300 000 chronically ill, the 400 000 disabled and retarded persons and the large number of old workers who are about to retire. In all, it will exclude two million citizens from protection. The Confederation thinks that it is a basic citizen right that life after retirement should be reasonably secure. Society should take up this responsibility. It is absolutely impermissible to thrust the responsibility back on the individual citizens while letting the Government stay on the sidelines.

In fact, as I pointed out during a retirement protection debate in this Council in December last year, a long time ago back in 1967, an inter-departmental working group completed a study on social security and then recommended the introduction of a social insurance system. Regrettably, the Government failed to accept that recommendation. Millions of already-retired and about-to-retire workers are now without due protection. Is this not a consequence for which the Government is solely responsible?

I will now quote a passage from that working group's report. I would want the Government to consider the words carefully. The following is what that working group said. "Some argue that a social security system will be inappropriate for Hong Kong. The reason they give is that such a system cannot be accomplished except at a huge cost in financial terms and that it will then enable everybody to lead the kind of extravagant life that is provided by a welfare state. We cannot accept such an argument. Nor, we think, can we accept the argument that the costs of implementing a social insurance system will be excessive for this community of ours. On the contrary, the costs of not having a social insurance system will be higher. Because problems are likely to worsen with the passage of time, these costs will keep rising. Without a contributory social insurance system, all the expenses needed in the days to come will have to come out of the public coffers. There is no other way."

Mr Deputy President, colleagues in this Council have reached a consensus, which is to ask the Government to be the guarantor of last resort for all retirement schemes, insuring them against risks. This will make it possible for employees not to have to lose everything. Regrettably, the authorities have been showing a rejectionist attitude.

Last week, after China charged that this Council yielded to government pressure in passing the Honourable Jimmy McGREGOR's amendment motion, the Governor commented in Canada that China was behaving like a soccer team that blames the referee after losing a match. I would want the authorities to take note that, on this issue of retirement protection, the Government should not think that it is merely the referee. In fact, over the issue of retirement protection, the Government is not only the referee but, more importantly, the leader of a soccer team. It is leading a team composed of employers and employees. However, it is a very strange team leader. It uses a tactic that belittles defence. Worse yet, it assigns no one to be the goal keeper. The opposing team can at any time score a goal by a long-distance shot. No matter how closely the players work together as a team, the team is bound to lose, unless there is somebody like Maradona, "the hand of God," who is there every time to ward off the ball near the goal post.

I repeat. The Government must insure retirement contributions against risks. This is its inescapable responsibility. Also, I am opposed to setting up an insurance fund by taking a percentage of the contributions. Setting up an insurance fund in this way will reduce the net amount of contributions and thus reduce the return on the contributions.

Some people are worried that the Government will be getting into a bottomless pit if it acts as the guarantor of last resort. However, the alternative is to have employers and employees make good any loss. Employers and employees will be less able to carry this burden. On the contrary, I feel that the Government, as the guarantor of last resort, can exercise supervision more effectively than private groups.

Concerning the contribution ratio, the Confederation suggests that the employer's contribution rate should be slightly higher than the employee's and it should increase with the employee's seniority in the same place of employment. The Government has the duty to pay some of the contributions for low-income employees.

In sum, the Confederation continues to suggest that there should be a mixed system of a central provident fund and an old age retirement fund. Supplementing one another, the two together will provide comprehensive community-wide retirement protection. The central provident fund will take care of the problem of investment risks and will be easier to supervise. The old age retirement fund will pay out old age retirement benefits equal to 30% of wage to the retired elderly who are eligible subject to a means test. As to the contribution ratio, the employer's contribution rate should be not less than 6%, while the employee's should be not more than 4%. When an employee has worked for the same employer for 10 or more years, the employer's contribution rate should rise to 10%. The Government should pay some of the contributions for low-income employees whose wage is below the median wage. This will lessen the effect of the contributions on the living standard of the low-income employees.

Finally, retirement age should be lowered to 60. Mr Deputy President, the labour sector has waited for 20 years for a consultation paper on retirement protection and is seeing it only now. I hope that the authorities will seriously consider the views of this Council and of the public and will not disappoint the entire population of Hong Kong!

I so make my submission.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, the consultation paper entitled "*A Community-wide Retirement Protection System*" published on 23 October has drawn extensive comments from members of the public and some organizations. In the eyes of the public, the consultation paper, as a whole, is just like "a piece of chicken rib, which is too unpalatable to eat but too good to throw away". In fact, since the 1960s, the people of Hong Kong have hoped that the Government would establish a central provident fund system to protect their livelihood during retirement. It is regrettable that after prolonged bargaining, the Government has remained too timid to make any commitments in this area. Members of the public indeed have mixed feelings about this "chicken rib" consultation paper.

Mr Deputy President, over the past two weeks I have organized a number of meetings at Tai Wo Hau Estate, Kwai Shing Estate and Shek Yam Estate in Kwai Chung to solicit local opinions. Although the retirement protection system would benefit young people more, the vast majority of those who attended the meetings were the elderly. This shows that old people are extremely concerned about their retirement protection. I would like to relate to

Members of this Council the reaction of some old people turned up at the meetings. A 70-year-old lady walked out as soon as she learnt that the system would not give her any protection. (I believe it was nothing to do with my presentation). On her way out, she accused the Government of being heartless. A low-income man declared that he would not join any retirement protection scheme, for the amount of the accrued benefits promised by such a scheme would not be enough to maintain two years' decent living. A 63-year-old man was of the view that the Government was actually shirking its responsibilities by adopting a hands-off approach. He added that the scheme would not benefit those who were about to retire and as such, he intended to continue receiving public assistance.

Mr Deputy President, the consultation paper is unpalatable in the sense that the protection retirement schemes as outlined in it simply cannot meet public expectations. Take my constituency, the New Territories South, for example. It has a population of 700 000. Over 20 000 of the residents are working people aged between 55 and 65. The consultation paper is irrelevant to them. More than 10 000 people among them belong to the 60-65 age group who will retire soon. They will gain no benefit whatsoever from the retirement protection system proposed by the Government. As for those who are now 55, if they start making contributions in 1994, eight years later they will only receive a pension equivalent to about 8% of their monthly wages, or merely \$500 per month in terms of the median income level. Will the retirement protection system be beneficial to these 20 000-plus people? The system is unpalatable to them, is it not? Furthermore, there are 22 000 families in my constituency whose average household income is below \$4,000. The consultation paper is not only unpalatable, but also gives them bitter feelings. The reason is: low-income earners already lead a hand-to-mouth existence. And suppose they contribute 5% of their income to the retirement protection schemes for as long as 20 years, upon retirement they will only receive a monthly pension equivalent to 23% of their monthly income.

The Government has refused to make contributions for the low-income earners on the ground that it is difficult to define a low income level. It is but a specious argument. The Government thinks that we should look at retirement protection from a wider and more far-sighted angle, and that we should cast our view beyond the immediate effects. Well, now let us try to take a long view. I am afraid apart from finding it unpalatable, members of the public may also worry that the system as outlined in the consultation paper would "choke" them one day in the sense that they have to pay a high price though the benefits are not so promising. From a long-term point of view, the proposed system cannot protect people's livelihood upon their retirement. There are 50 000 families in New Territories South having a household income below the median income level of \$6,000. If the individual's income is used as the basis of calculation, the figure is certainly higher and it is estimated to be in excess of 100 000 persons. According to the estimated retirement benefits as indicated in Appendix IV of the consultation paper, the pension as measured by the cost of living in 1992 these persons receive will amount to only \$1,746 per month during retirement,



just \$200 above the public assistance rate. How can this achieve the goal of "providing for the old"? The proposed system is unpalatable in their eyes, is it not? We are worried that those participating in the system will be "choked" because the consultation paper points out that the Government is not going to serve as guarantor against the financial risks. And in the event that any scheme fails or any trustee goes bankrupt, the contributions made by members of the public over the years will go down the drain. A sound retirement protection system can be ensured only with the tripartite participation of the Government, the employers and the employees. The Government's responsibilities include making contributions for the benefit of low-income earners, serving as guarantor against potential risks and enacting regulatory legislation. Such a retirement protection system will not look like "a piece of chicken rib", nor will it "choke" members of the public.

Besides, the way which the unpalatable consultation paper was prepared is far from satisfactory. The paper was drafted on the premise that the Government should keep its commitment to the minimum. For this reason, the consultation paper puts forward some specious arguments in no more than two paragraphs to reject the recommendations of many organizations. I see only one main approach throughout the whole consultation paper, and that is, shirking responsibilities. The Government tries to abrogate its due responsibilities and switch them to professional bodies, employers and employees. With the application of this main approach, people's livelihood upon retirement is sacrificed. This is not the proper way to gauge public opinion. Yesterday I met nine Christian groups in this Council. They put forward a proposal of a tripartite contributory social security system. It is evident that many civic groups have their own views about retirement protection as opposed to those of the Government; so do the United Democrats of Hong Kong. I therefore hope that after this consultation exercise, the Government will make a detailed assessment report on all the options before deciding on the way in which the retirement protection system should be pushed forward.

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

MR ERIC LI (in Cantonese): Mr Deputy President, actually, an earlier debate on the same subject was held on 11 December 1991. Therefore, my speech today will focus on whether or not the Government should provide a financial guarantee. The Government points out that, if it agrees to provide a financial guarantee against losses to retirement scheme beneficiaries, the result will be a huge "contingent liability." However, the Government fails to provide convincing statistics and evidence. This is probably because there are a lot of assumptions involved. Still, even assumptions, if they are reasonable, can be very valuable. Therefore, I will try to make some assumptions today. The consultation paper on retirement protection points out that a retirement protection system can annually raise \$20 billion in a money pool that will have grown by the year 1997 to a cumulative size equal to or even exceeding the

Government's entire fiscal reserve. Nor can it be forgotten that, in addition to this new pool of money, there are (as of the end of September 1992) 12 642 registered retirement schemes. These, too, have to be guaranteed. According to market estimates, their combined money pool has already grown to a cumulative size of about \$80 billion. If an unlimited financial guarantee is provided in respect of a total money pool of between \$100 billion and \$200 billion, three very difficult problems will arise.

- (a) How is a record to be kept of contingent liability? In its annual Budget, the Government keeps a clear and open record of its contingent liability, but the method of computation used is controversial. Clearly, not all retirement schemes will go bust at the same time. Still, what amount of guarantee will be sufficient? A conservative estimate is 10%. Using this estimate, contingent liability will amount to \$20 billion by the year 1997. China is bound to be concerned by this figure. It will probably ask for a capping of contingent liability.
- (b) If the Government, with no more than a few tens of billion dollars in its coffers, is to provide a financial guarantee amounting to over \$100 billion, the result will be a decline in its credit rating and ability with regard to the raising of money for the new airport projects.
- (c) Civil servants will ask their employer, namely, the Government, to set up a scheme of retirement contributions for them first, that is, before using any remaining money to guarantee private schemes. I think that such a request is very reasonable. According to government statistics, pension payments to civil servants for the 1992-93 year will amount to \$3.492 billion. Deducing from this, the total size of civil servants' pension fund must be at least several tens of billion dollars.

The Government's fiscal reserve is limited. It is unrealistic to force the Government to provide for retirement schemes a financial guarantee that is certainly much bigger than its entire fiscal reserve. The result will be worse than if there is a central provident fund.

In fact, the Government intends to introduce legislation to force the citizenry to save. This will at the same time channel more than \$20 billion annually into the financial market. Parties interested in operating retirement schemes will find such a prospect most attractive. Competition will force many smaller-scale operators to invest in high-risk portfolios, whose high rate of return will be attractive to employers and employees with retirement schemes. This will reduce the soundness of the schemes. Experience has shown that higher-risk funds have a higher potential for trustee fraud. I think that supervision alone, as being recommended, is not enough. Therefore, the

Government indeed has an escapable duty to act as a guarantor. However, this financial guarantee cannot be 100%.

If Councillors show a bit more restraint and suggest balanced options that are feasible and also within the Government's means, I believe that the problems will not be difficult to solve. Many indeed are the options. Clearly, however, even if the Government presents draft legislation to this Council without promising any guarantee for retirement schemes, this Council can still hardly reject it. This is because this Council is not in a position to bargain. With such a realistic attitude, I now present two options which offer the Government the most reasonable terms.

#### Option One: Something similar to the reserve fund of the tourist industry

During the first debate on the subject, I recommended to this Council the establishment of something similar to the reserve fund of the tourist industry. The fund is operated in the form of joint insurance. Every travel company contributes to that insurance fund. The retirement insurance fund will be an independent statutory body. When a retirement scheme fails for investment or management reasons, this insurance fund will pay limited compensation to the affected employees. I now suggest:

- (i) 0.5% of retirement contributions be levied for the retirement insurance fund. After this fund has grown to a certain cumulative size, say \$3 billion, the rate of the levy may be gradually decreased. It may even be reduced to zero.
- (ii) The Government act as a co-guarantor and guarantee an amount within its means, say \$3 billion. This will cap the Government's contingent liability. With the Government acting as a co-guarantor, the retirement insurance fund can become operational immediately. At first, the compensation will be 50% of any loss. When the fund has grown to a cumulative size of \$3 billion, the compensation-to-loss ratio may be raised to 80%.

#### Option Two: Trilateral responsibility

The insurance fund will have a well-defined upper limit. After it is exhausted, that will be the end. If the Government is to discharge a greater responsibility, one may wish to consider a trilateral Government-employer-employee guarantee against risks. The point is to discourage employers and employees from choosing to invest retirement funds in high-risk portfolios even though returns will be higher and losses will be fully covered by insurance.

The Government makes no contributions. In the long run, this will enable the Government to save on social security spending as well. I think that, as the principal supervisor of retirement schemes, the Government should assume half of the responsibility for financially guaranteeing against losses.

Employers and employees have a right to choose the investment fund in which to put their retirement scheme contributions and even to participate in the investment decisions. I think that they should respectively take up 30% and 20% of the responsibility.

Therefore, when a retirement scheme investment fund goes bust, the Government should be responsible for making good 50% of the loss and the employers, 30%. The employees' loss will be limited to 20%.

I agree with the views of other Councillors, particularly the views of economist Vincent CHENG, concerning tighter supervision. In particular, the number and the qualifications of retirement scheme operators should be controlled. For instance, the number of operating licences may be limited to 50. These licences are to be issued to fund-managers who can shift funds around among themselves in a manner that will spread the risks. Each operator is limited to managing not more than 5% of the total amount of contributions. The point is to create a reasonable environment for competition and to make it easier for the Government to exercise in-depth supervision and to take the pulse of the market. The cost of supervision may come from the licensing fee. Alternatively, a low percentage, say 3%, may be charged on investment profit to meet the operating cost of a central management body.

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

MR HENRY TANG (in Cantonese): Mr Deputy President, this consultation paper is wrongly entitled as *A Community-wide Retirement Protection System*. Although it is supposed to be "community-wide", the system does not cover those over 65, the self-employed and the non full-time workers. Are they not human beings? When the Government indicated its intention to put into practice the community-wide retirement protection system for certain groups of people, I kept on voicing my opinions and lobbying the Government last year. I believe my stand is quite well-known, so I am not going to repeat myself here. In sum, I have urged the Government to establish a retirement protection system promptly and undertake to bear the minimum risks of the retirement protection system.

Yet, unfortunately no matter how much consensus we have reached in our community and how loud the public cry is, the Government seems to be unmoved, and refuses to heed public opinion in its usual manner. I believe Mr John CHAN, the Secretary for Education and Manpower, later in his reply will as usual use his persuasive language to throw out some beautiful but specious arguments, explaining why the Government steadfastly refuses to act as the ultimate guarantor of the retirement protection system.

To the 2.8 million working population in Hong Kong, they are most concerned about what affects them most, that is to say, protection for their retirement benefits. However, if any insurance company or fund management

company which runs their retirement scheme is in such trouble as being swindled or business mismanagement-induced embezzlement of the fund of the insured, their hard-earned money saved over decades will come to naught. Should the Government fail to come up with other solutions but simply make it compulsory for all employees to participate in this scheme, it will be very unfair to them. And this is indeed not what a responsible government should do.

Some Members of this Council support the Government's view that its refusal to provide financial guarantee is out of the consideration that this would impose immense contingent liabilities on the Government. I am very disappointed and extremely baffled about this. The Government, as a matter of fact, is trying to use possible outcome of immense contingent liabilities as an excuse. I would rather look at it in this way: The Government has no slightest confidence in its own monitoring mechanism. As such it expects many companies in question are going to wind up, thus having to clear immense contingent liabilities.

If even the Government itself has no confidence in its own monitoring mechanism, how can members of the public be convinced that they should have confidence in this scheme? Should things really turn out as bad as that and the Government, though witnessing many retirees in misery, still refuses to clear the immense liabilities, how will the mess be cleared up then?

The reason the Government put forward to explain why it refuses to establish the Central Provident Fund is that the commitment will involve too great an amount of money which, be it managed by the Government, will play havoc with the financial market if things go wrong. However, will there not be instability as well if the system is decentralized and run by some dozens of private companies? I believe the Government, especially the Financial Secretary sitting over there, is well aware that the investors behave just like a swarm of bees. For instance, they would vie with one another in selling their stocks when the share prices are falling and swarm to buy the shares when the share prices rebound, say, on 7 October. In view of this, I am afraid decentralization would only bring about financial chaos in the market. The Government is, on the contrary, in a better position to carry out orderly management.

I find it unacceptable to see that there is no mention at all in the consultation paper on the establishment of an independent monitoring organization. It is certainly inadequate if we only rely on the Occupational Retirement Schemes legislation to perform the monitoring. Furthermore, there are quite a number of loopholes in this legislation. For instance, no minimum qualifications are required for the eligibility of a trustee and the vetting task is extremely arduous. However, I think it is still inadequate even if we plug the loopholes. Meanwhile, it is even more inadequate to set up only an advisory board consisting of employees, employers and government officials which only plays an advisory role and has no monitoring power.

Another reason given by the Government is that any undertaking of financial liabilities on the part of the Government may encourage trustees to run the funds aggressively or unscrupulously. Such an argument is groundless. Only through the Government's strict monitoring can we prevent the trustees from handling the funds rashly and adopting an irresponsible and risky investment strategy.

I would like to take this opportunity to respond to a view put forward by some of my colleagues in this Council, that is, why the Government is not also required to protect people's money kept by banks, broker's firms, insurance companies and so forth. The reason is simple. The Government has not forced members of the public to make such investments. You can choose to deposit your money in a bank or under your bed. However, the Government is making it compulsory for everyone to participate in this retirement protection scheme. Hong Kong people are very clever. They would say: As long as you make it compulsory for me to contribute to the scheme, you have the responsibility to guarantee that my investment is well taken care of.

It is proposed during today's debate that the Government establish a compensation fund. However, one only has to do some simple arithmetic and will find that this is an utterly inadequate and impractical measure. The Government estimates that a fund of \$20 billion can be pooled in the retirement protection system's first year operation. Suppose an investment company of medium size takes up 5% of the business in the market, which is about \$1 billion each year, then a sum of more than \$20 billion can be obtained 10 years later. If we impose an annual levy of 0.25% on it, from the sum of \$20 billion each year, we will get \$50 million each year and the amount will accumulate to only \$500 million 10 years later. How can we use a fund of \$500 million to cover a company with a capital of more than \$20 billion? Moreover, for a cautious investment fund, the return rate is normally 5% to 10% only. As we all know, whatever we are given, we will pay for it in the long run. Although the proposal of the compensation fund is put forward out of good intention, I must say it is not practical at all.

Mr Deputy President, with these remarks, I support Mr TAM Yiu-chung's motion.

MR TIK CHI-YUEN (in Cantonese): Mr Deputy President, for more than 20 years many labour and social organizations have strongly urged the Administration to set up a retirement protection scheme and the issue has been debated several times in this Council. However, the Administration had been using different kinds of reasons to refuse setting up such a scheme, until last year when it finally listened to public opinion and set up the Working Group on Retirement Protection to formulate relevant proposals. Now the consultation paper on retirement protection system, which has been amended by the Executive Council several times, is finally ready and made available to the

public for consultation. Although it might have come a little bit late, it is still a step forward.

Meeting Point considers that an effective retirement protection scheme should comply with the following three important principles:

Firstly, the Administration should make a reasonable commitment;

Secondly, the protection should cover the entire population;

Thirdly, the scheme should meet the needs of society.

On the basis of these three principles, Meeting Point will be making its preliminary comments in today's debate, and we expect to be able to make our in-depth comments in the next motion debate on this topic.

The main points of our preliminary comments are: Firstly, there is no commitment by the Administration; secondly, not everyone in society is benefited; thirdly, there seems to be an established policy which has set certain limits to the proposals in the consultation paper. Our views as regards these three points have been raised by Dr LEONG Che-hung of Meeting Point.

Our fourth point is: The consultation paper fails to lay down a clear and long-term objective under the policy of the retirement protection scheme and fails to canvass the underlying principles. Meeting Point has maintained that the overall picture should be borne in mind in formulating social security policy. We should not treat the public assistance, the old age and disability allowances, the medical care and the retirement protection as separate matters, because they are interrelated.

Fifthly, Meeting Point is dissatisfied with the Secretary for Education and Manpower's siding with members of the relevant organizations by selectively appointing them as members of the Working Group on Retirement Protection. The appointed organizations listed in the consultation paper, such as the Hong Kong Federation of Insurers, the Hong Kong Trustees' Association, the Hong Kong Society of Accountants and the Actuarial Society of Hong Kong, are all bodies with vested interests. This will definitely affect the objectivity and neutrality of the paper when formulation of policy is concerned. These organizations and their members have directly or indirectly participated in the operation and management of various kinds of provident funds or pension schemes. They actually have a commercial interest in the retirement protection scheme. Moreover, the lack of labour representative in the working group has aroused suspicion as to the Administration's impartiality and neutrality.

Sixthly, it has been stated several times in the consultation paper that it would be difficult for the Administration to control such a large volume of funds to be used for investment purposes, and that the funds would have an unsettling effect on the financial, monetary and foreign exchange markets. Such

exaggerations have been used as pretexts for refusing to set up a central provident fund. This is not only unconvincing but also exposes the Administration's incompetence. We fully believe that the Administration can take reference from other countries, and the professional staff in the government department responsible for monetary management can handle the funds, and can make use of the expertise from the private sector in doing so. Meeting Point considers that the public will have more confidence and a greater sense of security if the Administration manages their contributions and funds. As is the case with some foreign countries, a certain level of return can be expected since the funds under government management are spread among different prudent investments. It is believed that the implementation of such a retirement protection scheme, at a time when the Administration is in great need of capital for the construction of the new airport, can provide annually \$20 billion in funds for the airport projects either in the form of loan or investment.

The balance sheet of the Land Fund recently disclosed by the Sino-British Land Commission shows that the Fund under centralized management can obtain a return through wise investment decisions. However, the conclusion of not setting up a central provident fund is readily reached in the consultation paper without mentioning a word on the merits of such a fund. We are very dissatisfied with this. The retirement protection scheme is now in the stage of consultation. We think that the Administration should now adopt a more open attitude and listen to the views of the public. We consider that the Administration should do the following at the present stage:

Firstly, to show its sincerity, the Administration should consider different kinds of schemes like central provident fund, social insurance scheme and so on, and not confine itself to a pre-determined scope.

Secondly, the Administration should give a clear undertaking to the public, such that the role of the Administration will be more active than that outlined in the consultation paper.

Thirdly, the Administration should announce the calculation method of certain indicators mentioned in the consultation paper and the relevant data used so that the public can have access to such information and participate in the relevant discussion.

The social security policy is a comprehensive social policy with far-reaching effects. Being duty-bound in this regard, the Administration should play a more active role by undertaking the responsibilities of legislation, co-ordination and management. Meeting Point considers that the retirement protection scheme in Hong Kong should be a compulsory scheme under centralized control. Meeting Point reiterates that any retirement protection



policy should be considered along with other social security items such that a reasonable policy that meets the needs of the public can be formulated.

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

DR YEUNG SUM (in Cantonese): Mr Deputy President, after discussions for more than 20 years, Hong Kong at last puts together a consultation paper on compulsory retirement protection. I would like to ask: Why does it take so long? I believe that there is a very important but unresolved question in the minds of the Government and many Members of this Council, that is, whether the issue of retirement is an individual's responsibility or a social responsibility; whether an individual approach or a collective one should be adopted to tackle the problem?

It seems to have been a taboo in Hong Kong when it comes to the use of a collective approach to deal with social problems. Many Legislative Council Members and government officials hold that if Hong Kong is to provide collective social services, it will make individuals rely on the Government and do not care to find employment. This would also bring about an ever-expanding bureaucracy. And Hong Kong is going to take the path leading to a welfare state. However, let me tell you this: 50% of our population are living in public housing estates; school-age children are basically entitled to receive nine years free and compulsory education; 80% of our people are enjoying public medical services. It is evident that collective social services have already been with us for a long time. Going hand in hand with the practice of free economy, collective social services are already in existence for long. It is not new to us nor is it a measure that would undermine people's working ethics. As a matter of fact, the collective social services I mentioned just now would basically improve people's livelihood, enhance Hong Kong's productivity, reinforce the cohesion of the community and have a stabilizing effect on our social development.

Retirement protection in Hong Kong has been a subject of discussion for 25 years. An inter-departmental working group was set up by the Government as early as 1967. It proposed that a social security scheme on a contributory basis be established by the Government. G. WILLIAMS, who was responsible for producing the report, pointed out that Hong Kong needed to set up a retirement protection system on a contributory basis, that is social insurance, and that it should develop into a comprehensive retirement system in future. He thought that Hong Kong was a society attaching importance to traditional Chinese family values. But in view of the impact of many western values and urbanization, the welfare functions performed by the family to its members were bound to undergo a severe test, especially in the case of care for the aged. He made these remarks 25 years ago. And we are now again discussing whether a retirement protection system should be set up in Hong Kong. This demonstrates that his analysis at that time was far-sighted.

Something curious took place during this new round of the retirement protection system debate. Last year, during a debate in this Council, the Government officially announced that a retirement protection system on a contributory basis would not be set up in Hong Kong. It is strange enough, however, that several months after our directly elected colleagues took office, the Government has seen it fit to put forward this consultation paper on compulsory retirement protection. After all, I very much support the Government's resolute decision.

The consultation paper gives me the impression that the Government finally admits that such kind of protection scheme calls for individual responsibility and social responsibility. The Government also agrees for the first time that the issue of retirement cannot be successfully tackled by individuals alone, but requires a collective approach as well. But it is a pity that the Government is still wary of the adoption of a collective approach. This is why the consultation paper has stirred up so much controversy with the bone of contention being the Government's refusal to provide financial guarantee for the scheme. And Members have already put forward many ideas in this aspect.

As a matter of fact, there are many collective social service schemes already in force in our neighbouring economies such as Japan, Singapore and Taiwan. Their governments play several roles in their retirement protection schemes. The first one is legislation, that is to stipulate that all employees and employers must contribute to the schemes. The second role is administration, that is to have central co-ordination. The third one is the role of monitoring. The fourth is participation in contribution, especially to take care of the low-income group. The fifth is the role of making investment so as to offset the effects of inflation on the assets. However, it is regrettable that the Hong Kong Government, though accepting for the first time the idea of adopting a collective approach to deal with retirement protection, is still wary of it and only assumes the role of legislation. This is obviously inadequate.

If we sum up what we have discussed, we can see that there are several issues to which the Government must give serious consideration.

The first issue is the protection for the contributions. In the event of the closure of any insurance company involved or any fraudulence, the employees' contributions may be going down the drain. The Government must come up with some measures to protect their pensions properly. Otherwise, I think that many workers would choose not to participate in the scheme or simply say no to it.

The second one is how to give the necessary protection for the low-income earners or those who are approaching retirement.

The third one is the rate of returns. Would employees' contributions over the years be eaten up by inflation? This is a very important issue.

The fourth one is the age of retirement. Why is it set at 65, not at 60?

The fifth one is employees' participation. Given the fact that the fund involves more than half-a-lifetime's scheme savings of the employees, are they given the chance to participate in running the scheme?

It is hoped that the Government will give the above-mentioned five issues further consideration. Of the above-mentioned issues, I would like to point out two very important ones specifically. Firstly, I wish to stress once more the importance of a guarantee for the pension. Secondly, the Government should not exclude the possibility of setting up some sort of social insurance system because it is where the long-term solution lies in our efforts to improve people's livelihood and to eliminate poverty in Hong Kong.

Mr Deputy President, I urge the Government to step up publicity so as to encourage the public to express their views on this important paper. It is hoped that the Government will keep an open mind and listen to public opinion.

With these remarks, I support Mr TAM Yiu-chung's motion.

MR HOWARD YOUNG (in Cantonese): Mr Deputy President, the introduction by the Administration of the consultation paper *A Community-wide Retirement Protection System* to collect public opinion on this issue meets a community demand that has been in existence for a number of years and seeks to give to those who have contributed to the economic success of Hong Kong some protection for their post-retirement life now that Hong Kong's economic strength and living standards are on par with that of advanced countries in the world. This indeed is commendable.

Given that its objective is to provide protection, we must make the scheme one that can genuinely achieve the aim of providing real protection against losses as a result of accidents or even illegal acts. The scheme makes it compulsory, by way of legislation, on private banks, trustee companies and insurance companies to operate these funds and to administer these retirement schemes. Although this approach may avoid certain disadvantages of government-run schemes, such as low efficiency and low rates of return, it nevertheless brings about another disadvantage which may be avoided by a government-run central provident fund scheme, that is, the question of protection.

However, as far as protection is concerned, I feel that the accrued funds of provident fund schemes may be threatened by two scenarios. The first scenario is the inefficiency of the companies managing the funds. The second is illegal acts which may make a fund managing company suffer losses or even fold up.

If the accrued funds should suffer loss or even vanish, employees and employers alike would suffer. We therefore should try all means to provide against this eventuality.

A way to resolve this question of inefficient fund management is to make use of legislation to regulate the policy of these fund management companies. Only by "not putting all our eggs in one basket", as the saying goes, can we relatively reduce part of the risks involved.

But another question is the problem of illegal acts which may make a company suffer losses or even fold up. In recent years there have been precedents in foreign countries where some very large and famous companies had to close down because of misconduct of managers or failure of managers to follow rules or for other reasons.

In my opinion, in order to prevent this problem, we should consider whether we could adopt what the insurance industry has dubbed "Fidelity Insurance" (some call it honesty insurance or credibility insurance). Maybe we could consider the kind of protection mentioned by the Honourable Eric LI just now. The Government should consider making use of this method to preserve the integrity of the accrued funds of these retirement schemes. Although this arrangement may slightly reduce the rate of return or increase the costs of these retirement schemes, we should not take risks that may lead to total loss as the funds so accrued are the hard earned money of the employers and employees. Only by so doing can we achieve the objective of providing real protection.

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

MR WONG WAI-YIN (in Cantonese): Mr Deputy president, on 11 December last year, the day I was sworn in as a Member of this Council, I talked about the same subject. I remember in the last part of my speech, I quoted the following words of the late Governor Sir Edward YOUDE: "Hong Kong really owes its prosperity today to the hard work of its elderly during their young days". At the time, I pointed out that there were two things to keep in mind, namely, principle and function. I now intend to talk about these things again.

Concerning principle, we feel that the Government's responsibility and commitment are very important. In the past, the Government protected the livelihood of the citizens only by providing them with limited public assistance. That was not enough. If the Government really implements a compulsory retirement protection scheme, Meeting Point feels that it should not shirk the responsibility and pass it entirely to the employers and employees. In certain aspects, like financial guarantee, the Government should assume responsibility. The elderly made contributions to the community in the past, thus enabling us to enjoy the prosperity that we have today, so the community has a duty to look after them and enable them to live better, truly enjoying their twilight years.

Concerning function, the introduction of a retirement protection scheme will ease the heavy burden of public assistance disbursements. The money saved can be used on other support services. It will also ease the burden of family members in taking care of the elderly, thus minimizing conflicts within the family and enabling the retired elderly to live with greater dignity in their homes.

A year has passed. The Working Group of the Government finally draws up a consultation paper. However, it has given rise to much argument. I am worried that if the argument continues, the retirement protection scheme will not be implemented within the foreseeable future. There are indeed many problems in the consultation paper that make us worry. Many colleagues have already raised a lot of questions. Now, I would only bring out several questions relating to certain aspects and hope that Mr John CHAN will respond to them later. The consultation paper suggests that the entire working population join the retirement protection scheme. But it does not set a minimum wage level so that employees earning a wage below this level will be exempted from joining such a scheme. The burden of life of the low-income earners will be heavier as they have to contribute 5% of their salary. It is ridiculous that these low-income earners may apply for public assistance if they cannot make ends meet as a result of having to make a contribution. And the sum contributed is considered as an item of family expenditure. We doubt if these low-income earners, who rely on public assistance while contributing to the retirement protection scheme, will have enough money to support themselves after retirement. The consultation paper is vague and contains no concrete proposals as to whether it should be provided that self-employed, daily rated and hourly rated people should join the retirement protection scheme. If we look at the retirement protection systems in other countries, we may feel that the scheme can also cover these people. Since the retirement protection scheme is intended to benefit all the employees in Hong Kong, why do we not include these people in the scheme?

The consultation paper suggests that the retirement age be set at 65. We think the Working Group should provide additional data to show that the majority of those aged between 55 and 65 are still working. According to information on employment obtained from the Census and Statistics Department, among the population aged between 55 and 65, the percentage of those who were still working fell from 56% in 1981 to 51% in 1986 and further down to 47% in 1991. There was a marked decrease in the number of women in this age group who were still working. On what grounds does the consultation paper set the retirement age at 65? There may be big problems in this regard. If the number of working people in this age group continues to drop and the retirement age is set at 65, there may be a period of time during which people in this age group can neither find a job nor receive a pension. In that case, how can they support themselves?

We are most dissatisfied that the consultation paper reiterates that the Government will not provide any form of financial guarantee. It will only play a supervisory role. The consultation paper mentions other countries implementing similar schemes, saying that to different degrees, their governments allocate public funds to support the operation of retirement protection schemes. However, the Government does not state clearly why it cannot contribute public funds to support this scheme. If the reason given is that it does not want the future SAR Government to bear an extra burden, I think this argument cannot hold. There are no signs that the Chinese Government is opposed to taking up this social responsibility. The bad consequences resulting from the Government's unwillingness to give financial guarantee have been pointed out by many groups of the commercial, industrial and labour sectors. We hope that the Government will give serious consideration to these and make improvement.

We now have to cope with problems caused by a growing population of elderly people. Cases of elderly people receiving public assistance are on the increase. We very much worry that if the retirement protection scheme is not implemented as soon as possible, the financial commitment of the Government will even be greater. We also worry that the implementation of this scheme will not be within the foreseeable future.

Mr Deputy President, with these remarks, I support the motion of Mr TAM Yiu-chung, hoping that the working people will enjoy their twilight years after retirement.

DR TANG SIU-TONG (in Cantonese): Mr Deputy President, I am very happy to have the opportunity to express my opinions on an important issue concerning our people's livelihood today. It is a great pity that this Council has devoted too much time to the discussion of our political system in the recent month and thus neglected other social issues on people's livelihood.

Problems concerning the elderly are growing more and more serious in Hong Kong. The Government has laid down in *A Community-wide Retirement Protection System* a long-term policy for the care of the senior citizens among us. The policy aims at providing people with a retirement protection system so that they can benefit from it and enjoy a reasonable standard of living after retirement. This is a very correct approach. Yet, we can find in the consultation paper quite a number of controversial points which we should give more thought to. It is particularly true with regard to the monitoring of the retirement protection scheme. Inasmuch as this question is concerned, I think members of the public should give their views so that the proposed arrangements could be improved.

In principle, I am in favour of a central provident fund but it is a pity that it cannot be established for various reasons. According to the present proposal, it is compulsory for all full-time employees under 65 to participate in various

retirement protection schemes that meet the basic requirements laid down in the consultation paper. In my opinion, the Government should take on the responsibility and provide financial guarantee for the schemes because the contributions involved are the hard-earned monies of all the employees. It is not proper for the Government to let their contributions be handled by insurance companies, trustee companies or other fund management companies as these companies may go bankrupt due to investment failure and the employees' contributions will thus go down the drain. We must bear it in mind that retirement benefits are of vital importance to the employees at their old age. In this connection, I strongly urge the Government to serve as the guarantor of the employees' contributions or establish effective retirement insurance funds.

In the transitional period, and in view of the uncertainties of our future, the Government's commitment in this respect becomes all the more important. It is unacceptable for the Government to claim that such a commitment will impose on it enormous contingent liabilities and consequently encourage unscrupulous management of the funds. I regard it as shirking of responsibility.

I very much agree with one of Mr TAM Yiu-chung's proposals. Since this retirement protection scheme is of crucial importance to our people, I hope members of the public can express more opinions so that we can have something to go by when we, at the end of the day, are required to make the decision in this Council. As Christmas and Chinese New Year holidays are approaching, many people will plan to travel abroad. Furthermore, views about the constitutional reform package has become the main coverage in the mass media. Under such circumstances, I propose that the consultation period be extended so that members of the public can be given sufficient time to study the paper and voice their opinions. Meanwhile, the authorities concerned should highlight the importance of this scheme on television and in the press. I also hope that the Government will, as wholeheartedly as it promoted the Governor's policy address, encourage members of the public to give their views on this issue.

With these remarks, I support the motion.

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, I should like to begin by thanking all the Members who have spoken in this debate. Their comments have been carefully noted and will form an important part of the response that we receive from the community to our consultation paper. Members of the public will, no doubt, also find this debate a useful reference in formulating their own views and responses.

The consultation paper on a community-wide retirement protection system was published less than four weeks ago. Groups and individuals are already expressing their views. This is an encouraging sign. Retirement protection is a subject of great importance to the whole community, and I would urge everyone who wishes to comment on the proposals or to suggest alternatives to do so in the next two and a half months. In this connection, I

have noted the suggestion from some Members for the Government to adopt a more proactive form of consultation and to step up publicity on our proposals. My colleagues and I have participated in various seminars and discussions. I myself took part in the question and answer meeting organized by Mr TAM Yiu-chung, Mr PANG Chun-hoi and the six labour representatives of the Labour Advisory Board last week and we have also been speaking to district boards, chambers of commerce, bankers, and so on. We will continue to do so as our resources allow and will consider stepping up publicity of our proposals.

I do not wish to pre-empt the consultation process in any way, but I should like to take the opportunity of this debate to speak briefly on three aspects of the consultation paper, which have already been the subject of considerable public debate.

The first of these is the question of a guarantee of some sort for retirement benefits. Much concern has been expressed in today's debate as well as in different quarters outside this Council about the perceived need for a scheme of guarantee to protect contributors against a failure of retirement protection schemes. It has been argued that, since the Government is proposing to compel employees to participate in retirement protection schemes, it is also incumbent upon the Government to guarantee the preservation of the accrued retirement benefits in the event of a scheme failing through malfeasance or mismanagement. I am afraid that I find this argument lacking in logic. It is rather like saying that, since the Government compels children under 15 to go to school, the Government must guarantee (mind you, not just do its best to ensure, but guarantee) that no child would ever be injured in an accident in school.

Let me also say this: if the Government were to provide a guarantee for all retirement schemes, the taxpayer would have to accept an enormous contingent liability. The commitment would be permanent and ever increasing and it could well be counterproductive if it were to encourage some fund managers to take greater than normal risks, in the knowledge that they would be bailed out by the taxpayer if their judgment proved to be wrong.

I must emphasize that the absence of a government guarantee by no means indicates that the Government is abrogating its responsibility for monitoring the operation of retirement protection schemes. On the contrary, there will be a rigorous system of supervision and control. Under the Occupational Retirement Schemes Bill, all retirement schemes will have to be registered with the Government and to satisfy certain requirements.

- They will have to be properly funded, meaning that the assets of a scheme must be adequate to meet its liabilities at all times.
- The assets of a scheme will have to be maintained separately from those of the employer, and can only be used for the purpose of the scheme.



The financial position of a scheme will have to be examined each year by an independent auditor. The auditor's report, together with the scheme's accounts, will have to be submitted to the Registrar of Occupational Retirement Schemes, who will have the power to intervene in those schemes which prove to be funded or administered improperly.

Such a system of supervision and control will involve real and significant responsibilities. Having said that, I should make it clear that I do not wish to rule out completely other practicable ways of engendering even greater confidence in the retirement protection system. We are willing to look at realistic suggestions.

The second point on which I should like to speak concerns the need for protection for those members of the community who are approaching or have already passed retirement. It is essential to differentiate between social security and social services, on the one hand, and making financial provision for old age through savings and retirement schemes, on the other. What the Working Group on Retirement Protection is proposing is an employment related retirement protection system, which would provide coverage for those in the work force. It is in the nature of retirement protection schemes that benefits are proportionate to the size and duration of contributions. This does not mean, however, that no consideration has been given by the Working Group to the needs of those who will be approaching retirement or who will have retired by the time the proposed system is implemented. Hong Kong already has a social security system which provides a safety net for the elderly, the needy, the disabled and the disadvantaged. The Governor has announced substantial improvements to the various benefits and services provided under that system. These are additional to what we have done and are doing in providing increasingly better housing and medical and health care for the community. These benefits and services will remain in place after the retirement protection system has been introduced. This will mean that Hong Kong will have two systems running in parallel: one of the nature of non-contributory social security, the other employment related. This is not unusual. A number of countries in different parts of the world have such an arrangement. In this way, I believe we will be able to take care of the needs of our elderly people, regardless of whether they have been in employment or not.

Several Members have raised the question of the proposed age of retirement. A retirement age of 65 is proposed so that under normal circumstances the desired level of benefits would be achieved at the minimum contribution rate. An earlier retirement age would necessitate either a lower level of retirement protection or a higher rate of contribution. The Working Group on Retirement Protection is recommending that benefits arising from the statutory minimum contribution should normally not be paid out before the age of 65. However, an employee who participates in an existing or future approved scheme, which provides for retirement at an age lower than 65, would be permitted to withdraw his accrued benefits at that earlier age except for that

portion of the benefits which he derives from the mandatory minimum contribution in respect of service after the system is implemented. This portion of the benefits would remain locked in until the employee reaches the age of 65. However, any benefits deriving from contributions made before the commencement date of the new system or from post-commencement contributions in excess of the mandatory minimum will not need to be locked in and may be withdrawn in accordance with the provisions of the existing scheme.

Mr Deputy President, let me conclude by saying that we are consulting everyone, even though obviously we could not have involved everyone in the preparation of the consultation paper. Somebody has to draw up proposals to start with. The Working Group has done that and we are now consulting everyone in the community. The Working Group looks forward to receiving public views and comments on this most important subject. They will be most carefully considered. Thank you, Mr Deputy President.

MR TAM YIU-CHING (in Cantonese): Mr Deputy President, the motion today is to call on members of the public to comment on the retirement protection scheme. Twenty-three colleagues have already taken the lead and voiced their opinions just now. Members who spoke on the motion pointed out that the scheme outlined in the consultation paper is replete with potential problems and they also put forward many concrete proposals. I am not going to make a summary of or to repeat each opinion and proposal. The Secretary for Education and Manpower has already made an initial response to Members' remarks but I believe that Members would not find his reply just now acceptable, especially his explanations of the Government's position with regard to the financial guarantee. I hope that the Government will give Members' opinions and proposals a serious consideration and make a substantive reply.

Mr Deputy President, I notice that there seem to be insufficient time allowed for some Members to deliver their speeches as the bell rings frequently. However, this is not very important because when the consultation period expires, this Council is going to move another debate on the same subject. Members can then voice their opinions again.

With these remark, I would like to express my gratitude to Members for supporting the motion.

*Question on the motion put and agreed to.*

6.34 pm

DEPUTY PRESIDENT: I will suspend Council for half an hour to have a supper break.

7.11 pm

DEPUTY PRESIDENT: Council will resume.

### **NATIONALITY OF ETHNIC MINORITIES**

MR JIMMY MCGREGOR moved the following motion:

"That this Council urges the Government to examine the problems faced by the ethnic minorities in Hong Kong in terms of their nationality before and after 1997 and to take such steps as may be open to it to ensure that citizens of the ethnic minorities who have lived in Hong Kong as permanent residents for many years do not become stateless in 1997."

MR JIMMY MCGREGOR: Mr Deputy President, I will not take long to set out the basis for my motion. It is well known to all Members of this Council and, of course, to Hong Kong residents as well. I refer to the presence in Hong Kong of long-term citizens and residents of non-Chinese race who do not have the right of abode in any other territory and who may, or may not, hold BDTC or BOC passports. They are not therefore nationals of any other country and they do not qualify for Chinese nationality unless they choose to make a specific application to become so once the Chinese authorities promulgate the regulations on this matter. Most of them could be effectively stateless in 1997 if they do not wish to become Chinese nationals.

No study has been carried out to my knowledge to determine the parameters of the problem and the Hong Kong authorities have not attempted to ascertain its scale, the composition of those affected or whether there may be solutions of one kind or another. It is a problem which has been experienced elsewhere as the British Empire has given way to the British Commonwealth and to the return of most of the countries concerned to independence and territorial sovereignty. This process was rapid after the Second World War and many newly restored countries were left with the sad human detritus of those who did not really belong but who had nowhere to go. All over Africa and Asia large numbers of settlers, many of whom have lived in the territories most or all of their lives, found that they were unwanted and often discriminated against. The so-called mother country provided a new home for some but not for all. The great problem of the East African Indians comes readily to mind. The reluctance with which they were accepted into Britain after detailed and sometimes humiliating discussions stays clearly in mind. The unwillingness of Britain to accept more such people led to progressive tightening up of the British nationality and immigration laws in the 1960s and 1970s. Over a relatively short time it became clear that the British authorities were not going to accept any further responsibility for settling in Britain people born under the British flag in former British territories no matter what their ethnic background might be.

Hong Kong is one of the territories most affected by this overall change in policy. It is an international city which has provided sanctuary and given work to countless thousands of economic immigrants. The common trading, language and legal practices of British Commonwealth and Empire territories brought many such immigrants from China, India and other Asian countries. Many of the non-Chinese, as I have said, may become stateless in 1997 unless special measures are taken now. The Indians, as an ethnic minority, are probably the largest group at risk. I am indebted to the Indian Resources Group (IRG) for advice and information given to me in preparing for this debate. The IRG was recently set up by young Indians who care deeply about Hong Kong, who contribute substantially to the economy and who wish to be able to stay here after 1997 with some degree of assurance as to their nationality. Other Indian groups have taken this matter up with the Hong Kong and British Governments during the last six or seven years without much satisfaction.

At this point I should say that the contribution of the ethnic Indians to Hong Kong is very large indeed. I had the task during my years in the Government of assessing their contribution to our trade. I can recall that exports by Indian companies in Hong Kong represented at that time almost 10% of all our exports. That percentage is probably no longer valid but it is clear that the Indian contribution to Hong Kong, not only in trade but in many other aspects of our development, has been significant. We do not want to see them leave and they should be encouraged to continue to contribute.

It may be thought that the ethnic minorities should not be given any better treatment in terms of nationality than Hong Kong people generally. They have the chance to compete for the award of nationality in the British Nationality Scheme.

I would dispute that view. I think the ethnic minorities are especially vulnerable to isolation and discrimination once the British influence has gone. At the very least, the British Government must accept some responsibility for them since it was the British Government which established the situation where they may become stateless.

The scale of the problem is not clear. The Indians form the largest group but there are Pakistanis, White Russians, Eurasians, Amerasians and others of mixed ethnic background who cannot help themselves and who must depend on the interest and support of this Council.

Many Councillors are familiar with the wider issue of the British Nationality Scheme. This would never have been agreed by the British Government had it not been for the deep concern of this Council and Council Members and their unremitting efforts here and in London to seek British understanding and support. I am asking Councillors to give the same sympathy and concern to this much smaller but more vulnerable group of people in seeking an identified nationality, which will give them the assurance and confidence to stay here as an important element in our society. I am glad that

Councillors have all agreed that a special committee of the House Committee will be set up to consider this issue and also the issue of British passports to the 30 or so wives and widows of ex-prisoners of war (ex-POW).

I feel sure that something can be done for both these groups of disadvantaged people.

I must say that I do not like the amendment to my motion proposed by Mr ARCULLI for several reasons. First, as I have said, we do not know the parameters of the problem nor have we examined the issue in sufficient detail to be able to call on the British Government without reservation to commit itself to issuing an unknown number of passports to ethnic minorities after 1997 when it is quite likely that the British Government will have no further part to play in Hong Kong affairs and will also be most unlikely to become involved in a nationality issue of this kind if they have a legitimate reason for wanting to get out of it. No government in the world will give the unqualified assurance that I believe Mr ARCULLI seeks. An early rejection will make it more difficult to negotiate a sensible arrangement.

Secondly, an assurance in any case is not sufficient. As with the ex-POW wives and widows, an assurance by the British Government is no substitute for a British passport in the hand well before 1997. A post-1997 assurance will not keep the people concerned in Hong Kong before 1997. They will leave if they can.

Thirdly, my motion was written to allow careful study of the problem, consideration of the options and possible alternative solutions in a much wider scope than simply a recourse to the British Government. Other governments can be involved as well.

Mr ARCULLI's motion, I believe, is much too dramatic and immediate. It is not likely to draw a helpful response from the British Government for the reasons I have given. I hope, therefore, that Members will support my motion without amendment. Thank you, Mr Deputy President.

*Question on the motion proposed.*

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

I would just remind Members that the House Committee's decision as to Members limiting their speeches to seven minutes applies in this debate as well.

MR RONALD ARCULLI moved the following amendment to Mr Jimmy McGREGOR's motion:

"To delete the words after "That this Council urges the Government to" and substitute the following -

"press the United Kingdom Government to give an unqualified assurance that non-Chinese ethnic minorities in Hong Kong who are only BDTCs or BNOs will be admitted to the United Kingdom after 1997 so that they do not become stateless."

MR RONALD ARCULLI: Mr Deputy President, I do not really want to commence this debate by splitting hairs with Mr McGREGOR's motion but we do need to be clear what it is that we want from the Hong Kong Government. Looking at Mr McGREGOR's motion and the wording of it, I must say that the issue of nationality of non-Chinese ethnic minorities has been raised for the first time tonight by Mr McGREGOR. If one looks at the motion there is no reference to non-Chinese. But be that as it may, I do not know whether it is in order for him to move an amendment to his motion as far as that is concerned.

Secondly, in terms of the problems of nationality. The way that Mr McGREGOR has addressed Members tonight is really to deal with situations where there might be — and I emphasize there might be — members of an ethnic minority in Hong Kong who may be stateless after 1997. As far as I am concerned, Mr Deputy President, the situation really is quite plain. We have people living in Hong Kong that are BDTCs like most of us. There may well be some who are not BDTCs and I am only restricting my comments to non-Chinese ethnic minorities. If they are not, they might hold some other nationality or alternatively they may be stateless. If they are stateless and they have been here for a long time, they are certainly at liberty to apply for BDTC if they qualify. Whatever we wish, we really cannot force any members of our community to become BDTCs if they do not wish to do so anymore than we can ask the British Government or insist that the British Government give them British citizenship instantaneously.

The background to this problem is quite well known to Members but I really want to say a few words on that. Non-Chinese ethnic minorities will become — will change if they hold BDTC status today — British National Overseas on 30 June 1997 and their children born in Hong Kong thereafter will acquire the status of British Overseas Citizens. In the initial amendment, that particular status could only be transmitted to one generation of non-Chinese ethnic minorities, and after substantial lobbying by the Council of Hong Kong Indian Associations, that was changed to two generations, namely, not only their children but their grandchildren but thereafter they would become stateless. It cannot be transmitted for more than two generations and indeed in 1985 Baroness YOUNG, who was then Minister of State at the Foreign Office, said this in the House of Lords and I quote: "In the unlikely event that any BNOs or BOCs came under pressure to leave Hong Kong and have nowhere else to go,

we would expect the government of the day, on a case by case basis, to consider their application sympathetically in the light of the circumstances." On a subsequent occasion in 1986, Mr Deputy President, Mr David WADDINGTON, who was then Minister in the Home Office, repeated a similar statement.

The Indian community in Hong Kong continued with their lobbying efforts resulting in the Foreign Affairs Committee's report giving a statement to the effect that they did not believe that this assurance was sufficient. And despite the support of this Council in the past, the British Government has not done anything specific for this particular group of people. Both statements, Mr Deputy President, are expressions of hope and are heavily qualified. We are dealing with, of course, a very limited number of persons who fall within the description in my amendment. I really do not want to hear the British Government or indeed the Hong Kong Government repeating that statement for a third time and that is why I believe that we should now press the British Government to make an unqualified statement in that regard. My amendment does not call for British citizenship instantaneously or indeed the right of abode for the non-Chinese ethnic minority now. We must not forget the rest of the people in Hong Kong who hold BDTC passports and who have to compete for that 50 000 passports to be issued under the Nationality Scheme.

Mr Deputy President, I think the sentiment behind Mr McGREGOR's motion and my amendment is really almost the same except that my amendment makes it specific and makes it clear. And if it is adopted and passed by this Council I believe that it would have at least some persuasive effect on the British Government unless, of course, the British Government holds the view that we are simply an advisory body. All I am really asking for is fair treatment in an honourable way to help the non-Chinese ethnic minorities out of possibly a terrible fate, namely, stateless after two generations. If they chose not to take up an unqualified offer to admit them to the United Kingdom, where they can qualify for British citizenship, then it would really be their choice.

Mr Deputy President, with those words, I commend my amendment to Members of this Council. Thank you.

*Question on Mr Ronald ARCULLI's amendment proposed.*

MR MARTIN LEE: Mr Deputy President, the issue before us today is quite simple. It is one of honour and decency: is the British Government prepared to honour its moral and legal obligations to the citizens of Hong Kong?

The position of this Council is very clear. We in this Council have repeatedly stated over the years that all British citizens in Hong Kong — whether they are BDTCs, BNOs or formerly CUKCs or whatever — should possess the right of abode in the United Kingdom for that was a right that many of us were born with and which was subsequently taken away from us by a series of revisions to the United Kingdom nationality laws. Anything less than

full British citizenship represents a failure of Britain's moral obligations to her own citizens and a breach in her legal obligations under the Convention on the Reduction of Statelessness. I cannot accept the argument that because Britain has refused to fulfill her obligations, we should no longer press Britain to do what is morally and legally right.

The failure of the British Government to abide by its commitments to its citizens in Hong Kong is shameful. Since Mr McGREGOR's motion today applies only to the non-Chinese ethnic minorities in Hong Kong, I shall focus on this group. Yet, I would like to state clearly at the outset that I make no distinction between Britain's duties towards her Chinese and non-Chinese citizens in Hong Kong.

The British Government's position on the nationality of the non-Chinese ethnic minorities in Hong Kong has been marked by an excessive legalism by which it has sought to cover its shameful intentions with a welter of legal technicalities. According to the Convention on the Reduction of Statelessness, to which Britain is a signatory, each contracting state is under an obligation to ensure that no person shall become stateless as a result of a transfer of sovereignty over a part of its territory. In order to comply with the Convention, Britain has invented two new categories of citizenship: British National (Overseas) and British Overseas Citizen. This would enable her to claim that, as the holders of such British passports in Hong Kong, including the ethnic minorities, will still have British nationality after 1997, they will not be left stateless.

Such an argument is flawed. For, beneath the glittering surface of BNOs and BOCs lies the ugly reality that non-Chinese holders of BNO and BOC passports will in fact be stateless. As human rights law expert Johannes CHAN has pointed out, a BNO or BOC passport is of little practical value if its holder has no right of abode in the country in which that passport is issued. While a BNO passport may be effective before 1997 because the holder still has right of abode in Hong Kong, being a territory under the jurisdiction of the passport issuing British Government, I question how many countries will actually accept such passports after 1997. For how can we expect a foreign country to respect a passport when the government which has issued it does not even undertake to accept the passport holder should he or she be repatriated from such a country?

Mr Deputy President, Britain does not only owe a legal obligation towards her non-Chinese citizens in Hong Kong; she owes them a profound moral obligation as well. For many years ago, many Indians and Pakistanis have come to Hong Kong. Many of them have chosen to give up their own nationality and swore allegiance to the British sovereign in order to become British subjects. Many of these individuals have since rendered valuable service to our community as police or army officers or as civil servants. In turning her back now on these individuals, Britain has shown a total lack of appreciation for their undoubted contributions to Hong Kong.



I therefore call upon the British Government immediately to grant all of them the right of abode in Great Britain, the same right that is available to all full British passport holders. I am told that the number of persons in question is quite small; yet whether the number is 2 000, 6 000 or 10 000 is immaterial. Rather than quibbling about numbers, Britain should take note of the small number of Hong Kong families granted full citizenship under the British Nationality Act of 1990 which have actually left Hong Kong to settle in Britain. Any fear of a large-scale influx of immigrants from this group is entirely unwarranted.

Finally, I would like to say a few words on Mr ARCULLI's amendment. I do not wish this issue today to become a political one. Yet, I am afraid that adoption of Mr ARCULLI's amendment would represent a formal stepping down by this Council from our clear-cut position in 1989, where we demanded that the right of abode should be given to all British citizens in Hong Kong. May I remind Honourable Members that on 5 July 1989, this Council unanimously supported Mr Allen LEE's motion calling upon the British Government to restore "full British citizenship to British subjects in Hong Kong." Mr ARCULLI's amendment, however, seeks only for an assurance of admission of the non-Chinese British citizens in Hong Kong to the United Kingdom after 1997; it mentions nothing about full citizenship or right of abode. As such, the amendment is a far cry from what this Council was saying only three years ago.

I see no reason for this Council to back down from our entirely right and reasonable position of 1989. I see even less reason to back down from our position only in relation to the non-Chinese British citizens in Hong Kong as this amendment seeks to do. For this reason, the leaders of the Indian Resources Group, which has spearheaded the present campaign, have urged me to stand firm in support of full citizenship and vote against Mr ARCULLI's amendment. The UDHK, therefore, will accede to their request by supporting the original motion and opposing the amendment.

MR SIMON IP: Mr Deputy President, the subject of this debate is nothing new. In fact, the issue arose with the signing of the Joint Declaration back in 1984 and was debated fully in this Council in 1985. At that time, Honourable Members of this Council unanimously supported the granting of full British citizenship to Hong Kong's ethnic minorities. The support for that resolution was so strong that the former Governor, Lord MacLEHOSE, was later to say that he could not recall an occasion on which there had been such force and unanimity behind a request of the Legislative Council to the British Government. So it is a disgrace that no satisfactory solution has been devised by the British Government throughout these years.

The problem facing the ethnic minorities in Hong Kong is very simple. They will become stateless after 1997 despite the second class British passports that will be granted to them and to other Hong Kong people who fail to obtain a

full British passport under the British Nationality Scheme. They cannot say with conviction that there is any place to which they truly belong. Those so-called British passports, of course, do not allow for the right of abode in England. Neither do they guarantee the right of abode in Hong Kong.

Also these passports confer very few of the rights and privileges normally associated with citizenship. The Memorandum to the Joint Declaration states that consular protection would not be available in Hong Kong or China. The right to protection is only effective in third countries. So what good are these passports to these ethnic minorities, who unlike their Chinese counterparts, will not automatically be Chinese nationals after 1997?

As prominent academic, Mr Johannes CHAN, has commented, statelessness occurs when two essential attributes of nationality are absent: These are the availability of protection by, and the right of admission to, the State of which a person is a national. These British overseas passports, namely the BNO and BOC passports, neither provide for the right of abode in the United Kingdom nor for full consular protection. They are really no more than travel documents, as the Chinese Government has made clear in the Memorandum to the Joint Declaration. So is it right to allow the ethnic minorities to be armed with mere travel documents in the years to come, knowing full well that even those travel documents would lapse after two generations?

The British Government's reasons for refusing to grant ethnic minorities full British passports are scarcely credible. They maintain that the provisions in the Joint Declaration, as implemented through the granting of various forms of British overseas passports, would be adequate to cater for their needs. This patently has failed to allay the continuing anxiety felt by the ethnic minorities that they will become stateless after 1997.

Another problem is that for some of them who have lived in Hong Kong for most their lives, the right of abode in Hong Kong is still an uncertain prospect. The right of abode of non-Chinese nationals after 1997 is clearly prescribed in both the Joint Declaration and Article 24 of the Basic Law. But despite that, the Chinese and British Governments are still unable to resolve how that right can be secured in our laws and how the conditions laid down in the Basic Law can be fulfilled.

The British Government has said that it will consider sympathetically the case for admission into the United Kingdom those people who come under pressure to leave Hong Kong. But this "guarantee", if it can be so called, is neither adequate nor realistic. People who are anxious about their future — and many of the ethnic minorities are indeed so — will simply not wait until the fateful day when they are compelled to leave. They may simply pack their bags and go now before they become stateless. This will be a severe loss to Hong Kong, for no one can doubt the great contributions which they make to Hong Kong's success as an international centre of commerce and trade, not to

mention the notable achievements many of them and their forefathers have made in the cause of philanthropy.

It is still not too late to rectify what has gone wrong in this sorry episode. But failure to do so can only result in the moral bankruptcy of the British Government. It will also lead to confirmation of the belief that the British Government is indeed racist in its immigration policy. I, therefore, urge the British Government to take immediate steps to alleviate the plight of these people by granting them full British citizenship.

Mr Deputy President, I would have been happy to support Mr ARCULLI's amendment if it had been in addition to, rather than in substitution for, Mr McGREGOR's motion. But I cannot support it as it reduces the possible options to one, that of the right of admission to the United Kingdom after 1997. The right of admission, without full British nationality does not make the ethnic minorities any less stateless. Therefore, I should like to see the Hong Kong Government pressing the United Kingdom Government for the grant of full British passports to the ethnic minorities. Mr McGREGOR's motion allows this to be done.

With these remarks, Mr Deputy President, I oppose Mr ARCULLI's amendment and I support Mr McGREGOR's motion.

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, what is now before us is an out-and-out question of human rights. It is difficult to imagine why there are people who would become stateless in the Hong Kong community.

To the 98% Hong Kong people, they may have their own worry about their future because they are ethnic Chinese. However, to the non-Chinese ethnic minorities, it is different. Among the persons I know, Mrs Annabelle SHAH is one of them. Maybe the name sounds unfamiliar to you but if I point out that she is Fei Ma, the one who did a remarkable job in the BCCI (HK) episode, I believe that no one would say he does not know her.

When Fei Ma got the news that we have such a motion debate today, she exhorted me repeatedly to relate her story to Members of this Council. Her father came to Hong Kong in 1911 and worked at the navy dockyard. As a matter of fact, from mid-19th century onwards, the British colonial rulers had been recruiting many Asians from other British colonies to work in Hong Kong. Fei Ma's father survived the three years and eight months of Japanese occupation in Hong Kong and got married during war-time. Two boys and one girl were born later and the girl is Fei Ma. Fei Ma told me that her two brothers successively went to the United Kingdom in the 1970s and already obtained the right of abode in the United Kingdom. As for her, since she always believed that the British Government will not abandon these non-Chinese residents, nor will it do so to those who were recruited to work in Hong Kong and who had made a life time contribution here, the idea of leaving Hong Kong

when she still got the chance never occurred to her. However, to their dismay, these "British Dependent Territories citizens" are now denied British nationality. As a result, they and their children may become stateless by 1997.

Fei Ma repeatedly asked me to put forward her appeal at the debate today and urged the British Government to give back these ethnic minorities their deserved dignity by granting them the right of abode in the United Kingdom.

Mr Deputy President, Fei Ma and other non-Chinese people, just like you and I, have made their share of contributions to the prosperity and development of Hong Kong. Now they are going to become stateless obviously due to a political changeover. It is ridiculous, is it not? Do they deserve other Hong Kong people's support to fight for their right of abode in the United Kingdom? A stateless person without permanent residence is tantamount to losing one's basic identity. Without the basic identity, what is the use of talking about freedom and human rights when one does not enjoy the basic dignity a man is entitled to?

Mr Deputy President, with these remarks, I support the demand of the non-Chinese ethnic minorities. Thank you.

MISS EMILY LAU: Mr Deputy President, on several occasions in the past decade Members of this Council urged the British Government to offer full British nationality to the non-Chinese ethnic minorities in this colony. Today our demand should be the same. I hope Members will speak with one voice to highlight the plight of the ethnic minorities whose descendants face the very real prospect of becoming stateless.

I fully share the sentiment of Mr Jimmy McGREGOR's motion but I do not think it goes far enough. Mr Ronald ARCULLI's amendment is also unsatisfactory because it does not give the ethnic minorities the guarantee they seek. Mr ARCULLI asks for an unqualified assurance that the ethnic minorities will be admitted to the United Kingdom after 1997. Even if the British Government were to agree to Mr ARCULLI's request, that would not mean the descendants of the ethnic minorities will not become stateless. The right of entry to the United Kingdom is a far cry from the right of abode or full British citizenship, which is what the ethnic minorities want.

The Indian community's fear of statelessness, Mr Deputy President, was reflected to the Governor in a letter from the Indian Resources Group on the 10th of this month. The group urged Mr PATTEN to take steps to ensure that the loyal subjects of Her Majesty the Queen would not be faced with the same tragedies as those experienced by ethnic minorities elsewhere when there had been a transfer of sovereignty. I fully share their concern and I hope the sub-committee, set up by the House Committee last week at the request of Mr Jimmy McGREGOR to deal with this problem, will handle the matter sympathetically and expeditiously.

In his reply to us later, Mr Deputy President, I hope the Secretary for Security can give us some indication of the size of the problem including the number of people who are being affected and also whether the Government supports the ethnic minorities' demand for full British citizenship. Furthermore, Mr Deputy President, I hope the Government will not trot out their tired old argument that the ethnic minorities were included within the British nationality selection scheme which did not discriminate among races. As we all know, the British nationality selection scheme was launched after the Peking Massacre of 1989 to help to restore confidence. It was a very limited, very elitist and highly selective scheme aimed at the well heeled and well qualified. To ask the ethnic minorities, some of whom may not even qualify to apply, to seek salvation from this scheme is unreasonable and unacceptable. The Government may want to assist this Council by telling us how many members of the ethnic minorities and their families have succeeded in acquiring British nationality under the selection scheme.

In conclusion, Mr Deputy President, Britain's responsibility for her subjects here, be they ethnic Chinese or non-Chinese, is unshirkable. It is a question of Britain's honour and moral responsibility. Thus it is deeply humiliating and infuriating to see our legitimate demands repeatedly ignored. The question of full British citizenship for all the Hong Kong British subjects will not go away, Mr Deputy President. Let us make a fresh start tonight in dealing with this very thorny problem by pressing the British Government to accede to the ethnic minorities' very, very modest demands.

With these remarks, Mr Deputy President, I reluctantly support Mr McGREGOR's motion and oppose Mr ARCULLI's amendment.

MR JAMES TO (in Cantonese): Mr Deputy President, the United Democrats have all along been fighting for Hong Kong people's due political rights (including residents of non-Chinese ethnic minorities) on the issue of nationality. It was stated in paragraph 2.3, Chapter 3 of our 1991 Legislative Council elections platform that we are going to press the British Government to honour its obligations to the indigenous British Dependent Territories citizens, especially those non-Chinese British subjects residing in Hong Kong, by granting them the right of abode in the United Kingdom. The British Government has all along been refusing to fulfil its legal and moral obligations to grant British subjects in Hong Kong full British citizenship. On this score, I still consider the British Government being irresponsible and shameful.

Some commented that the passage of the British Nationality (Hong Kong) Act in 1990 by the United Kingdom, or the so-called "right of abode in the United Kingdom" scheme, was a proof that the United Kingdom did care about its citizens. This argument is obviously flawed. Legislators and members of the public know it very well that the United Kingdom has been progressively stripping the British Dependent Territories citizens of their nationality rights in

a planned way since the 1960s, leading to the creation of the so-called "second class" and even "third class" citizens who are subject to unfair treatment.

The "right of abode in the United Kingdom" scheme aims at retaining the talents in Hong Kong and stemming any serious brain drain which may affect the economic development of Hong Kong. It is not geared towards the crux of the problem — that is the fulfillment of the United Kingdom's moral and legal obligations. In view of this, the scheme is only beneficial to the upper and middle classes whereas several millions of British Dependent Territories citizens in Hong Kong (including the non-Chinese ethnic minorities) are not given a fair deal. How can we call the British Government "responsible"?

The United Democrats insist that Hong Kong people holding British Dependent Territories Citizen passport or British National (Overseas) passport should be granted full British citizenship. Although Mr Jimmy McGREGOR's motion only deals with the future nationality status of the non-Chinese ethnic minorities in Hong Kong, we are still fully in support of it.

We have no detailed and official report on the number of the non-Chinese ethnic minorities affected by the nationality problem. According to a survey in 1985, it may involve more than 10 000 people, the majority of them are ethnic Indians (about 6 000 people), some ethnic Portuguese (about 2 000 people) and a handful of ethnic Europeans.

Families of these people are historically well connected with the territory and many of them have called Hong Kong their home for several generations. The case of Fei Ma mentioned by Mr LAU Chin-shek just now is a good example. It may well be said that she and her families grow up with Hong Kong. As Hong Kong people, we certainly disapprove of the fact that these people will merely be given an ineffectual "nationality status" after 1997. We are also deeply concerned that, worse yet, some of these people and their children may not be granted such an ineffectual nationality status and may become stateless.

Judging from their contribution to our community, we can see that they play an active role in Hong Kong's economic, cultural and social development. They consider Hong Kong their home and would remain here to pursue their personal ambitions after 1997. This further indicates that they are also Hong Kong people and deserve our due concern.

From a national point of view, we cannot expect the non-Chinese ethnic minorities in Hong Kong to share the feeling of most Hong Kong Chinese about the territory's reversion to China. From the point of history, they, or their forefathers, came to Hong Kong because Hong Kong is a British colony, not a territory under the jurisdiction of China. According to them, they have chosen to settle in the territory and swear allegiance to the British Government because Hong Kong is a member of the British Commonwealth and they have faith in the British way of government and legal system.

Meanwhile, many ethnic Indians have not only decided to settle in Hong Kong but also gone so far as to give up their own nationality to become British subjects.

In terms of law, both the Annexes to the Sino-British Joint Declaration and the Chinese Nationality Law do not have any specific provisions for the non-Chinese in Hong Kong. And they cannot become Chinese citizens automatically after 1997 as the ethnic Chinese in Hong Kong do. As such, they have no alternative but to become the so-called British Nationals (Overseas). What they have is merely a passport with a few years' validity. Such a travel document or, to be exact, the right of entry into a certain country is indeed a far cry from a nationality status and a full passport. Should they give up the right of abode? Or should they give up the right of consular protection?

The above-mentioned arrangements will effectively turn some people stateless. This is a breach of the Convention on the Reduction of Statelessness which the United Kingdom is a signatory state.

Mr Deputy President, we feel that the British Government should immediately restore full British citizenship to these people unconditionally. It should not keep on evading and delaying the fulfilment of its moral and legal obligations. These people wish to stay in Hong Kong, not leaving it.

Mr ARCULLI's amendment actually seeks only to grant this group of people the right of entry to the United Kingdom, not the rights of a full citizen. The two are obviously not the same. His amendment represents a back-down from the position we took on 5 July 1989 when Mr Allen LEE's motion was carried in this Council urging "the restoration of full British citizenship to British subjects in Hong Kong" during the discussion on the right of abode in the United Kingdom scheme. We have no right to make such a concession on behalf of these non-Chinese residents. As such, we oppose the amendment.

Mr Deputy President, the United Democrats support Mr MCGREGOR's original motion and oppose Mr ARCULLI's amendment motion.

MR HOWARD YOUNG: Mr Deputy President, I agree that what we are discussing today is nothing new but old. If the *South China Morning Post* had a column that read "Seven Years Ago Today", then they would have an article that says "Minorities fear they will be out in the cold". This article of seven years ago said — and that was really the comment on the then announced new British BNO passport scheme — and I quote "The Managing Director of Swire Travel Limited, Mr Howard YOUNG, thought that the new nationality proposals were workable and in line with the Joint Declaration." But in another paragraph it also said, "Mr YOUNG stressed the British Government had a responsibility to look after Hong Kong's ethnic minorities if they were stateless after 1997 and to offer them the right of abode in Britain." Seven years hence,

my views have not changed. Seven years hence, the British Government has done nothing.

I think the ethnic minorities we are talking about are mainly those of ethnic Indian origin but also Pakistanis and other Asians. They have lived in Hong Kong, not just for many years, but I believe many generations. In fact many of them had for generations contributed to Hong Kong's prosperity long before we ourselves or our parents came to Hong Kong.

I am from the travel and tourism industry; so I will look at this mainly from the travel document aspect. I believe that in Hong Kong there are roughly 22 000 persons of Indian ethnic origin of whom roughly 6 000 carry BDTC passports. BDTC passports are a passport by British standards but they will no longer be valid from 1 July 1997. British National (Overseas) passports will be valid post-1997 but the Chinese Government regards these as a travel document. Now in Hong Kong there are two systems of travel documents. We have BDTC and BNO passports, which is the type I hold. That is regarded as a passport. There is also what is called a travel document, even today, and that is the green coloured certificate of identity which I believe the Honourable Allen LEE and the Honourable CHIM Pui-chung hold. Now, if you look at the Basic Law it also says post-1997 the Special Administrative Region of Hong Kong will be able to issue passports. It will also be able to issue travel documents. Passports and travel documents are different, Mr Deputy President, even today. The British passport enjoys free of visa entry into 70-odd countries where the CI only enjoys these privileges for, as far as I know, Singapore and South Africa, which I suggest Mr CHIM could go to for a holiday if he wished.

Now, post-1997, the Chinese ethnic population in Hong Kong has less of a worry in this context. According to the Chinese constitution we are also Chinese citizens. But SAR passports can only be issued to Chinese nationals who are permanent residents of the SAR. What about the non-Chinese nationals? Are they to be left with only a travel document that might be, in comparison, worse off than today's CI? I believe that the ethnic minorities do have a dilemma which is unique and therefore we must find a unique solution. One may ask then: what is to stop the ethnic minorities post-1997 to apply to become Chinese citizens so that they will not become stateless?

Mr Deputy President, I am not aware of whether there are any clear cut procedures and rules for people who are non-Chinese to apply for Chinese citizenship although I know of one particular case, a very famous case. I believe an ethnic American — if there is any such thing as an ethnic American — did become a Chinese citizen and he was Mr MARHAIDA who had been in China since the Japanese war and fought with the communists during the revolution. I believe many of our ethnic minorities here would not qualify in that respect. Now this American, having gained Chinese nationality, I am not sure whether he gained it through clear cut procedures and rules or whether it was only a reward for what he had done.



So, Mr Deputy President, I believe we should fight for full British citizenship for the ethnic minorities in Hong Kong and I believe that is not backtracking and saying that we want this for all of Hong Kong's population. I am a realist. I believe in being pragmatic. I do not believe in just sticking to high sounding ideals and shouting on a roof for things that are not achievable. I honestly do believe that although idealistic, shouting to ask for full British citizenship for all Hong Kong citizens is not realistic. But the ethnic minorities are a small number; so I think that is achievable.

I am disappointed today that the debate seems to me to have become another "party line, you win, I lose" debate. I was hoping that it would not be so. In fact, I interpret Mr ARCULLI's amendment differently. I think it embodies Mr McGREGOR's motion and it goes further than that. I believe it also does not bar the eventuality of achieving full British nationality for the ethnic minorities. Perhaps the Deputy President would allow Mr ARCULLI to confirm that it is in conjunction with Mr McGREGOR's motion.

On these grounds, Mr Deputy President, I support both the motion and the amendment.

8.00 pm

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

ATTORNEY GENERAL: Mr Deputy President, with your consent, I move that Standing Order 8(2) should be suspended so as to allow the Council's business this evening to be concluded.

*Question proposed, put and agreed to.*

DR LEONG CHE-HUNG: Mr Deputy President, the common thread between the original motion and the amendment is that they both aim to help non-Chinese minorities in Hong Kong, whose plight, as Members have mentioned just now, has for some time been dangling in the clouds. This I would urge the Council to do its utmost. It is not a political issue as Mr Howard YOUNG has just mentioned.

What is called for in the amendment — the right to be admitted to the United Kingdom — does not technically resolve the problem of statelessness. For statelessness means a person without nationality, and the right to enter another country by itself does not grant nationality.

This, however, should not distract us from the crux of the matter. There are two separate issues here, which have so far been blurred. (1) The right of abode in Hong Kong of these ethnic minorities after 1997, and (2) the nationality of these people's later generations. Unless the problems are correctly identified, we may be urging the wrong party for the wrong thing.

Article 24 of the Basic Law prescribes who are the "permanent residents" of Hong Kong after 1997. My reading of this article suggests that the third generation of non-Chinese minorities will lose the status of "permanent resident", thus losing the right of abode in Hong Kong. If these minorities wish to have the right to live in Hong Kong assured for later generations, it is the revision of the Basic Law they ought to look for.

The second part is nationality. Can they in Chinese Law become Chinese citizens, and do they want to be Chinese citizens, even if they can? Here the correct party to seek assurance from would be China.

Those minorities who retain British "nationality" in name, which will later be turned into "British Overseas Citizenship", will not forever be able to pass this flimsy "British citizenship" down the generations. I understand this will itself terminate after the third generation.

Even genuine full British citizenship cannot be passed down after three generations to offsprings from outside the United Kingdom who have not assumed residency in the United Kingdom.

So the question here is how to reconcile right of abode and nationality and reconcile them well before 1997. Even if we are successful in pressing the right of entry to the United Kingdom for these minorities, that would still not resolve the Hong Kong right of abode problem.

Ethnic minorities who treat Hong Kong as their home have contributed greatly to our society, as much as any one else. As such their continual right to reside in Hong Kong should be assured.

I sympathize with the non-Chinese minorities in their fear of having nowhere to go, in the event that they are forced to leave. Here the matter is in the hands of our sovereign state. It borders on hypocrisy that Britain created classes of "British" citizenships which are "British" by name only.

Not just for the ethnic minorities. I think it right that a country that reaps benefits from a colonized territory should do the honourable thing of granting full citizenship to all the residents of that territory, who want it.

Mr Howard YOUNG just now said that it is impractical to ask for British citizenship for all Hong Kong citizens. Whether it is impractical or otherwise, it is a right for Members of this Council representing the people of Hong Kong to do likewise.

Mr ARCULLI's amendment, no doubt, seeks to achieve one channel to allay the fears of the ethnic minorities and it may well be an aspect that most members of the ethnic minorities would be eager to accept. I personally fully accept this principle. Yet, the pathway is a very narrow one, such that should we fail to push the United Kingdom Government to do likewise it would give us a contingency. Furthermore, granting of admission to the United Kingdom after 1997 does not impart nationality nor does it allay the worry of the ethnic minorities before 1997. Mr McGREGOR's initial motion, however, does not rule out the concept put forward by Mr ARCULLI, yet provides flexibility

With these remarks, Mr Deputy President, I and members of Meeting Point support Mr McGREGOR's motion and oppose Mr ARCULLI's amendment.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, first of all I would like to pay my regards to members of the ethnic minorities seated in the public galleries listening to this debate. My speech is not directed at them.

Mr Jimmy McGREGOR's motion concerns the possibility of non-Chinese residents becoming stateless after 1997. As we understand it, there are at present 2.5 million people in Hong Kong, myself included, who are stateless. I have heard what Mr Howard YOUNG said a moment ago. Why are we, the 2.5 million people, being looked down on? I thank several Members who have spoken on behalf of local ethnic minorities. But why is there nobody to represent and speak on behalf of the 2.5 million Chinese in Hong Kong who are already stateless? When I travelled to America and Australia on my Certificate of Identity. I put down "Chinese" in the column of "nationality", but the word was crossed out by the immigration officers of the said two countries who replaced it with the word "stateless". I felt a pang of heart at those moments. What did "stateless" betoken? But on second thought, I have a lot of money in my pocket. Therefore, we should never look down on ourselves.

In the speeches they made just now, the three Honourable Members from the United Democrats of Hong Kong have clearly stated their stand. Mr Martin LEE referred to what happened on 5 July 1989. Remember, the year was 1989, which was three years ago. If it was for a just cause, then the fight should have continued non-stop. Why should there be silence after the issue was brought up three years ago? Listening to Mr LAU Chin-shek airing grievances on behalf of some members of the ethnic minorities, I said to Mr CHEUNG Man-kwong sitting next to me, "He is not crying despite the fact that he is a holder of a CI. He should be the one to feel miserable. Who does he think he is to stand up and fight for other people? Other people at least are holders of foreign passports and can come and go freely." Just now Mr James TO also reiterated the standpoint of the United Democrats of Hong Kong. Now I make so bold as to say that I challenge Mr Martin LEE to come with me tomorrow to Government House and to urge the Governor to grant the right of abode in the United Kingdom to all citizens of Hong Kong. I believe if Mr LEE is a just man, he

will definitely not oppose. (We can go later. It does not necessarily have to be tomorrow.) I also invite other Members who are present here to join me in taking such action. This is something that we, as Members, should do.

The Governor of Hong Kong is making use of the constitutional reform package. He keeps saying that he represents the people of Hong Kong and has the support of most of the Hong Kong people. In other words, we, the people of Hong Kong, are putting whatever stakes we have — our future and our everything — in his hands and let him decide which side to place the bets on. Of course, he is betting on the Chinese Government being open to negotiation on the matter of the constitutional package which, however, has turned out to be a confrontational package. What will be the outcome? I dare not say, and I believe many of the Members who are present (including our Deputy President) would not dare to say. Members of the public are also awaiting the upcoming judgement that will affect our destiny. Last time I mentioned that the British Government .....

DEPUTY PRESIDENT: Mr CHIM, please confine your remarks to what is relevant to this debate.

MR CHIM PUI-CHUNG (in Cantonese): I believe that notwithstanding the strict terms of the motion, there should be no limitation on what a Member may say in his speech. Perhaps you would be so kind as to point out where I have erred. Before the sitting began, Mr Martin LEE spoke to me about why he had not, in a previous sitting, engaged in a debate with me over the right of abode in the United Kingdom. As a matter of fact, the questions I am bringing up now are relevant to this motion.

The British Government has failed to guide Hong Kong people towards clear understanding of what position we are in. In fact, the first thing that the British Government should be held responsible for is that instead of leading us to fight for what is within our right to have, it has on the contrary pushed us towards an uncertain tomorrow and an uncertain future. The British Government is absolutely to bear responsibility for this. Mr Deputy President, I am not being irrelevant. Today's subject is how to protect the future rights of non-Chinese ethnic minorities in Hong Kong. I absolutely believe that it is the responsibility of the British Government to offer protection to these people because of the British withdrawal from Hong Kong after 1997. The British Government is not only responsible for these people. Apart from the 3.5 million Hong Kong born citizens who are British subjects, the British Government is also responsible for some of the 2.3 million citizens of Hong Kong who are Chinese. (Of course, not all of them are permanent residents.) Mr Deputy President, my intention is to discuss each category separately instead of focusing on one category only. This does not go against the purpose of the debate.

People in Hong Kong should wake up by this time. The British Government is after all not so magnanimous and not so selfless. What in fact is its motive? It is time to get a clear picture now. Apart from supporting the idea that the British Government should be responsible for non-Chinese residents in Hong Kong, we should also support the idea that the British Government is absolutely responsible for the people in Hong Kong. This is a point to which history will bear witness. Apart from achieving its own aim, is it the intention of the British Government to make use of the future of Hong Kong to rewrite history? I believe this is the third or fourth time that I have said so.

As one who used to work in the financial services sector (that is, as a stockbroker), what I say is as good as gold. I am only a bit ahead of Members here in identifying where the problem lies. I believe history will bear witness to this.

Regarding the motion moved by Mr Jimmy McGREGOR, my opinion is that he has not really done any in-depth work for all those affected in Hong Kong. Of course Mr Ronald ARCULLI has pointed out that the British Government is absolutely responsible not only for non-Chinese residents, but also for all those Chinese residents who should be entitled to this right once they have lived in Hong Kong for seven years. Finally, I challenge Mr Martin LEE once again to take the matter up with the Hong Kong Government and to fight for the right which is justly ours.

Mr Deputy President, with these remarks, I support the amendment moved by Mr Ronald ARCULLI.

MR JIMMY McGREGOR: I think Mr CHIM is probably too late to back me and I do not want to make a mockery of this issue. I think Mr CHIM does not know the enormous amount of work that went on in this Council by everybody here who is of the old guard, not the new guard, as it were, which Mr CHIM belongs to. A tremendous amount of work had been done in this Council repeatedly over a long period of time in here and in London to obtain the right of abode and the British passports for the 3.28 million people of Hong Kong who were born under the British flag. He seems to know nothing of that whatsoever. It is about time he brushed up on his history. Read some of the Hansard and he would know something more about it.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, since you allow him (Mr McGREGOR) to point his finger in such direction, next time I shall point my finger in that direction even more! (*Laughter*).

MR JIMMY McGREGOR: Mr Deputy President, shall I continue?

DEPUTY PRESIDENT: It is not a point of order on which I need rule. Continue, Mr McGREGOR.

MR JIMMY McGREGOR: Thank you, Mr Deputy President. I have spoken about the long years of hard work and Mr CHIM does not seem to know much about it. I do not think Mr Ronald ARCULLI and I are in any disagreement about the fundamental requirement, the need to support the ethnic minorities in every way we can through this Council by the study of the problem, by setting out the parameters which will need a good deal of research, by then considering what the options are that are open to us, and then taking such action as we can, not only, I may say, with the British Government, but with other governments as well which might well be disposed to help us if we have a particular problem of nationality. That was tried before in regard to the British nationality issue and some governments did express interest and many governments have provided nationality for many of our citizens already. The problem will get smaller as we go along, I have no doubt, down towards 1997. What I find difficult about Mr Ronald ARCULLI's amendment is that of course it refers to post-1997 and I think that the Indians, in particular, would like to have the assurance, not a verbal assurance and not an assurance given in the House of Commons or a piece of paper that means absolutely nothing when it comes to the crunch after 1997. In other words, the assurances given by Baroness YOUNG and David WADDINGTON are not worth the paper — if they are written on paper — they are written on because at that time the British Government in power may just simply say, "No, we do not accept any of that and there is no obligation on us "and by that time they are out of Hong Kong, they have no responsibility and at the end of the day the Indian community and other ethnic minorities are left high and dry. I think the Indians particularly want before 1997 the assurance of a passport in their hands. That I think, Mr Deputy President, is what I have been arguing. There are many others here in the same situation. I think this Council and the committee which we have agreed to set up, and which incidentally I hope everybody who has spoken today, including Mr CHIM, will join, will help us towards coming to conclusions and recommendations and taking action as best we can to support this rather vulnerable community of ethnic minorities.

With that, Mr Deputy President, I hope that all of us can support the original motion although I had intended to ask Mr Ronald ARCULLI if he would like to join with me in my original motion, but I suppose that is asking too much. Thank you, Mr Deputy President.

SECRETARY FOR SECURITY: Mr Deputy President, I welcome this debate for two reasons. First, it has been a well informed debate. Secondly, it allows me the opportunity to acknowledge on behalf of the Government the very substantial contribution which the ethnic minorities have made to Hong Kong's economic prosperity. I am thinking particularly of organizations such as the Indian Resources Group. That contribution has been and remains out of

proportion to their numbers, as Mr McGREGOR has said. We are grateful to them and have long been concerned that their future, security and place in Hong Kong is assured. We need to remind ourselves, however, that the ethnic minorities like many other non-Chinese citizens have chosen to make Hong Kong, not the United Kingdom, their home.

Let me now give some facts. To the best of our knowledge some 20 000 long-term Hong Kong residents belong to the ethnic minorities. Most are nationals of India and Pakistan and hold passports from those countries. At a rough estimate — and here my figures are slightly different from Mr Howard YOUNG's — about 7 000 are either Hong Kong British Dependent Territory citizens or British Overseas citizens. Both groups hold passports which assure them of British consular protection world-wide. Additionally, a very small number, and we believe this number to be only about 100, are technically stateless. Under Article 24(4) of the Basic Law, they are guaranteed the right of abode, that is, the right to enter and not to be deported from Hong Kong after 1997. Those who wish to secure that right before 1997 may do so by becoming BDTCs. Thus this debate concerns perhaps 7 000 to 8 000 people.

Some Members have given the impression that the Government has not carefully examined the position of the ethnic minorities. We have done so. We did so during the drafting of the Joint Declaration and the Basic Law and in 1990 United Kingdom Ministers considered the question during the parliamentary debate on the British Nationality Scheme. They concluded — and in preparing for today's debate, we have now established that this remains their view — that the non-Chinese ethnic minorities' position after 1997 is adequately protected both in the Joint Declaration and in the Basic Law, which guarantees them the right of abode in the Hong Kong SAR. In addition, the Hong Kong British Nationality Order 1986 enshrines the categorical assurance that the children and grandchildren of those members of the ethnic minorities, who are British Dependent Territory citizens prior to 1 July 1997, will have British overseas citizenship if they would otherwise be stateless. Clearly, therefore, and I cannot stress this too strongly, no member of any of the minority communities need fear that they, their children or their grandchildren will be stateless.

I know that some members of these communities feel that these assurances are not enough. They want further guarantees of their security should events make it difficult for them to remain in Hong Kong. May I remind Members, as Mr ARCULLI already has, that the British Government has repeatedly given the assurance that if any solely British national with no claim to Chinese nationality came under severe pressure to leave Hong Kong, the government of the day would consider with and I quote, "considerable and particular sympathy their case for admission to the United Kingdom". That assurance was repeated on several occasions during Parliament's consideration of the nationality scheme. I know that some Members do not accept these assurances but I believe them and I believe it is necessary to reiterate them now.

Many Members have mostly focused on demanding from the British Government full British nationality for the ethnic minorities. This is obviously a question for Her Majesty's Government. The only other significant number of Hong Kong people who will have been given this are those under the British Nationality Scheme. It is indeed clear from many comments this evening that some sort of provision similar to the British Nationality Scheme is what the ethnic minorities are really after here. Her Majesty's Government believes that, with the agreement on right of abode contained in the Joint Declaration and the assurances covering statelessness and the position of solely British nationals faced with pressure to leave Hong Kong, it has made full provision for this group. Members of the minority communities who meet the criteria set out in the Selection Scheme Order 1990 are of course able to apply for British citizenship under the scheme in the same way as other Hong Kong residents. Indeed I am sure that many have.

Mr Deputy President, thus both we in the Hong Kong Government and the British Government have fully and adequately considered the position of the ethnic minorities. I have every confidence that the Joint Declaration remains the surest base for the future of Hong Kong and I am satisfied that we have taken adequate measures to safeguard the interests of all the people of the territory. The question of British nationality is, as I have said earlier, a matter for the British Government which has made its position clear. I must advise that I consider it unlikely that further concessions will be forthcoming. Nevertheless, I recognize the depth of concern that underlies the desire to keep trying.

*Question on Mr Ronald ARCULLI's amendment put and negatived.*

*Question on Mr Jimmy McGREGOR's motion put and agreed to.*

### **Adjournment and next sitting**

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

*Adjourned accordingly at twenty-two minutes past Eight o'clock.*

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



## WRITTEN ANSWERS

## Annex I

**Written answer by the Secretary for Trade and Industry to Mr Ronald ARCULLI's supplementary question to Question 1**

Having consulted the Consumer Council and our overseas offices, I am advised that there are no such agreements in existence.

## Annex II

**Written answer by the Secretary for Security to Dr LAM Kui-chun's supplementary question to Question 6**

The statistics for both mechanical faults and the fault of police drivers are set out below:

	1990		1991		1992 (Jan - Oct)	
	<i>No. of cases</i>	<i>%</i>	<i>No. of cases</i>	<i>%</i>	<i>No. of cases</i>	<i>%</i>
Total No. of accidents (including windscreen damage)	887		858		689	
Police vehicle at fault	64	7.21%	117	13.6%	100	14.5%
Police driver at fault	194	21.87%	186	21.67%	87	12.6%

The above statistics are based on cases for which the investigation and compensation arrangements have been concluded.

WRITTEN ANSWERS — *Continued*

## Annex III

**Written answer by the Secretary for Security to Mr WONG Wai-yin's supplementary question to Question 6**

At appendix is a breakdown of traffic accidents involving police vehicles in the past three years by type of vehicle.

A similar breakdown by cause of accident is more difficult, because it is common for there to be several possible causes for a single accident. However, I can provide the following statistics, based on the number of cases for which the investigation and compensation arrangements have been concluded:

	1990		1991		1992 (Jan - Oct)	
	<i>No. of cases</i>	<i>%</i>	<i>No. of cases</i>	<i>%</i>	<i>No. of cases</i>	<i>%</i>
Total no. of accidents	887		858		689	
Principal fault due to police vehicle	64	7.21%	117	13.6%	100	14.5%
Principal fault due to police driver	194	21.87%	186	21.67%	87	12.6%

Accidents in which the principal fault was the police vehicle include mechanical failures, damage or breakdown; those in which the principal fault was that of police drivers include poor observation, excessive speed, following vehicles too closely, careless lane changing, poor vehicle control and reversing.

WRITTEN ANSWERS — *Continued*

## Appendix

Traffic accidents involving police vehicles  
by types of vehicles

Types of vehicles \ Year	Year		
	1990	1991	1992 (Jan-Oct)
Light vehicles	269	234	218
Medium vehicles	211	252	218
Heavy vehicles	35	34	14
Auto vehicles	11	26	21
Specialist vehicles	10	5	4
Large motorcycles	170	141	107
Small motorcycles	177	149	103
Others	4	7	4
Total	887	858	689

Notes:

Categories of police vehicles:

Light : Small/Medium Saloons, Estates and vans.

Medium : Landrovers, Hiace, Nissan Urvan, Mercedes Benz 310 Vans and Sherpa Vans.

Heavy : 3-Tonne Lorries, Mercedes Benz 711D Vans, High Canteen, Tow Trucks while not engaged in towing and Prisoner Escort Vans.

**WRITTEN ANSWERS** — *Continued*

- Auto : Vehicles with automatic transmission, including Estates and Medium Vans.
- Specialist : Tow Trucks, Buses Mobile Command Unit, Mobile Exhibition Vehicle, Road Safety Bus, Armoured Personnel Carrier, Large Saloons and Estates.
- Large motorcycles : 400 cc and above.
- Small motorcycles : under 400 cc.
- Others : Trailers, Motor-assisted Trailers, Cycles and other non-motorized transport.

**Annex IV****Written answer by the Secretary for Security to Mr Peter WONG's supplementary question to Question 6**

Skid pan training allows police officers to experience the sensation of a skid and to learn to correct it within a safe environment. In turn, this knowledge and experience should enable them to react quicker should their vehicle skid whilst on the road, thereby minimizing the effects of the skid, and helping to prevent an accident.

Similarly, high speed training gives police officers an opportunity to travel at speed without the pressures of an emergency response and to learn techniques which enable them to react quicker and better in real life situations.

It is difficult to be precise about how skid pan and high speed training helps to minimize accidents; the objective of the police is to provide comprehensive training to their officers to equip them to deal with a wide variety of situations. However, such training must have some beneficial impact on safety.

Members of the public who wish to improve their skills and knowledge of driving matters, including dealing with skids and high speed training, can approach the Hong Kong School of Motoring, which is a commercial organization, for assistance. However, members of the public are encouraged not to indulge in high speed driving and to take special care when driving in conditions where the road might be slippery.