

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 7 July 1993

The Council met at half-past Two o'clock

PRESENT

THE PRESIDENT

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

THE CHIEF SECRETARY

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

THE FINANCIAL SECRETARY

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

THE ATTORNEY GENERAL

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

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

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

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

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

THE HONOURABLE RONALD JOSEPH ARCULLI, O.B.E., J.P.

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

THE HONOURABLE MRS PEGGY LAM, O.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., J.P.

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

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

THE HONOURABLE PETER WONG HONG-YUEN, O.B.E., J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE VINCENT CHENG HOI-CHUEN, J.P.

THE HONOURABLE MOSES CHENG MO-CHI

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

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

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

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

THE HONOURABLE SIMON IP SIK-ON, O.B.E., J.P.

DR THE HONOURABLE LAM KUI-CHUN

DR THE HONOURABLE CONRAD LAM KUI-SHING, J.P.

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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

THE HONOURABLE ANNA WU HUNG-YUK

THE HONOURABLE JAMES TIEN PEI-CHUN, O.B.E., J.P.

IN ATTENDANCE

MR MICHAEL LEUNG MAN-KIN, C.B.E., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

MR YEUNG KAI-KIN, C.B.E., J.P.
SECRETARY FOR TRANSPORT

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

THE HONOURABLE MICHAEL SZE CHO-CHEUNG, I.S.O., J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

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

MR GORDON SIU KWING-CHUE, J.P.
SECRETARY FOR ECONOMIC SERVICES

MR DONALD TSANG YAM-KUEN, O.B.E., J.P.
SECRETARY FOR THE TREASURY

MR MICHAEL DAVID CARTLAND, J.P.
SECRETARY FOR FINANCIAL SERVICES

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

THE DEPUTY CLERK TO THE LEGISLATIVE COUNCIL
MR PATRICK CHAN NIM-TAK

Papers

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 1993	241/93
Commissioner for Administrative Complaints Ordinance (Amendment of Schedule 1) (No. 2) Order 1993.....	242/93
Financial Resources Rules.....	250/93

Sessional Papers 1992-93

- No. 85 — 1992 Annual Report by the Commissioner of the Independent Commission Against Corruption
- No. 86 — Clothing Industry Training Authority Annual Report 1992
- No. 87 — Construction Industry Training Authority Annual Report 1992

Address**1992 Annual Report by the Commissioner of the Independent Commission Against Corruption**

MR RONALD ARCULLI: Mr President, as a member of the Advisory Committee on Corruption, I have pleasure in introducing the 1992 Annual Report by the Commissioner of the Independent Commission Against Corruption, which is tabled today in this Council.

But my pleasure is tinged with sadness. The sudden and untimely death of Peter ALLAN on 28 November 1992, at the age of 47, shocked and saddened us all. To quote from the obituary in this report:

"During his one year's service as Commissioner, Peter effectively brought many of his talents and high professional standards to bear on his demanding and diverse role. He was down-to-earth, sensible and practical with a warm, engaging personality. Hong Kong has lost an outstanding public servant."

In his review at the end of 1992 the Acting Commissioner, Mr J E BUCKLE, observed that it had been an unremarkable year as regards statistics on corruption reports but that statistics alone could not be relied upon to reveal the extent of corruption in any society. He remarked that ICAC intelligence sources tended to show that much more corrupt activity was taking place than had been reported, particularly in the government sector and that the Commission would be giving very close attention to the perceived problem areas during 1993.

During the year it became increasingly evident that the Commission faced significant new challenges resulting from the increasing pace of change to the democratic process and the effects of the Bill of Rights on investigation and court procedures. The acting Commissioner concluded that the effects so far had been beneficial in encouraging self-examination and demanding greater professionalism from ICAC officers.

As always in 1992, the Commission's efforts to control corruption depend on the integrated activities of the three departments. The Operations Department dealt with 2 276 reports of corruption and the breakdown showed that 52% concerned the private sector, 20% the police, 25% all other government departments and 3% other public bodies. The percentage of people prepared to identify themselves when making reports was 68%, which was virtually the same percentage recorded in 1991. During the year 337 persons were prosecuted and 167 were formally cautioned.

With professional and imaginative approaches to their work, the Corruption Prevention Department continued in its task of identifying corruption opportunities and proposing improvements in procedures to limit or eliminate them, while the Community Relations Department concentrated on educating members of the public to understand what corruption is and to identify and report it.

The acting Commissioner concluded his year-end review by thanking the public for their support, the members of the ICAC's advisory committees for their valuable assistance during the year and, of course, the staff of the Commission for their dedication and hard work. Mr President, on behalf of the members of this community who assist the ICAC in so many ways I wish to join in this tribute.

Oral answers to questions

Retirement protection scheme

1. MR HUI YIN-FAT asked (in Cantonese): *With regard to the motion passed by this Council on 3 February 1993 urging the Government to expeditiously formulate measures so that the people of Hong Kong can be provided with a properly designed retirement protection system, will the Government inform this Council of the progress of work done as well as when the details of the system and its implementation timetable will be announced?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, at the motion debate in this Council on 3 February this year, a number of major issues were raised on the future of a retirement protection system. These, together with the 176 public submissions made in response to the Consultation Document, are now being analysed and studied carefully within the Administration. There are several major issues.

These include the relationship between a compulsory retirement protection system and our system of social security benefits, and whether there should be a government guarantee against financial risks arising from private management of decentralized schemes.

The subjects before us are highly complex, involving a series of difficult judgements which will have profound consequences on our long-term social, economic, financial and monetary policies. It is not therefore an issue that we can afford to rush to a conclusion.

I can however assure this Council that we are already handling the subject as quickly as we can. We aim to reach a more definite conclusion on the best way forward by the end of this year.

MR HUI YIN-FAT (in Cantonese): *Mr President, the study on the introduction of a retirement protection system in Hong Kong has dragged on for a long time. Could the Administration inform this Council what other issues it has to consider at this stage and whether there are different considerations under different political circumstances and economic situations? The most important thing is: does the Administration have the sincerity to provide a properly designed retirement protection system for Hong Kong?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, there is no question of the Government not being sincere about this. This in fact was the very reason why we issued a document for public discussion and consultation last year. But as I said in my main reply, the subjects are very complex and they do require very detailed assessment and analysis of financial, social,

economic and other factors involved. These analyses do take time but we are moving as fast as we can. I do not believe that we are affected in any way by the political circumstances that face Hong Kong. I think all factors are taken into account but it is a very complex subject matter and we must take all factors fully into account when analysing these various conclusions.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, in the motion debate referred to earlier, Members of this Council expressed unequivocally their support for a central provident fund. Could the Administration inform this Council to what extent the result of that motion debate will be considered and in the light of the consultation exercise, how much importance the Administration attaches to a central provident fund as opposed to other options?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, we have of course taken full and careful note of the very helpful and useful comments made by Members in the debate in February. These, as I have said, are being analysed most carefully together with the 176 submissions from the public which make varying suggestions as to the types of system that we should develop. The Government's mind is open on this and we have to work very carefully to assess all the consequences of this preferred system, including, of course, views of this Council arising from the debate. This includes the point made by Mr LAU on whether the scheme should be centralized or decentralized. Again these are matters we have to pursue in relation to the long-term social, financial and monetary policies that we have to consider.

MR HENRY TANG: *Mr President, the Government has accepted that a central provident fund is one of its possible options. Will it then introduce this matter to be discussed by the Joint Liaison Group as it will straddle 1997?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I do not think I have said that we have included the central provident fund as an option at this stage. It is premature to speculate what type of option or options will be developing in the months ahead. We are certainly looking at all the arguments advanced so far on a centralized or decentralized system. On the question of government guarantees and longer-term social security benefits, these are all matters we have to take fully into account before we arrive at any conclusions.

MR TIK CHI-YUEN (in Cantonese): *Mr President, it is mentioned in the consultation paper that the Executive Council is not in favour of a central provident fund system. But now it seems that the Administration is to re-examine all the options. Is the central provident fund one of its options? If yes, does this imply that the Executive Council has a change of heart in its decision?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I do not think I can prejudge or pre-empt what the Executive Council will decide or not decide. What I have said just now is that we are considering all suggestions made by this Council and the public on the future form of a retirement protection system including the centralized system suggested by some Members. These are all suggestions being looked into very actively and very carefully.

DR TANG SIU-TONG (in Cantonese): *Mr President, the system in question will straddle 1997. Could the Administration inform us whether it will consult the Chinese side on this? How will the Administration deal with it if the Chinese side disagrees with the setting up of a central provident fund?*

PRESIDENT: I think that last part is hypothetical. The first part, Secretary.

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, as and when we have issues affecting the future SAR Government, clearly it is essential for us to consult and inform the Chinese side. But we have not reached that stage yet.

MR MICHAEL HO (in Cantonese): *Mr President, in its reply just now, the Administration has mentioned that they do require detailed analysis and observation of the long-term economic impact. In fact what analysis has the Administration made so far and which part of it can be made public at this stage? Referring to the fourth paragraph of the reply, it says they could reach "a more definite conclusion" by the end of this year. Will the Administration inform this Council how definite the conclusion is by the end of this year?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, as regards the first part of Mr HO's question, clearly analysis involving social, economic, financial and monetary policies will require very careful handling. The complexity of the issues will require expert advice from various fields. The analysis is going on but I cannot at this stage predict what the outcome is going to be. All I can say is that we are actively looking into the issues involved. As regards the second part of the question about a more definite conclusion emerging towards the end of this year, all I can say is that we would like to see a more definite conclusion on the way forward by the end of this year. Again I cannot prejudge what that conclusion will be or how we will be taking the matter forward. Not until then will we know better.

MR MARTIN BARROW: *Mr President, in view of the complexities referred to by the Secretary, does the Government plan a further round of formal or informal consultation with all sectors of the community, and if not, why not?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, in analysing the various complex issues involved, I think we might have to involve particular target groups with regard to issues which might be of particular concern to them. So I do not rule out the possibility of some consultation, but it will, perhaps, not be as extensive as the exercise we did before.

Conservation of rural landscape

2. MR JIMMY MCGREGOR asked: *In the light of increasing demand for conservation of natural resources, will the Government inform this Council whether priority will be given to the conservation of our rural landscape when formulating the rural statutory plans and, if so, whether the land currently used for open storage of containers and scrap metal would be required to revert to its original state so as to improve the environment?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, one of the main components in the current review of the Territorial Development Strategy and the various Sub-Regional Planning Strategies beneath it is a strategy for the conservation of the country parks and rural landscape. The broad concept is that rural land other than areas required for development to sustain anticipated population and economic growth should be designated for conservation, agricultural and recreational purposes. About half of the rural area is indeed already covered by the country park designation. Other proposals emerging from the planning strategies will be taken into account when the rural Outline Zoning Plans which will replace the current generation of Development Permission Area Plans are prepared.

With regard to the second part of the question, whether land currently used for open storage of containers and scrap metal can be required to revert to its original state depends on a number of factors. The Town Planning Ordinance does not empower the Government to take enforcement or reinstatement action against land uses which existed before the publication of the relevant Development Permission Area Plan. Uses established without permission after the publication of a DPA plan which contravene the land use zoning can be dealt with by enforcement and reinstatement action under the Ordinance however. Even so, the extent to which sites can be restored to their original state in practical terms is something which has yet to be clearly established. In the longer term, new arrangements to tackle the problem of "existing uses" will be required and consideration is being given to this in the context of the review of the Ordinance.

MR JIMMY MCGREGOR: *Mr President, I understand that about 40 million to 50 million sq ft of land in the western New Territories alone may be involved and rentals are being paid up to \$100 million per month to the landowners concerned. Since the Government and only the Government has the power to*

take action to improve and restore these large areas of the New Territories to their original condition, will the Secretary say what action he can take when considering the problem of "existing uses"? Can the existing law be modified to remove this serious blight from the western New Territories and what may be the timetable he will consider? I ask the Secretary not to hide behind good intentions.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I shall try not to hide behind anything. The area which is used at the moment for open storage uses in the rural New Territories amounts to 700 hectares and I think we need to bear in mind why this is the case, and it is of course not simply because rural landowners wish to make a dollar on their land. It is because there are 700 hectares worth of uses which are mainly a reflection of economic pressures on the territory requiring land for a variety of economic uses. Now what are we doing? I have already mentioned the revision of the Town Planning Ordinance which is the mechanism to deal with "existing uses" or will be the mechanism to deal with "existing uses" when we have further amended it. And what we are doing now is drafting a White Bill which would set out the revisions to the Ordinance which we would propose and I expect to be able to publish that White Bill by the end of this year or early in 1994. However, in the light of what I have said about economic uses, it is clear that whether we remove "existing uses" or not, and restore the land on which they sit, we will nevertheless require quite large areas of land for the sort of uses we are talking about and we are committed to converting the first 30 Development Permission Area Plans, which were published about two years ago, by the middle of next year. And it is in the course of converting those plans into Outline Zoning Plans that we will seek to provide the land necessary for all these uses.

MR SIMON IP: *Mr President, I am rather disappointed with the Secretary's bureaucratic response — there are Ordinances, there are plans, there are Bills, there are White Papers. I think all we want to know basically is when the Government will stop the rural areas of Hong Kong being used as a scrap yard.*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I shall try neither to hide nor to be further bureaucratic. I think the essential point to bear in mind is that we can have good intentions and we can wish to improve the situation but we can only do this lawfully. We are not able to proceed by way of arbitrary and summary execution. When we see a use which either we do not like or is untidy or unsightly, we have to proceed, as I am sure the Honourable Member himself would accept, in a lawful way. As far as what is happening now is concerned, the processes which we have available under the law at present have resulted in 1 000 warning letters being issued in respect of suspected unauthorized development cases within the Development Permission Areas. Beyond warning letters, 367 enforcement

notices have been issued — these are in respect of 61 unauthorized cases — and 17 stop notices involving four cases have been issued. So far we have not got as far as issuing reinstatement notices, but no doubt we will. Three cases have been prosecuted, three offenders have pleaded guilty. I should clarify that the three cases involve six offenders; three offenders have pleaded guilty and three are awaiting the court decision. Now as far as enforcement is concerned, under the Ordinance, which I think Members may forget, it was only extended throughout the New Territories as recently as two years ago. So we are early days as far as enforcement action is concerned. But I think, on the basis of the statistics I have given, it can be seen that we are moving down the track of enforcement and we will eventually get to reinstatement.

REV FUNG CHI-WOOD (in Cantonese): *Mr President, the misuse of rural land is really very serious and has caused hindrance to future developments. We must rectify the situation. I am happy to know that the Administration will publish a White Bill, but when will the Administration amend the relevant laws such that the authority concerned can start with the relevant work?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the Honourable Member will, I think, understand that the issues that we are referring to here have been and will long continue to be very controversial, posing, if you like, a question for landowners and the community. The Honourable Member referred to abuse. I have tried to put this in context and indicate that we may be in some areas talking about abuse; but we are also talking about economic use. The White Bill, as I have said earlier, we expect to publish by the end of 1993 or early in 1994. How long it takes to convert that White Bill into the subsequent Blue Bill and how long it takes to convert that Blue Bill into legislation and a basis for enforcement, I think, will depend very largely on the proceedings in the panels and committees of this Council.

MR HOWARD YOUNG: *Mr President, with reference to the Secretary's reply that the rural areas under discussion should be designated for recreational purposes, will the Government tell this Council whether facilities such as picnic sites, hiking trails, golf courses, camp sites — all of which are not buildings — plus buildings such as country park management centres come within the ambit of recreational purpose?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, experience suggests that responding to questions of this kind can produce a good deal of subjective response. It seems as though for every proposition there may well be an opposition. However, applying a commonsense judgement to the uses which the Honourable Member has listed, I would be reasonably confident in agreeing that they may be regarded as recreational uses.

MR JAMES TIEN: *Mr President, due to the ever expanding industrial activities across the border, I feel that the open storage and container problem will continue. Will the Secretary please inform us whether it is considered that land could be provided for real estate developers to construct multi-storey container storage buildings, so that these containers could be moved indoor instead of staying outdoor?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I would not necessarily favour real estate developers in considering such a proposition. But I would certainly, in the context of looking at the conversion of Development Permission Area Plans into Outline Zoning Plans, consider whether some of the requirements could be met by sites on which multi-storey parking buildings could be built.

Gas supply to newly-built public sector housing

3. MR FRED LI asked (in Cantonese): *In view of the policy adopted by the Housing Authority to use bulk Towngas supply in the newly-built Home Ownership Scheme estates and public rental housing estates, will the Government inform this Council of the following:*

- (a) *the factors considered when formulating such policy;*
- (b) *as the Government has no monitoring at all over the gas company at present in respect of both its profits and charges, how the interests of residents as consumers can be protected; and*
- (c) *since the gas company is allowed by the Housing Authority to monopolize the gas supply in newly-built public housing estates, whether the Government will consider implementing a certain mechanism for monitoring the company?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) The task of the Housing Authority in choosing a source of gas supply for its estates is not much different from that of any developer. It is generally not practicable to permit the installation of two parallel sets of gas supply pipework to every flat so that the residents can choose whether they want to use Towngas or liquefied petroleum gas. The Authority has to make a choice to enable a fuel supply to be integrated into its developments at the design stage. The main difference between the Authority and a private developer in this respect is the existence of a transparent policy.

The policy of the Authority is that Towngas will be adopted for new estates where available. Only where Towngas is not likely to become available will a piped liquefied petroleum gas supply be adopted. This policy was formulated after very thorough consideration and has been reviewed from time to time, most recently in 1990. Factors considered by the Authority include planning flexibility, cost, safety, security of supply, the need or otherwise for on-site gas storage and possible adaptability to natural gas in future.

- (b) Public housing residents as consumers of Towngas are no different from other Towngas consumers and are not subject to a different tariff structure. Their interests are therefore just as well protected as other consumers'. Over the past 10 years, the difference in charges for Towngas and liquefied petroleum gas has been marginal. Sometimes Towngas has been slightly cheaper on an equivalent energy basis and sometimes liquefied petroleum gas has been slightly cheaper.
- (c) Although individual consumers may not be in a position to choose which form of piped gas supply is available to them, the charges they pay are determined by competitive market forces. In the specific case of the supply of energy for domestic cooking and water heating, the Hong Kong and China Gas Company competes for market share not only with suppliers of liquefied petroleum gas but also with the electricity companies. Under these circumstances, the Government sees no case for intervening to regulate the gas supply market at the present time. The policy of the Housing Authority on its own does not appear to warrant the introduction of a special mechanism for monitoring the Company. Nonetheless, the Secretary for Economic Services will continue to monitor the situation.

MR FRED LI (in Cantonese): *Mr President, in paragraph (a) of its reply, the Administration says that the task of the Housing Authority in choosing a source of gas supply for its estates is not much different from that of any developer. This is untrue because when a housing estate is still at the design stage, its developer can choose either bulk liquefied petroleum gas (LPG) or Towngas as its gas supply. They will make a choice in the best interests of the consumers. The Housing Authority however only chooses Towngas and this has boosted and will boost the market share of Towngas. May I ask the Secretary for Economic Services whether such a situation has been monitored and whether any proposal for improvement has been made so as to encourage a fair competition in the fuel market?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the Government's overall objective as regards utility services is to ensure that the customer receives an efficient and reliable service at a reasonable cost and one that is responsive to increasing demand. We believe that the best way to provide that type of service is to encourage competition in the delivery of the service and experience tells us that when market forces are permitted to determine the quality and price, they normally work best for the consumer. In respect of consumers using Towngas as compared to LPG, the situation is that, in terms of numbers, the clients are more or less equal. About 900 000 customers now use Towngas, as compared to 950 000 using LPG bulk or LPG cylinder. So the market actually at the moment is equally shared by the two types of suppliers. As regards schemes of control and franchise operation, as the market is now well shared by different suppliers of gas to households we do not believe that there is a case for either considering the grant of a franchise or a scheme of control.

DR SAMUEL WONG: *Mr President, for the Housing Authority to select between Towngas and LPG, the Secretary for Planning, Environment and Lands cited safety as one of the several factors to be considered. Does he mean one gas supply is safer than the other?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the question of safety is partly real but it is also a question of perception. In order to supply LPG in an estate there either has to be a local depot or installation in which the bulk LPG supply is available or it has to be supplied through individual LPG cylinders and the point here is that in order to make that possible there has to be land available reasonably close to an estate within which to establish that sort of facility. This very much involves safety considerations and also there have to be supply lines from such a facility into the estate. The situation is therefore that the source of supply in bulk is closer to the estate than in the case of Towngas; so there is a degree of preference for Towngas in that respect. The other point, I think, I mentioned is the question of perception. The presence of LPG storage in close proximity to estates is clearly not particularly welcome to the residents of those estates, possibly for reasons of unfounded fear, but nevertheless there is a degree of nervousness about living close to such facilities.

MR ALBERT CHAN (in Cantonese): *Mr President, in his reply just now, the Secretary for Economic Services indicated that consumers using Towngas as compared to LPG, in terms of numbers, were more or less equal and so monopoly did not exist. But if the Housing Authority continues with its present policy and gives priority to Towngas in the supply of gas to housing estates, it is believed that Towngas will before long control the market. Has the Administration considered this trend and how will it ensure that there is equitable and fair competition in the supply of gas, so that gas suppliers can*

compete on an equal basis rather than being led by the Housing Authority's selection policy which may give rise to market control or monopoly because there is only one supplier?

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, as far as cooking and water heating are concerned, a consumer in fact has a number of options. In the first place, he can use Towngas or bulk LPG. And as far as water heating is concerned, electricity can also be used. Hence, there are various options for households and competition does exist. Moreover, for other consumers they may have a choice of fuel supplies, and they may choose for example LPG cylinders if they like. Therefore, at present, there is no monopoly.

MR TIK CHI-YUEN (in Cantonese): *Mr President, according to section 17(4) of the Gas Safety (Gas Supply) Regulations, "No person shall install a gas main for the conveyance of liquefied petroleum gas along or across a road." The effect of such a provision will give Towngas the privilege of excavation and main repairs. Does the Administration think that such a provision will give rise to unfair competition?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I am not entirely clear as to the import of the question.

PRESIDENT: Would you like to clarify, Mr TIK?

MR TIK CHI-YUEN (in Cantonese): *Mr President, section 17(4) of the Gas Safety (Gas Supply) Regulations provides that "No person shall install a gas main for the conveyance of liquefied petroleum gas along or across a road." If that provision poses restrictions on the LPG Company in the installation of supply lines, will that give Towngas the privilege of excavation and main repairs? Moreover, will that lead to unfair competition between LPG and Towngas?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, perhaps I will try to answer this question. LPG in bulk is heavier than air while Towngas is lighter than air. Therefore, if a Towngas main leaks, the gas will rise above ground and disperse. However, for LPG, it is heavier than air, and so if leakage occurs, it will sink underground and will be trapped in waterpipes or electric cables which may lead to explosion or other hazards. This is the original intention of the regulation which is to prevent the installation of main to convey this kind of gas along a road. As Mr EASON has pointed out, it would be absolutely safe if it is stored away from the estate and not on a road.

Reports on Hong Kong by the British Government

4. MISS CHRISTINE LOH asked: *Will the Government inform this Council:*
- (a) *of the international treaties and agreements under which the British Government is required to report periodically on Hong Kong's status;*
 - (b) *of the due dates for making the next reports on Hong Kong under the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights; and*
 - (c) *how Hong Kong will be involved in the preparation of these reports?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, the answers to Miss LOH's multi-barrelled questions are as follows:

- (a) The international treaties under which the British Government is required to report periodically on the state of the treaties' implementation in Hong Kong are:
 - (i) the International Convention on the Elimination of All Forms of Racial Discrimination;
 - (ii) the International Covenant on Civil and Political Rights;
 - (iii) the International Covenant on Economic, Social and Cultural Rights; and
 - (iv) the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
- (b) The due dates for the next reports under the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights both fall in June 1994.
- (c) The Hong Kong Government contributes to the preparation of the relevant reports by preparing and submitting to the United Kingdom Government draft reports in respect of Hong Kong.

MISS CHRISTINE LOH: *Mr President, I would like to ask two questions, one is for clarification. Can the Secretary confirm that the other two covenants, namely (i) and (iv), are also due in 1994 and that these are expected to be the*

last times that Britain will make submissions on Hong Kong to the United Nations?

My second question is: how will the Hong Kong Government ensure that this Council and interested parties will have some input?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, in answer to the first question, I can confirm that reports in respect of both the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment are due in 1994.

Turning to the second question as to whether or not we will involve other parties in our reporting procedure, I can only say that reporting on such matters is an executive function and a responsibility of the British Government. In the preparation of the draft reports, the Hong Kong Government does not formally consult non-government organizations since this is but a process of putting together factual information on the state of implementation of the treaties. Frankly, it is at the stage of formulation of the relevant policies that non-government bodies' views and those of other representative groups are sought and taken into account, for example, those of various advisory boards and committees.

MISS CHRISTINE LOH: *Mr President, my question has not been answered. May I ask that question again?*

PRESIDENT: Yes, I think as there were two questions, that is understandable. But go ahead.

MISS CHRISTINE LOH: *Can the Secretary please confirm that these are expected to be the last submissions made by the British Government to the United Nations?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, I would like to check those treaties again before I give an answer. So I will supply an answer in writing. (Annex I)

MRS ELSIE TU: *Mr President, as far as I remember, the British Government has made its reports without reference whatsoever to the Hong Kong people. This question has been mentioned but I would like to ask it again. Will the Government on the next occasion make sure that there is some input from the Hong Kong people?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, as I have said in my reply to the previous question, the reports are factual reports on the state of implementation of the treaties as applied to Hong Kong. The important point here is that the consultation should be conducted in the course of formulation of the policies concerned rather than for the purpose of compiling a factual report on the implementation. And as the Honourable Member is well aware, in this Government we have lots of advisory boards and committees. And it is in those committees that the consultation takes place.

MR SIMON IP: *Mr President, would the Hong Kong Government find it useful to have the views of this Council — which, I think, is not a non-government organization — in the preparation of its report to the United Kingdom Government?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, the materials prepared by the Hong Kong Government form part of the United Kingdom Government's report. It would therefore be inappropriate, during the process of that preparation, to consult the Legislative Council before the materials are presented to Her Majesty's Government and their views taken into account. In any case, these reports are made public after they have been formally submitted to the United Nations by the United Kingdom Government.

MR SIMON IP: *Mr President, a point of clarification. I did not ask the Secretary whether he would consult this Council, I asked him whether he would find it helpful to have the views of this Council.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, this Council's views are always helpful.

MS ANNA WU: *Mr President, as the public and the Government often differ on what is fact and what is fiction, may I ask if the Administration will consider holding public hearings to invite representations on the pace of human rights development in Hong Kong and will the Government ensure that the reports as finalized, but before filing with the relevant international body, will be made public here in Hong Kong?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, this is a sort of "apple pie and motherhood" question — difficult to say no, but to say yes would commit us to the sort of undertaking whose ramifications I am not so sure of. So, if I may, I will give a bureaucratic answer.

MS ANNA WU: *Mr President, may I ask what that answer is? I am quite lost.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, I think, frankly, that the draft reports we provide to the United Kingdom, as I said, are factual reports and fact is fact and one cannot turn it into fiction. In any case those reports will see the light of day and that is why I do not wish to commit myself, without looking at the constitutional relationship between ourselves and the United Kingdom Government, to giving a more positive answer than I have just given.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, having heard the Secretary's reply, I still cannot get at it. May I ask whether the Administration has sought confirmation from the Chinese side through the Sino-British Joint Liaison Group if it would submit reports to the United Nations after 1997 in respect of the state of implementation of the international treaties in Hong Kong? If not, why not? If yes, how did China respond to this?*

PRESIDENT: I do not think that arises from the main question or answer, Mr LAU.

MR MAN SAI-CHEONG (in Cantonese): *Mr President, may I ask the Secretary for Planning, Environment and Lands if the Hong Kong Government has any important undertaking in respect of the implementation of the international covenants and agreements on environment protection? At the Brazil Summit on environmental protection last year, did the United Kingdom undertake anything on behalf of Hong Kong which committed the territory to certain obligations in future?*

PRESIDENT: I think you are way outside the main question and answer, Mr MAN.

MR MAN SAI-CHEONG: *Mr President, the question is on international covenants and agreements and Hong Kong's obligations and I think it falls within the question.*

PRESIDENT: I have to overrule that question, I fear, because it does not arise from the main question or answer.

Immigration clearance at Kai Tak

5. MR HOWARD YOUNG asked: *In view of the large number of passengers queueing for immigration clearance at Kai Tak Airport during peak periods, will the Government inform this Council:*

- (a) *of the number of complaints received in the past two years about the time taken for immigration clearance, and how these complaints were resolved;*
- (b) *how the existing Immigration Department's target of clearing such passengers within 30 minutes of arrival compares with the international standard, that is that of the International Civil Aviation Organization (ICAO); and*
- (c) *what measures are being taken or contemplated to alleviate the problem, bearing in mind that passenger volume will continue to grow and a replacement airport will not be ready for a few more years?*

SECRETARY FOR SECURITY: Mr President, seven complaints were received by the Immigration Department in 1991, nine in 1992 and five in the first half of this year. Of these 21 complaints, 16 involved passengers who had apparently been cleared in less than the 30-minute target time. The remaining five cases all occurred during mid-day peak periods. The Immigration Department has now revised its manning pattern to give maximum coverage during these periods.

There is an ICAO recommended standard of 45 minutes for airport clearance overall, but not for immigration clearance alone. In general, our immigration clearance time compares quite favourably with other airports, given the high usage and the physical limitations of Kai Tak.

We are aware, however, that passenger volume at Kai Tak must be expected to increase before a replacement airport comes into operation. We hope to be able to provide next year some more resources for the Immigration Department following the completion of the screening of Vietnamese asylum seekers. The Immigration Department itself has made a number of improvements in productivity and clearance times over the last few years to cope with the increased pressure.

A recent improvement has been the implementation of the Travel Record and Immigration Control and Enforcement System known as "TRAICES". This has achieved a significant shortening of the processing time for residents on arrival, from a minute-and-a-half to a minute, and on departure from a minute to half a minute. The final stage of this improvement was achieved only last month.

One further important measure is in sight: to replace in 1995 the existing computer terminals by optical readers which will reduce further the time needed to clear Hong Kong identity card and machine readable passport holders.

MR HOWARD YOUNG: *Mr President, can the Secretary throw some light on the number of immigration officers on the ground working at Kai Tak, in particular how many additional staff have been employed since, say 1989, so that we can see whether it is in line with the growth of passenger throughput at the airport?*

SECRETARY FOR SECURITY: Mr President, I do not have any figures on the total number of immigration officers deployed at the airport. It does of course vary from time to time — it varies during each hour of the day — but I will try to give an overall figure in writing. (Annex II) So far as passenger traffic is concerned, it has had its ups and downs since 1989 but, overall, the increase in the five years since mid-1988 has been about 30%. There has been no increase in staff since that time.

DR PHILIP WONG: *Mr President, would the Government consider employing more staff to be stationed at the airport immigration counters, or better rostering, as a way to alleviate congestion?*

SECRETARY FOR SECURITY: Mr President, despite a very considerable increase in the volume of passenger traffic, the percentage of passengers who are cleared within the target time has been generally maintained — for arriving passengers approximately 94% and for departing passengers over 99%. The problem, I think, tends to occur at peak periods just prior to holidays; at peak periods during normal days the target time is still achieved. The possibility of employing more staff is one that we do keep under regular review and will continue to do so. We will also seek to achieve further increases in productivity. I believe the steps that have been taken in recent years to increase productivity and improve clearance times have been very considerable achievements.

MR JAMES TIEN: *Mr President, currently there are several counters designated for clearing Hong Kong residents returning to Hong Kong at Kai Tak Airport. However, unlike most other countries, these counters here are implemented loosely and many tourists are allowed to go through. Will the Government please inform us whether these counters will be strictly enforced to expedite returning Hong Kong residents only?*

SECRETARY FOR SECURITY: Mr President, no, it is not intended to have rigid enforcement of this. Generally, arrival counters are segregated for residents and visitors approximately in the ratio of 3:7. But these are adjusted from time to time during the day to accord with passenger mix at particular times.

MR HENRY TANG: *Mr President, will the new optical readers to be in place in 1995, or due in 1995, be able to read an existing ID card without modification?*

SECRETARY FOR SECURITY: Mr President, yes, I believe so.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, in his answer the Secretary said that they had achieved a shortening of the processing times from the previous levels to half a minute now for passengers on departure and a minute for those on arrival. Did he refer to the Hong Kong Identity Card or passport holders? Has the Administration compared it with the current practice of Singapore so that we can do better in this respect?*

SECRETARY FOR SECURITY: Mr President, yes, the times I gave referred to residents using ID cards. The TRAICES system cannot cope with other forms of travel documents; it does not have the database, for example, to deal with visitors who are non-Hong Kong residents. But very considerable improvements have been made and, as I said in my main answer, I expect the times to be reduced further by 1995 when we introduce optical readers.

MRS SELINA CHOW: *Mr President, I find it quite amazing that the Secretary was not able to answer what additional staff have been employed, say, in the last three years or five years. How does he actually keep track of the increase in staff as proportional to the growth in tourists coming to Hong Kong in the last, say, three years, and how does he actually ensure that the speed with which visitors and passengers are processed is kept at an acceptable level by manning the counters with adequate staff to cope with the increase in traffic?*

SECRETARY FOR SECURITY: Mr President, I think the questions are based on a misunderstanding of what I said. I said quite clearly that there had been no additional staff at the airport in the last five years.

Coroner's recommendations in respect of passenger hoists

6. MR HENRY TANG asked: *The coroner's inquest on the fatal accident involving a passenger hoist that occurred 13 years ago during the construction of Telford Garden made 17 recommendations, six of which related directly to labour matters. Will the Government inform this Council whether all these six recommendations have been accepted for implementation in full and if not, what the reasons are?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, those recommendations that were directly related to the safe use of passenger hoists following the Telford Garden coroner's inquest were accepted. The construction industry discontinued the use of all passenger hoists of the same model as the one in Telford Garden upon establishing that the accident was attributed to the defective design of the model.

On recommendations related to legislative control, all relevant requirements were studied to ensure that there were adequate provisions in industrial safety laws. For example, Regulations 17 and 18 of the Factories and Industrial Undertakings Regulations require the reporting of accidents and dangerous occurrences. This was consistent with the coroner's recommendation regarding mandatory reporting of incidents. As regards the proposed introduction of legislation to improve safety and control of passenger hoists, the provisions under the Construction Sites (Safety) Regulations under the Factories and Industrial Undertakings Ordinance regulating the safety of passenger hoists were reviewed and generally found to be adequate.

Those recommendations which generally fell outside the ambit of government control, having regard to practices overseas, were not implemented. For example, it was not considered appropriate to require the Labour Department to certify the structural safety of all hoist types since such responsibility should rest with the manufacturer and owner of a hoist, similar to the practice in the United Kingdom and many other countries. Likewise, recommendations proposing that any manufacturers' modification should be approved by the Labour Department were not adopted.

MR HENRY TANG: *Mr President, today there is a better than one-in-four chance of being injured on a construction site. What will the Government do to promote and to ensure better safety for construction workers, such as setting up a safety committee to review safety standards in the construction industry?*

PRESIDENT: Does this arise from passenger hoists, Mr TANG, or generally?

MR HENRY TANG: *Particularly on construction sites.*

PRESIDENT: Do you have a ready answer, Secretary?

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I can only relate this to the passenger hoists arising out of the main question. We certainly have been promoting the publicity campaigns on industrial safety in all our construction sites over the years and there has been a particular emphasis this year on industrial safety concerning construction sites and use of heavy machinery. On the question of safety committees, at the present time 80% of construction companies are now adopting this practice on our construction sites and we have found this to be sufficiently encouraging in promoting the safe use of sites by workers and employers alike. On the question of other safety measures, we are, as Members are aware, proposing legislation soon to increase the penalty for offences by four times to heighten the deterrent effect. And finally on passenger hoists in particular, we have now in the Works Branch a working group which has started on a review of the safety practices of passenger hoists and we will produce recommendations in six months time.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, before I put my question, may I ask the Secretary to clarify his answer to the previous supplementary, which I find it amazing, as he says 80% of construction sites have safety committees. May I know what exactly these safety committees are? And now turning to my question which arises from the third paragraph of the main answer where it says "any manufacturers' modification should".....*

PRESIDENT: Can we take that one first, Mr LAU?

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, by 80%, I was referring to the major companies who employ between them 80% of the total number of employees on construction sites in Hong Kong.

PRESIDENT: Now your own question, Mr LAU.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, according to the third paragraph of the main answer, "recommendations proposing that any manufacturers' modification should be approved by the Labour Department were not adopted". I understand that the height of a passenger hoist on a construction site has to be adjusted as the work progresses, that is to say, its height will increase correspondingly as more and more floors are built. As such modification does not require the approval of the Labour Department, may I ask what measures the Administration has to monitor it so as to ensure the safety of users?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the question of the changing needs of construction sites is clearly a matter which the existing working group is to look into; the rapidly changing requirements for safety do make it necessary for us to look into this particular aspect more carefully. I do not wish to pre-empt the findings of the working group but we are looking at the possibility of stricter monitoring of these passenger hoists and possible licensing in the future.

MR TAM YIU-CHUNG (in Cantonese): *Mr President, the third paragraph of the Secretary's main answer is far from satisfactory. Can the Administration reconsider approving and publicizing only those types of passenger hoist which meet the specifications, as well as specifying their useful life, so as to discourage contractors from using substandard hoists to minimize cost?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, as I said earlier on, the current practice in Hong Kong and in many overseas countries is to place the burden of ensuring safety on the construction contractor. But arising from the latest accident in Java Road, we are prepared to have the working group reconsider the control of passenger hoists in Hong Kong, as I have mentioned earlier. And one of the recommendations is likely to be for increased government control over the safety of such hoists and how best this is to be implemented.

MR FRED LI (in Cantonese): *Mr President, in the third paragraph of his main answer, the Secretary said that it was not considered appropriate to require the Labour Department to certify the structural safety of all hoist types. But in general lifts in Hong Kong are inspected annually by the Electrical and Mechanical Services Department and a signed and dated certificate will be posted in lifts to certify their safety. Why should there be double standards when the Electrical and Mechanical Services Department has to inspect all lifts in buildings while the Labour Department considers it unnecessary to inspect passenger hoists on construction sites in respect of their structural safety?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I think I have said already that the practice in Hong Kong as regards passenger hoists follows the practice elsewhere where the responsibility lies with the contractor, not with a government department. But in this case, the working group will consider the possible transfer of the responsibility of control from the contractor to a government department which is better equipped to assume such control.

MR MICHAEL HO (in Cantonese): *Mr President, the Secretary mentioned in his reply earlier that the working group was looking into ways to improve the safety and control of these hoists. But in the second paragraph of his main answer, he said that statutory provisions in regard to the safety of hoists were generally found to be adequate. So does the Administration consider the control of hoists so far is adequate or not?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the second paragraph of my reply refers to the recommendations of the coroner's court made at the time of the Telford Garden accident and that part of the reply was in relation to that particular recommendation. As I said just now in reply to supplementaries, we are now re-examining the safety requirements of passenger hoists following the latest accident at Java Road construction site and this question of safety is being re-examined by the working group.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, in relation to the passenger hoist accident several days ago which left 12 workers dead, the Secretary said that the relevant legislation would be reviewed with a view to monitoring the safety of hoists like what it had been doing for lifts. Does this change of policy point to the fact that the Administration erred in its decision in not accepting the coroner's recommendation 13 years ago to require the Labour Department to certify the safety of passenger hoists, thus giving rise to many safety problems of hoists thereafter?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I do not think one can draw such a conclusion. It is not appropriate because we have now moved forward many years since the last accident 13 years ago. We, of course, have reviewed the present arrangements and the working group is to look at how passenger hoists are to be further controlled in the light of the latest accident, which incidentally did not involve the same model as that involved in the 1978 accident. So the comparison is quite inappropriate.

DR LEONG CHE-HUNG: *Mr President, the Secretary just mentioned that some 80% of major construction companies have safety committees and they are found to be both effective and useful. Will the Administration therefore consider extending this to all major construction sites and companies, even to the extent of introducing legislation?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the Government certainly intends that all construction sites be encouraged to have safety committees involving both employers and employees to ensure work safety. But we feel that we should not legislate. We would prefer it to be

voluntary because in most cases the voluntary efforts by both parties are far more effective and useful than compulsion.

Written answers to questions

Fire accidents on public buses

7. MR WONG WAI-YIN asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the number of cases in the past three years of public buses catching fire while carrying passengers and of the causes of such incidents; and*
- (b) *what measures have the authorities concerned taken to prevent similar incidents from recurring, in order to protect passengers?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) In the past three years 1990 to 1992, there were 36 cases of public buses catching fire while carrying passengers. According to the Fire Services Department, these fires are believed to have resulted from a variety of causes including combustible materials coming into contact with the external walls of the hot engine and/or exhaust pipe, electrical short-circuiting and discarded lighted smoking materials.
- (b) Buses are designed and constructed in such a way as to minimize the risk of a fire. Thus, bus chassis are normally designed and fitted with fire prevention features, such as shields to prevent grease being thrown onto hot exhaust pipes, insulation of electric wiring systems and so on. These fittings and equipment as well as all other parts of a bus are subjected to vigorous annual inspections by the vehicle examiners of the Transport Department before their licences are renewed under the Road Traffic Ordinance and its subsidiary legislation. In addition, spot checks are carried out by the Department to ensure that the buses are in a satisfactory safe operating condition.

As a precautionary measure, the Ordinance also requires the carriage of fire extinguishers on each and every bus. These extinguishers are regularly inspected to ensure that they remain in an efficient working condition.

The Smoking (Public Health) (Amendment) Ordinance 1992, among other things, extended the prohibition on smoking from the lower deck of a public bus to all parts of it. The new provisions became effective on 1 August 1992 and should reduce the incidence of discarded cigarettes found on buses, and hence the bus fires so caused.

Escalator linking Central and the Mid-Levels

8. MRS MIRIAM LAU asked (in Chinese): *Will the Government inform this Council:*
- (a) *when the escalator linking Central and the Mid-Levels will be completed and put into use;*
 - (b) *what measures the Administration will take to ensure the safety of users of this escalator and to prevent vandalism of the escalator; and*
 - (c) *how members of the public would be educated on the proper use of this escalator?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) The Central to Mid-Levels escalator system is expected to be ready for use in late September this year.
- (b) To ensure the safety of users and to prevent vandalism, the escalator system will be patrolled by four attendants during operating hours, which will extend from 6 am to 10 pm each day. In addition, the officer in charge of the system will be accommodated in a control room located in Caine Road. There he will be able to monitor the whole system by means of closed circuit television and he will also be able to direct users and issue safety instructions through a public address system. Both the closed circuit television system and the public address system will be connected to the Police Regional Command and Control Centre, Hong Kong Island. Outside operating hours, watchmen will be deployed to prevent vandalism.
- (c) A publicity campaign is being organized to educate the public in the use of the new system. This will include the distribution of a users' guide to the system, leaflets, posters and press releases. Notices will also be prominently displayed at entrances to the system advising the public on its safe usage.

Shark attacks

9. MR CHIM PUI-CHUNG asked (in Chinese): *Will the Government inform this Council whether it has any information on suspected shark attacks in Hong Kong waters; if so,*

- (a) *how many such cases have taken place in Hong Kong waters over the past three years;*
- (b) *what measures the Administration has taken to prevent such incidents and why are there still attacks on swimmers; and*
- (c) *what plans are in hand to step up precaution and publicity in future to ensure non-recurrence of similar incidents?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, I set out the answers to the queries raised in the Honourable CHIM Pui-chung's question in the order as they appear:

- (a) Three cases of suspected shark attacks have occurred in Hong Kong waters over the past three years. The first such case took place on 8 June 1991 and the remaining two in June 1993. Details are as follows:
 - (i) On 8 June 1991 at 6.35 am, a 65-year-old woman died because of a suspected shark attack while swimming about 500 m off Silverstrand Beach in Sai Kung.
 - (ii) On 1 June 1993 at 8.00 am, a 42-year-old man was fatally wounded, suspected to have been attacked by a shark, whilst swimming about 150 m off Seung Sz Wan in Sai Kung.
 - (iii) On 11 June 1993 at about 7.30 am, a 61-year-old man died, again suspected to have been fatally attacked by a shark, whilst swimming about 3 m off Silverstrand Beach in Sai Kung.
- (b) Following on the occurrence of these incidents, the Marine Police, the Marine Department and the Government Flying Service all joined hands in strengthening surveillance over Hong Kong waters. The two municipal councils, who are the managers of public beaches, also took immediate action which include:
 - (i) the hoisting of shark warning signals and red flags on affected and nearby beaches;

- (ii) verbal warnings given through the public address system every 15 minutes to warn swimmers against entering the water;
- (iii) lifeguards keeping a close watch on nearby waters with the assistance of binoculars; and
- (iv) constant patrol in the vicinity of the swimming area by lifeguards in motorized rescue crafts.

Despite consistent warnings, some swimmers still take the risk of swimming in nearby waters.

- (c) On 18 June 1993, an interdepartmental working group chaired by Deputy Secretary (Recreation and Culture), Recreation and Culture Branch and comprising representatives of Agriculture and Fisheries Department, Regional Services Department, Urban Services Department, Royal Hong Kong Police Force, Marine Department, and City and New Territories Administration, met to co-ordinate measures to tackle the problem. The meeting decided that the following precautionary measures should be adopted:

- (i) existing measures set out in (b) above currently undertaken by the municipal councils and the various government departments would continue;
- (ii) more lifeguards would be deployed in affected areas as well as some of the more popular beaches, and additional motorized boats have been purchased to step up surveillance;
- (iii) some public swimming pools would be opened earlier to cater for early morning swimmers; and
- (iv) pamphlets and posters on measures to avoid shark attacks, including dispelling specifically the general misunderstanding that swimmers are safe from shark attacks in shallow water, would be more widely distributed.

In addition, the Regional Council has recently endorsed, at its meeting on 29 June 1993, the proposal to lay shark prevention nets on an experimental basis at selected popular beaches. The Regional Services Department is now taking action on this measure.

Traffic accidents caused by drivers using mobile phones

10. DR TANG SIU-TONG asked (in Chinese): *Will the Government inform this Council of:*

- (a) *the number of traffic accidents, in each of the past two years, caused by drivers using mobile phones while driving; and*
- (b) *its policy on the use of mobile phones by drivers while driving?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) There were two traffic accidents recorded in 1991 and three in 1992 in which the use of mobile telephones while driving was considered a contributory factor.
- (b) Using a mobile telephone while driving can cause traffic accidents and the practice is discouraged. In the Road Users' Code, motorists are advised to stop their cars in a safe place if they wish to use their mobile telephones. While there is no legislation specifically prohibiting the practice, motorists may be prosecuted for careless driving if the use of a mobile telephone can be shown to have caused a traffic accident.

Traffic accidents inside or within the exit areas of vehicular tunnels

11. DR HUANG CHEN-YA asked (in Chinese): *Will the Government inform this Council of the number of traffic accidents which involved fatal or serious injuries occurring inside vehicular tunnels or within the approach/exit areas of the tunnels in the past three years; how many of these accidents occurred when the tunnels were partly closed or when single tubes were opened for two-way traffic; and what measures will be taken to improve driving safety inside and around vehicular tunnels?*

SECRETARY FOR TRANSPORT: Mr President, in the past three years, six fatal traffic accidents and 66 causing serious injury have occurred within road tunnels and their approach/exit areas. Three of the fatal accidents and 36 causing serious injury occurred while one tube of a tunnel was closed, and the other tube was being used for two-way traffic. In the same period, the overall accident rate in tunnels was 0.58 accidents per million vehicle km, which compares favourably with the rate of 1.72 per million vehicle km on all roads.

With a view to further improving tunnel safety when one tube is closed, consideration is being given to implementing additional traffic management measures, erecting larger directional signs, imposing a 50 km per hour speed

limit, and arranging for more frequent radio broadcasts of safety messages within the tunnels.

Supreme Court Registrar's failure to fix a date for hearing of an appeal

12. MISS EMILY LAU asked: *On 27 May 1993, the Registrar of the Supreme Court was ordered by a High Court judge to pay costs for failing in his statutory duty to fix a date for an appeal. Will the Government inform this Council:*

- (a) *of the circumstances leading to the court ruling;*
- (b) *whether it involved dereliction of duty on the part of officials responsible; and*
- (c) *whether anything has been done to rectify the situation?*

CHIEF SECRETARY: Mr President, the case in question was concerned with an appeal against a decision of the Obscene Articles Tribunal. Section 30 of the Control of Obscene and Indecent Articles Ordinance (Cap 390) provides that any party to any proceedings before the Obscene Articles Tribunal may appeal to the High Court against a decision of that Tribunal on a point of law by giving notice of appeal to the Registrar, Supreme Court. Where such notice is given, the Registrar is required to fix a date for the hearing of the appeal within a period of up to 56 days. The date is fixed normally by the Clerk of Court on behalf of the Registrar when the relevant documents are received from the Tribunal.

In this particular case, the documents from the Tribunal arrived later than usual. By the time the Clerk of Court saw the parties to fix a date for the hearing, the time limit for fixing the date had already expired. For this reason, the Crown objected to the appeal being listed. The Clerk of Court therefore decided to decline to fix a date for the hearing. The appeal party then issued formal proceedings in the High Court for an order requiring the Registrar to fix a date and the judge ruled in favour of the appeal party. Also an order for cost was made against the Registrar.

Immediately following the court ruling, the Registrar ordered an investigation into the case. It transpired that the Clerk of Court had, in his own better judgement, taken the decision to refuse to fix the date for hearing the appeal. The case could have been referred to the Practice Master in the Registry for guidance. The Practice Master was able to give any directions which might be required on questions of practice and procedure, including directing the Clerk of Court to set the appeal down. Having examined the circumstances of the case, the Registrar concluded that the decision of the Clerk

of Court was an error of judgement. It did not involve dereliction of duty on the part of any officials.

In the course of the investigation, the Judiciary has taken the opportunity to review completely its procedures on appeals against decisions made by the Obscene Articles Tribunal and has already made the necessary improvements.

Bridging course for students of grammar schools

13. MR TIK CHI-YUEN asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the number of students who attended and completed the pilot "Bridging course for students of grammar schools seeking transfer to Secondary II of pre-vocational schools" last year, and the number of those who subsequently transferred to pre-vocational schools;*
- (b) *of the expenditure of that bridging course, with a breakdown of the main elements; and*
- (c) *whether it will consider providing bridging courses for students of pre-vocational schools who wish to transfer to secondary grammar schools; if not, what the reasons are?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) Forty-five students attended and completed the pilot "Bridging course for students of grammar schools seeking transfer to Secondary II of pre-vocational schools" in summer 1992 and subsequently 35 students were transferred to pre-vocational schools.
- (b) The total expenditure on the courses was \$249,000. The breakdown of the main elements was as follows:

A. <i>Salary</i>	<i>Amount (\$)</i>
(i) Technical Teachers	97,200
(ii) Workshop Instructors	64,800
(iii) Administrative staff	36,000
 B. <i>Miscellaneous</i>	
Consumables, materials and stationery	51,000

Grand total	249,000

- (c) Students are admitted to pre-vocational schools on the basis of a clear and positive preference by themselves and their parents for this type of education. Before admission, these students also take an aptitude test which shows that they have a genuine interest and inclination in studying technical and commercial subjects. Hence, there has not been any demand so far from pre-vocational school students wishing to transfer to grammar schools, and the need to consider providing bridging courses for this purpose has not arisen.

Passenger hoist inspection

14. DR SAMUEL WONG asked: *Recent inspections conducted by the Administration revealed that 86 construction sites have been using hoists, of which 27 are of a design similar to the one involved in the passenger hoist accident at Java Road. Six of these hoists were found to have irregularities relating to the gates. Will the Government inform this Council:*

- (a) *what specific aspects of the passenger hoists were examined in the recent inspections;*
- (b) *whether the safety device on stopping system of the 86 hoists in question which helps to stop an over-speeding hoist from plummeting was examined or tested;*
- (c) *whether other irregularities were found apart from those relating to the gates; if so, what the details are;*
- (d) *whether the irregularities constituted offences under the Construction Sites (Safety) Regulations (Cap. 59 sub. leg.);*
- (e) *how many cases of prosecution have been instituted over these irregularities; and*
- (f) *how future inspections will be organized and conducted in order to prevent similar accidents?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) We have carried out one round of inspection immediately after the accident and another round is in progress. The first round covering all passenger hoists mainly focused on whether contractors had complied with safety requirements of the law, including the provision of an effective and efficient fall arrester, interlocking devices for the gates, the notice for the safe working load and the maximum number of persons allowed to be carried, the relevant

certificates and reports of test, examinations and inspections under the requirements of the Construction Sites (Safety) Regulations.

In the second round of joint inspections by Labour Department and Electrical and Mechanical Services Department, namely the special random check exercise, inspections on the hoist cage, landings, hoistway, electrical installations and a full-load test will be covered.

- (b) For the passenger hoists which will be covered in the second round of inspections, the safety device which is used to stop the hoist from rapid descent during an accident will be tested.
- (c) In the first round of inspections covering 86 hoists, no other irregularities were found apart from those relating to the gates. The second inspection is still on-going.
- (d) The irregularities constituted offences under the Construction Sites (Safety) Regulations.
- (e) Six summonses relating to the irregularities mentioned in (d) above have been taken out.
- (f) More inspections of sites with hoists will be carried out and prosecution action taken if there are breaches of the relevant safety regulations. Besides, a code of practice on passenger hoists will be prepared with a view to rationalizing the standards in construction, maintenance, testing and examination of passenger hoists. The need for special inspection arrangement for passenger hoists in the longer term will be a subject for consideration by the Working Group set up under the Works Branch to look into further means of enhancing the safe use of heavy machineries and lifting appliances in construction sites, including passenger hoists.

Employment of overseas officers over the age of 60

15. MR CHEUNG MAN-KWONG asked (in Chinese): *As overseas officers over the age of 60 are still appointed on agreement terms in various government departments, will the Government inform this Council:*

- (a) *of the total number of such officers and their respective departments and ranks;*
- (b) *of the criteria and procedures under which the Administration endorsed the continued employment of these overseas officers instead of promoting local officers to fill their posts; and*

- (c) *whether the localization policy is applicable to posts occupied by these officers; if not, what the reasons are?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, at present, there are 20 overseas agreement officers over the age of 60 who are employed in the Civil Service. They are serving in nine departments and 16 ranks (details are at Annex).

In general, the further employment of an agreement officer beyond the age of 60 is considered only in very exceptional circumstances. The officer has to be of good conduct and performance and also physically fit. He may be further employed beyond the age of 60 if there is a strong need for his service to be retained based on an assessment against the following criteria:

- (a) there are recruitment, retention and succession problems;
- (b) there are specialist and/or operational grounds for retaining the officer;
- (c) the extension of service is required to maintain an adequate level of experience in the rank;
- (d) the further employment will not cause a promotion blockage (depending on the circumstances of each case, an officer may be further employed in the same rank or in a lower rank).

Departmental recommendations on such further employment must be put to the Public Service Commission for advice before approval.

These criteria and procedures apply to both overseas and local officers. In the case of an overseas agreement officer, in addition to the criteria outlined above further employment beyond the age of 60 is considered only where no suitable local replacement is available.

Annex

Appointment of Overseas Agreement Officers beyond the age of 60 (Position as at 5.7.93)

<i>Department</i>	<i>Rank</i>	<i>No. of officers</i>
Architectural Services Department	Maintenance Surveyor	1
	Senior Maintenance Surveyor	1
Buildings and Lands Department	Building Surveyor	3

<i>Department</i>	<i>Rank</i>	<i>No. of officers</i>
Civil Aviation Department	Operations Officer	1
	Senior Operations Officer	2
	Assistant Director of Civil Aviation	1
Department of Health	Medical and Health Officer	1
Education Department	Assistant Education Officer	1
Government Secretariat	Assistant Commissioner of Insurance	1
	Industrial Promotion Project Officer	1
Housing Department	Deputy Director of Housing	1
Legal Department	Law Officer	1
	Senior Crown Counsel	2
	Deputy Principal Crown Counsel	1
Royal Hong Kong Police Force	Interviewer	1
	Superintendent of Police	1
	Total:	20

Complaints against estate surveyors

16. MR ALBERT CHAN asked (in Chinese): *In view of the complaints lodged recently by residents of Discovery Bay about the lack of channels to make complaints in respect of the professional ethics of estate surveyors, will the Government inform this Council:*

- (a) *of the existing channels through which members of the public may complain against the professional ethics of estate surveyors;*
- (b) *whether these channels are adequate and effective; and*
- (c) *of the measures for monitoring the operations of estate surveyors and whether consideration will be given to strengthening them?*

SECRETARY FOR WORKS: Mr President,

- (a) The Surveyors Registration Ordinance was enacted in 1991. Under this Ordinance, no person can use the title "Registered Surveyor" unless he is registered under the Ordinance. Members of the public can lodge complaints against the ethical standard of Registered Surveyors to the Surveyors Registration Board, which has the power to remove Registered Surveyors committing serious disciplinary offences from the Register.
- (b) Members of the public by engaging Registered Surveyors have direct access for any complaints on the professional ethics of an individual estate surveyor. Any such complaint to the Surveyor Registration Board must be addressed by that Board, in accordance with its procedures. The government member of the Board will be involved, particularly to monitor the effectiveness of such procedures.

Members can rest assured that the procedures are kept under review for improvement if found necessary.

- (c) Similar to other professions, we consider it more appropriate for the relevant professional registration board to monitor the operations of its members. Views of the Administration are reflected to the Surveyors Registration Board through the Board Member appointed by the Governor. There is no plan to change this system at this stage.

Crime Information Form Scheme

17. MR LEE WING-TAT asked (in Chinese): *As regards the Crime Information Form Scheme, will the Government inform this Council:*

- (a) *how many Crime Information Forms were received by the Government in each of the past five years;*
- (b) *how many criminal cases had been solved by the police on the strength of the information provided in those forms; and*
- (c) *whether it would consider extending the distribution network of the Crime Information Forms to cover mutual aid committees and owners' corporations of multi-storey buildings, supermarkets, restaurants and fast food shops?*

SECRETARY FOR SECURITY: Mr President, the number of Crime Information Forms received in each of the past five years has been increasing steadily as shown in the table below:

<i>Year</i>	<i>Number of Crime Information Forms received</i>	<i>Number of arrests attributable to information in CIFs</i>
1988	916	388
1989	1 042	567
1990	1 196	716
1991	1 723	496
1992	2 111	475
1993	1 061	149
(up to 31.5.93)		
	-----	-----
Total	8 049	2 791
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We do not keep separate statistics for the number of cases detected on the strength of information provided in the Crime Information Forms. However, the arrests shown in the table above have been made in the light of information supplied by members of the public through these Crime Information Forms.

The police use the information received on Crime Information Forms as intelligence to assist their investigations. On average, one arrest results from every three Crime Information Forms received. This channel of passing crime information to the police is of considerable help to criminal investigations.

Crime Information Forms are available at all Post Offices, District Offices, Management Offices of public housing estates, hotels and banks; a total of more than 700 locations throughout the territory. The forms are also available at certain supermarkets, chain convenience stores, dispensaries and a number of mutual aid committees and owners' corporations in multi-storey buildings. The Police Public Relations Bureau has made a considerable effort, since the inception of the Crime Information Form Scheme in 1980, to expand the distribution network. The Bureau has had reasonable success in encouraging the involvement of the community, especially by seeking the consent and co-operation of commercial enterprises to allow the distribution of the Crime Information Forms at their premises.

Resettlement of Vietnamese refugees

18. MRS ELSIE TU asked: *Will the Administration inform this Council:*

- (a) *of the target date for resettling all Vietnamese refugees staying in Hong Kong;*

- (b) *of the reasons, if any, for holding up their resettlement; and*
- (c) *whether any plans are in hand to deal with those who may never be resettled?*

SECRETARY FOR SECURITY: Mr President, our aim is to resettle all Vietnamese refugees as soon as possible. Some 800 have been resettled so far this year, and 13 000 since January 1989.

On 1 July, there was a total of 2 231 Vietnamese refugees in Hong Kong. Of these, 1 146 have already been accepted for resettlement and should be departing over the next few months. The remaining caseload is under re-examination by the Office of the United Nations High Commissioner for Refugees or being considered for resettlement. While it is evident that there will be difficulties in resettling some of the refugees in this category, principally because of their criminal records, it would be premature to seek to define the exact number who may never be resettled.

We keep in close contact with the Office of the United Nations High Commissioner for Refugees and the consulates of the resettlement countries, and will continue to monitor the situation to ensure that every effort is made to speed up the resettlement of those who have not yet been accepted for resettlement.

Automatic photographing system for detection of drivers disobeying traffic signals

19. DR LAM KUI-CHUN asked: *An automatic photographing system was introduced in January 1993 to monitor drivers' observance of traffic signals. Will the Administration inform this Council of the progress in the implementation of the scheme, including the numbers of cameras installed and drivers detected to be disobeying traffic signals by the system and prosecuted, and of the effectiveness of the system in deterring and detecting such offences?*

SECRETARY FOR TRANSPORT: Mr President, under a pilot scheme started in January 1993, an automatic camera has been placed at certain road junctions with the aim of identifying vehicles that ignore red traffic lights, and to act as a deterrent against this offence. One camera is being used and it is presently being alternated between two road junctions.

In the period up to 31 May 1993, 605 red light violations have been identified using the camera. As a result 207 fixed penalty tickets and two summonses have so far been issued, and the remaining 396 cases are being processed.

The scheme has been a success. An analysis of enforcement data has revealed a 47% reduction in red light violations at junctions where the camera is in use. Plans are now being made to purchase additional cameras.

Motions

PUBLIC BUS SERVICES ORDINANCE

THE SECRETARY FOR TRANSPORT moved the following motion:

"That the franchise conferring the right on Citybus Limited to operate a public bus service on the routes specified in the Schedule of Routes (Citybus Limited) Order 1992 (L.N. 331 of 1992) shall not be subject to sections 26, 27, 28, 29 and 31 in Part V of the Public Bus Services Ordinance."

He said: Mr President, I move the resolution standing in my name on the Order Paper.

To promote healthy competition in bus services, the Governor in Council has granted Citybus Limited a three-year franchise to operate 26 bus routes. These 26 bus routes were subsequently gazetted as Legal Notice 331 of 1992. The new services provided by Citybus will come into operation in September 1993.

The Citybus franchise will not contain a profit control scheme. In the circumstances, it is proposed in the case of Citybus to disapply those sections of the Public Bus Services Ordinance governing the permitted return under the profit control scheme, but to retain those sections which enable the Government to specify depreciation rates in respect of franchise related assets and require the company to produce accounts and other information needed for our monitoring of their performance. The resolution before Honourable Members will give effect to these policy intentions.

Mr President, I beg to move.

Question on the motion proposed.

MR LEE WING-TAT (in Cantonese): Mr President, the two motions, which aim at excluding the application of some provisions of the profit control scheme to the new franchises granted to China Motor Bus and the Citybus Limited, have been examined by a subcommittee of this Council. Members of the subcommittee supported the basic principle of these two motions, but were concerned about the effect of the non-application of the profit control scheme on assessment of bus fare increase applications and the standard of bus service in general.

The Administration advised Members that with the non-application of the profit control scheme as proposed in the motions, the permitted return of 15% on the average net fixed assets of the company will no longer be used as a criterion for considering bus fare increase. Other factors taken into account in assessing the applications for bus fare increases will continue to be applied; they include the date of the last fare revision, changes in operating costs and inflation rates, efforts made to reduce costs and increase income, the quantity and quality of service, the service development programme, as well as public affordability and acceptability. While account will be taken of the need for a reasonable profit for the company as a commercial organization, there will not be any permitted target rate of return. What is regarded as reasonable profit will be dependent on the various factors considered in the assessment process and the operating conditions of the companies concerned.

Mr President, in the course of discussion with the Administration, Members expressed the concern that information provided by the company in support of its application for fare increase should be made available as far as possible. Members consider it important that the rationale for fare increases be explained. As a matter of procedure, a briefing on bus fare increase application should be arranged for Members before the application is considered by the Transport Advisory Committee. In response, the Administration has agreed to brief the Transport Panel on any future fare increase application from a franchised bus company before submitting it to the Transport Advisory Committee for advice, and to urge the company concerned to join such briefing.

The subcommittee had also discussed with the Administration the measures to reduce resources wastage of the bus companies and the implications of the new bus franchises in question on the standards of service. The Administration advised that the introduction of competition in the supply of bus service on Hong Kong Island should make the bus companies more accountable to their customers. The companies will be forced to rectify inadequacies and improve operational efficiency. Besides, the new franchises provide for Passenger Liaison Groups to be set up by the companies. To facilitate close monitoring of the companies' performance, operational information of these companies will be provided through the computer network linked to the Transport Department. Members have also been advised that a Bill will be presented to this Council in the coming Session proposing amendments to the Public Bus Services Ordinance to strengthen the cash penalty provisions.

Members had inquired the Administration of the different procedures adopted for fare revisions of public transport companies, but noted that any proposed changes to the existing arrangements will have to be dealt with as a separate legislative exercise. Under such circumstances, the subcommittee has no objection for the two motions to be put to this Council.

With these remarks, Mr President, I support the motions.

MRS MIRIAM LAU (in Cantonese): Mr President, the motion moved by the Secretary for Transport just now is in relation to Citybus. Later on he will move a similar motion on China Motor Bus (CMB). I would now comment on both motions in one go.

Mr President, the scheme of profit control — a subject of criticisms for many years — will no longer apply to the new franchise granted to CMB for the operation of 90 routes on Hong Kong Island, nor to Citybus for the operation of 26 other routes. I believe the public will be glad to see this. Although the profit control scheme is abolished, we cannot help worrying about another matter. How will the Government set the fare levels of these companies and what criteria will it use in considering their fare rise applications? For public utilities without a scheme of profit control, the Government has all along stressed that in examining their applications for charge increase, it will take into account their operation costs, reasonable returns, inflationary factors, quality of service, development programme and acceptability of any increase to the public.

Escalating operation costs is very often quoted as the major factor contributing to bus companies' quest for fare rise. Therefore, the pressure for fare rise will naturally recede if we can control costs effectively. With the new franchise coming into effect, CMB will phase out 200 old buses and reduce the number of drivers. Although operation costs will be cut this way, the company still has to cut management costs should lower overall operation costs be pursued. CMB's less than desirable management and conservative business practice in the past have been the major causes for the loss of 26 of its routes. CMB should have learnt from this experience and should positively embark on management reform and operation policy reform by improving management efficiency, developing new sources of income and cutting expenditures as much as possible, and reducing costs. In the meantime, the Government should encourage the company in this respect while stepping up its monitoring of the company's operations.

Waste of resources is one of many headaches for bus companies. Some routes suffer heavy losses because of the meagre number of passengers and need to be cross-subsidized by income from other routes, thus indirectly generating pressure for fare rise. The two bus companies must conduct positive studies on how waste of resources can be effectively controlled and how improvement can be made, for example, by using smaller buses to serve routes of sparse patronage, or by restructuring some of the routes to make their service more cost effective. The Government should render assistance as much as possible in this respect.

We are faced with a vicious cycle where operation costs are pushed up by inflation, thus prompting the operator to increase charges. But any charge rise will in turn spur inflation whereby operation costs will rise again, leading to another charge increase. I think that in considering any application for charge increase by public utilities, the Government will have to take into account, other than inflationary factors, the effect of a charge increase on people's livelihood

and on inflation in the future, with a view to keeping the increase below the rate of inflation. The best way to combat inflation is, in fact, to control costs effectively rather than letting the charges race against inflation.

It is understandable that a company will want to have reasonable returns, for doing business naturally means "making money". But a uniform criterion for reasonable returns is at present absent. I think that in determining whether or not the returns achieved by utilities are reasonable, we need to consider the quality of their services, whether such services are satisfactory, in addition to considering whether or not they have undertaken their fair share of social obligations and responsibilities. I am however disappointed in this respect for CMB has yet to provide a comprehensive concessionary fare scheme for the elderly. I believe the objective of a public transport company's provision of a concessionary fare scheme for the elderly is to encourage their social participation. Hence every convenience should be given to the elderly people as far as possible. But obviously the preferential scheme offered by CMB has failed to meet this requirement. I hope the Government will exercise whatever leverage it possesses to prevail upon CMB to adopt for the elderly a preferential scheme similar to those offered by the other bus services.

As far as development programme is concerned, the operation of CMB and Citybus on Hong Kong Island is subject to objective geographical limitations which make it very difficult to develop new routes. However, I believe still CMB needs to keep on improving its fleet and add an appropriate number of air-conditioned buses to give the public a variety of choices. And this will enhance its competitiveness.

Finally, acceptability of any fare rise to the public is of utmost importance. And information about this question can be collected through the following three channels:

- (1) The Passenger Liaison Groups set up by the two bus companies should from time to time conduct surveys to gauge passengers' opinion about bus fare;
- (2) The Transport Department may carry out an independent survey to canvass public response to fare rise; and
- (3) On receiving an application for fare rise, the Transport Department should explain to the Legislative Council Transport Panel and consult Members' opinion on the matter, rather than briefing the Council only after the application is approved by the Transport Advisory Committee. I believe accuracy of the findings of surveys conducted through varied channels will be much better than that of the present.

Mr President, the transfer of 26 franchised routes from CMB to Citybus, while allowing the former to continue its operation of 90 routes, is to give effect to the Government's policy of encouraging healthy competition. I hope that by way of healthy competition, these two bus companies will be encouraged to provide a satisfactory service to the public on the routes under their respective operation. And the Government's exemption of the two companies from the scheme of profit control will help putting them to vigorous endeavours to provide a better service and strive for a bigger market share.

With these remarks, Mr President, I support the Secretary's present motion and the one next following on the Order Paper to be moved by him.

MR LAU CHIN-SHEK (in Cantonese): Mr President, I shall speak in one go on the two motions moved by the Secretary for Transport on Citybus Limited as well as on China Motor Bus Company. First of all, I must once again welcome the decision to withdraw the original profit control scheme of the China Motor Bus Company under which the permitted return of the Company is to be calculated according to its average net fixed assets. I hope that in examining and approving the application of bus companies for fare increases in future, the Government will take into full consideration such factors as inflation as well as affordability to the general public, so as to avoid affecting the livelihood of the people.

Today, I would like to focus on the procedures for processing bus fare increases. The ad hoc group assigned to study this resolution has demanded a reply as to the rationale behind the requirement for the ferry company to lay its application for fare increases before the Legislative Council for examination in the form of subsidiary legislation whereas no such requirement is imposed on the bus companies in their applications for fare increases. In its reply to the Legislative Council ad hoc group dated 11 June, the Government only pointed out that in enacting the Public Bus Services Ordinance in 1975, the Legislative Council did not put forward the requirement in the above connection. The Government has evaded answering directly the query on the marked difference in procedure between processing bus and ferry fare increases. I feel extremely disappointed!

Actually, as I understand it, the main reason for the absence of a mechanism to enable the Legislative Council to examine fare increase is that a profit control scheme has been set up under the relevant Ordinance, under which a level of "permitted return" is fixed for the bus companies each year, (the present profit control scheme arrangement with both KMB and CMB only came into effect in September 1975 after the said Ordinance was implemented.) It can thus be deduced that the rate of fare increase is adjusted according to the profit return requirement, leaving very little room for modification, and therefore there is not much necessity for examination by the Legislative Council. Mr President, it is obvious that after today's resolutions are passed, there will no longer be any profit control scheme, which in effect will mean no

"guaranteed profit" for CMB as well as for Citybus which is going to operate 26 bus routes on Hong Kong Island. Therefore the procedures for bus fare increase should in future be the same as those for the franchised ferry company which similarly has no profit control scheme. That is to say, fare increases should be approved by the Executive Council and be laid before the Legislative Council for examination in the form of subsidiary legislation.

I believe Members are aware that today's Legislative Council is no longer a "rubber stamp". As a body which represents public opinion, I think it is absolutely imperative on the part of the Legislative Council to examine the issue of fare increase by the bus companies, which has a great impact on the livelihood of the people. That the application for fare increase at a rate approved by the Executive Council should also be laid before the Legislative Council for examination in the form of subsidiary legislation is, I believe, the mildest of proposals.

I hope that later the Secretary for Transport can respond to my question and introduce to this Council, as soon as possible, a Bill based on my proposal to amend the Ordinance in question so as to enable the public and this Council to monitor effectively the level of bus fares.

Mr President, I so submit. Thank you.

SECRETARY FOR TRANSPORT: Mr President, I have taken careful note of the points and helpful suggestions made by those Honourable Members who have spoken on this motion and I am very grateful to them for their support. If I may, I will respond very briefly to the points they made.

The criteria governing the approval of bus fare increases in future will be exactly the same as those at present except that the average net fixed asset (ANFA) base of the operating companies will no longer feature in the basket of factors requiring consideration. I am confident that the competition resulting from the transfer of 26 of its routes to Citybus in September 1993 will provide much needed impetus for CMB to cut costs and improve services. I would like to assure Honourable Members that the performance of both bus companies will be closely monitored.

I have taken careful note of the remarks made by the Honourable LAU Chin-shek. I will be happy to consider his proposal and I will respond in due course.

Question on the motion put and agreed to.

PUBLIC BUS SERVICES ORDINANCE

THE SECRETARY FOR TRANSPORT moved the following motion:

"That the franchise conferring the right on China Motor Bus Company to operate a public bus service on the routes specified in the Schedule of Routes (China Motor Bus Company) Order 1992 (L.N. 365 of 1992) shall not be subject to sections 26, 27(1), 28, 29 and 31 of the Public Bus Services Ordinance other than for the purpose of defining "Development Fund"."

He said: Mr President, I move the resolution standing in my name on the Order Paper.

In October 1992, the Governor in Council granted a new franchise to China Motor Bus Company (CMB). The franchise gives CMB the right to operate a bus service on 90 routes for two years from September 1993 to August 1995.

CMB's new franchise will no longer have a profit control scheme. In the circumstances, it is proposed in the case of CMB to disapply those sections of the Public Bus Services Ordinance governing the permitted return under the profit control scheme. It will, however, be necessary to retain those sections to enable the Government to prescribe arrangements for the disposal of any balance that may remain in CMB's Development Fund account on 31 August 1993, to specify depreciation rates for franchise related assets and to require the company to produce accounts and information needed for our monitoring of their performance. The resolution before Honourable Members will give effect to these policy intentions.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

First Reading of Bills**LAND DRAINAGE BILL****EXCHANGES (SPECIAL LEVY) (AMENDMENT) BILL 1993****BANKING (AMENDMENT) BILL 1993****COMPANIES (AMENDMENT) (NO. 4) BILL 1993****SECURITIES AND FUTURES COMMISSION (AMENDMENT) BILL 1993**

STOCK EXCHANGES UNIFICATION (AMENDMENT) BILL 1993

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

Second Reading of Bills**LAND DRAINAGE BILL**

THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS moved the Second Reading of: "A Bill to make provision for the constitution of Drainage Authority Areas and the carrying out of drainage works within such areas and for connected matters."

He said: Mr President, I move the Second Reading of the Land Drainage Bill. The Bill seeks to improve the Government's ability to undertake drainage maintenance work which will help prevent flooding.

The flooding which has caused concern in recent years has been a result of a number of factors. First, rapid development in the New Territories coupled with land use changes have had a significant effect on drainage patterns in low-lying areas. Natural watercourses have also become silted up or obstructed, while flood storage capacities of drainage basins have been reduced and flood levels raised. Second, with the steady decline of agriculture, owners of land have ignored the maintenance of watercourses running through or alongside their land. Third, we also had particularly heavy rainstorms and torrential rainfall in the past two years.

To reduce flooding, we need to maintain natural watercourses and ensure that they are free from obstruction. The Government has, however, encountered considerable difficulty in gaining access to these watercourses to carry out drainage works since many of them are located on or surrounded by private land.

To overcome these problems, we need new legislation to empower the Government to gain access to private land to carry out necessary drainage work. The system provided for in the Bill has five main aspects. The first is the establishment of a new Drainage Authority, who will be the Director of Drainage Services, and a Drainage Appeal Board. The Authority may prepare draft drainage plans for the designation of main watercourses on which drainage work may be carried out. The Drainage Appeal Board will comprise non-government Members appointed by the Governor. Its main functions will be to review the Authority's decisions on objections to draft plans and to hear appeals under the proposed Bill.

Second, the Bill provides for detailed drainage plan making procedures. It is intended that a total of five drainage plans for the designation of the main

watercourses will be prepared over the next few years. These plans will cover almost all the flood-prone regions of the north and northwestern New Territories. The public will have the right to object to the draft drainage plans, and to apply to the Drainage Appeal Board for a review of the Authority's decision on their objections. The finalized draft drainage plan and a schedule of objections will be submitted to the Governor in Council for decision.

Third, to facilitate the carrying out of drainage work, the Authority will have the power to gain access to designated main watercourses, through private land if necessary, and to require the removal of obstructions or structures from them. Further, in order to prevent the blocking of such watercourses, the Authority will require anyone who wishes to carry out engineering work in them to obtain his prior consent.

Fourth, appeal procedures will be provided in the proposed Bill. Anyone aggrieved by a decision of the Authority to execute drainage works, to require removal of obstructions or structures, or to refuse consent for engineering work to be carried out will be entitled to appeal to the Drainage Appeal Board. The decision of the Board will be final.

Finally, drainage work to be carried out by the Authority on private land may be a concern to the land owners affected and their tenants. Provision has therefore been made for payment of compensation if damage is caused by the Authority when executing the works. Claims may be referred to the Lands Tribunal for a decision if a settlement cannot be reached. Where land is rendered incapable of reasonably beneficial use as a result of work carried out by the Authority — a situation which is expected to arise only occasionally — the Bill provides that the owner may apply to the Governor in Council for an order to resume the land affected.

Mr President, in view of flooding problems in the New Territories, the proposals in the proposed Bill have been drawn up after public consultation and have the general support of the Heung Yee Kuk and the District Boards concerned. The Bill is essential for the proper maintenance of the main watercourses. I commend it to Members for their favourable consideration.

Thank you, Mr President.

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

EXCHANGES (SPECIAL LEVY) (AMENDMENT) BILL 1993

THE SECRETARY FOR FINANCIAL SERVICES moved the Second Reading of: "A Bill to amend the Exchanges (Special Levy) Ordinance."

He said: Mr President, I move that the Exchanges (Special Levy) (Amendment) Bill 1993 be read a Second time. The Bill aims at amending the law for an orderly winding down of the Special Levy.

After the 1987 market crash, a Lifeboat Loan was raised to enable the Hong Kong Futures Guarantee Corporation to meet its obligations. The Loan is repaid by revenue from two sources. First, the Exchanges (Special Levy) Ordinance imposes a Special Levy on securities transactions as well as stock index futures and options contracts for repaying part of the Loan. Another source of repayment is recoveries from defaulters.

The Lifeboat Loan originally amounted to \$1.93 billion, of which \$1 billion was raised from the Government and the remaining from seven shareholders of the Hong Kong Futures Guarantee Corporation and 15 broker lenders. The government portion of the Loan had been fully repaid by the end of September 1992. By the end of June 1993, the outstanding amount owed to the other lenders was approximately \$256 million.

Market practitioners have been concerned that the Special Levy is a heavy burden on investors and could adversely affect the competitiveness of the transaction costs in the Hong Kong market vis-a-vis other major international markets. Last December, this Council also urged the Administration to take steps to scrap the Levy as soon as possible. At that time, the outstanding loan still amounted to \$610 million, and the Administration did not consider it appropriate then to suspend the Levy. However, the Administration undertook to take steps to put an end to the Levy once it had outlived its purpose. It was estimated at that time, on the basis of prevailing figures of market turnover, that levy could be phased out by April 1994.

Since the beginning of this year, the Hong Kong stock market has done exceptionally well, with a robust average turnover of \$3.945 billion daily. As a result, the Special Levy has been generating revenue much faster than originally anticipated. With the high turnover continuing, it is estimated that the portion of the Lifeboat Loan to be recovered from the Special Levy could be fully repaid by as early as August this year, after provisions have been made to meet interest and other costs. Now is therefore the appropriate time to proceed to suspend the Special Levy, otherwise a big surplus in the order of \$100 million to \$200 million could be created in the Special Levy fund by the end of the year. Once adequate arrangements exist to repay the loan, the continuation of the Special Levy would be quite unnecessary and the generation of such a large surplus would represent an undue burden on investors.

As, however, there is no provision in the existing legislation for the suspension of the Special Levy, it is necessary to amend the Exchanges (Special Levy) Ordinance to enable the Government to suspend the Levy when the remaining balance of the Lifeboat Loan approximates the remaining obligation of the defaulters. Upon final repayment of the Loan by defaulters, which is expected to be effected by 1996, the Special Levy will be formally abolished.

However, in the meantime, the Governor in Council may re-introduce the Special Levy after its suspension should circumstances demand it.

The present Ordinance is silent on the way to handle any credit balance in the Special Levy fund. The Bill therefore seeks to empower the Secretary for Financial Services to direct the transfer of any such surplus into the compensation funds established under the Securities Ordinance or the Commodities Trading Ordinance, or for other purposes in the interests of the investing public. Improvement to investor protection is considered to be the most proper use of any such balance.

Some minor amendments to the subsidiary legislation are also proposed to facilitate the performance of the duties of the trustee of the Special Levy fund upon full repayment of the Lifeboat Loan.

The suspension of the Special Levy will draw to a close the final chapter of the 1987 stock market crisis. Since that unfortunate episode in the history of our markets, a comprehensive review of the operation of the securities industry and its regulatory framework has been conducted, culminating in the introduction of a number of reform measures to guarantee the well-being of the local securities and futures markets. Notable among these was the setting up of the Securities and Futures Commission in 1989 which is now soundly established and providing a strong and independent regulatory framework for the securities and futures industries. The stock and futures exchanges have also undergone major restructuring. The futures exchange clearing system was restructured in 1989 and the Central Clearing and Settlement System was fully implemented in late 1992 to absorb systemic risk and to improve the efficiency of the securities market operation.

These reform measures have proven their worth in subsequent fluctuations of the stock and futures markets when trading has been orderly despite exceptional market volatility. Investors' confidence in our regulatory framework has returned, as can be demonstrated by the steady growth of the securities and futures markets over the past two years.

The Special Levy is coming to the end of its useful life and I trust that we should never need to resort to anything like it again in Hong Kong. The introduction of this Bill in effect represents the final step towards clearing up the last outstanding issue left over from the 1987 crash, an event which I am sure we would all wish to regard as a matter of history.

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

PRESIDENT: As you have got four more Bills, you might like to go straight on, Secretary.

SECRETARY FOR FINANCIAL SERVICES: Thank you, Mr President.

BANKING (AMENDMENT) BILL 1993

THE SECRETARY FOR FINANCIAL SERVICES moved the Second Reading of: "A Bill to amend the Banking Ordinance."

He said: Mr President, I move that the Banking (Amendment) Bill 1993 be read a Second time.

The main objectives of the Bill are to further enhance supervisory standards in Hong Kong and to clarify certain provisions of the Banking Ordinance. In addition, to further the objective of facilitating the development of Hong Kong's capital markets, the Bill introduces legislative amendments which will enable the Hong Kong Monetary Authority to establish a central custody system for debt instruments in paperless form.

Hong Kong's framework of consolidated supervision largely conforms with the minimum standards of the Basle Committee for the supervision of international banking groups and their cross border establishments. These standards were established by the Basle Committee of banking supervisors in July 1991 following the collapse of the BCCI group worldwide. The objective of the new standards is to seek worldwide supervisory co-operation to ensure that no bank can operate internationally without being subject to effective consolidated supervision. The requirements in the Ordinance governing prior approval for the establishment of overseas banking entities by locally incorporated authorized institutions, however, fall short of the standards.

Although section 49 of the Ordinance requires authorized institutions to seek the prior approval of the Monetary Authority before the establishment of an overseas branch or an overseas representative office, there is no provision governing the establishment of an overseas banking subsidiary. A new section 51A is therefore proposed under clause 13 so that a locally incorporated institution, or its locally incorporated holding company, will be required to seek the Monetary Authority's prior approval before establishing a banking subsidiary overseas.

As regards the plan by the Monetary Authority for establishing a central custody system, the intention is to establish a system to perform the functions of a central custodian and clearing agent for debt instruments. Under the proposed system, a private sector issuer of debt instruments such as certificates of deposits, commercial papers or floating rate notes will issue one global instrument which will be held as bearer by the Monetary Authority. The Monetary Authority will, on behalf of acceptable dealers, record on a computer system interests in those global instruments and facilitate the transfer of such interests.

With the growth in the markets and the increasing size of transactions, efficiency and effectiveness in the settlement process are becoming more and more important for the further development of the markets. Without the need for any physical delivery of instruments, the settlement process will be quicker and settlement risk will be reduced. This will also enhance the Hong Kong market's attraction to international institutional investors.

Clauses 27 and 29 introduce a new section 137B and a new Sixth Schedule respectively on prescribed instruments. Clauses 30 to 41 propose necessary consequential legislative amendments to a number of Ordinances. Together, these provisions will give recognition to the rights and interests in specified debt instruments in paperless form.

The Bill also introduces a number of miscellaneous amendments to the Banking Ordinance. I shall briefly describe the main provisions.

Clause 9 amends section 46 to enable a company incorporated overseas that lawfully takes deposits from the general public, whether or not on current account, to establish a local representative office in Hong Kong. At present, such a company that does not offer current accounts cannot be regarded as a bank for the purposes of section 46. The amendment will enable such companies which are clearly regarded as banks in their home country and are supervised as such, but do not offer current accounts, to open a representative office in Hong Kong.

Clause 16 introduces a requirement that locally incorporated institutions publish their audited financial statements in newspapers within four months of their financial year end; the present requirement is six months. It is considered that a shorter timeframe will give more timely information to depositors, the general public and the regulators. Furthermore, it will help the auditors to co-ordinate their audit work on authorized institutions with the reports which they submit to the Monetary Authority under section 63(3A) of the Ordinance.

Under section 73(1) of the Ordinance, a person who has been bankrupt, convicted of fraud or dishonesty, or been a director or otherwise concerned in the management of an institution that has been wound up or the authorization of which has been revoked, has to seek the consent of the Monetary Authority before taking up employment with an institution. The problem with the present legislation is that someone may commit an offence without knowing if an institution with which he was previously employed with has been wound up or has had its authorization revoked. The amendment proposed at clause 19(a) removes this problem.

Clause 19(b) introduces a new section 73(1A), which is similar to section 73(1) except that it applies to a person on or after becoming an employee of an institution. At present, if a person becomes bankrupt or is convicted of fraud or dishonesty whilst already in employment with an

institution, there is no requirement for him to seek the Monetary Authority's consent to continue to work for the institution. Such consent is now required.

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

COMPANIES (AMENDMENT) (NO. 4) BILL 1993

THE SECRETARY FOR FINANCIAL SERVICES moved the Second Reading of: "A Bill to amend the Companies Ordinance."

He said: Mr President, I move that the Companies (Amendment) (No.4) Bill 1993 be read a Second time.

This Bill primarily aims at facilitating the invocation of the Financial Secretary's power under the Companies Ordinance to conduct preliminary investigations on companies. It also makes several ancillary amendments to the Ordinance to clarify and rationalize the scope of certain provisions.

At present, if the Financial Secretary's attention is drawn to a situation suggesting fraud, misfeasance or other misconduct in the management of the affairs of a company, he may invoke section 152A of the Companies Ordinance to authorize a public officer to require the company concerned to produce its books or papers and to ask questions about them. An alternative or subsequent measure would be to initiate a full scale investigation under section 143 of the Ordinance.

Preliminary inspection represents a discreet and less costly way to assess whether a full scale investigation is warranted. Such enquiries can avoid the potential disruption to a company that might be caused by a full scale investigation.

Despite these advantages, section 152A has never been invoked. One of the problems with the existing provision is that the Ordinance requires a public officer to be authorized for this purpose, while the Government does not have staff with either the time or the relevant skill for this type of work.

Moreover, the Financial Secretary can only authorize a preliminary inspection if he reaches the same state of mind as would be required to initiate a full scale investigation, that is, if it appears to him that fraud, misfeasance, misconduct or insufficient disclosure of information to shareholders has occurred. As a result, the provision for preliminary inspections has in effect been rendered redundant.

The Bill therefore seeks to lower the threshold for invoking the power to authorize preliminary inspections and to remove the requirement that only a public officer can be appointed as an inspector. This should not only have the effect of making this useful provision operational but it will also bring

Hong Kong practice generally into line with the provisions of similar legislation elsewhere, such as for example the United Kingdom Companies Act.

Apart from revisions concerning preliminary inspections, the Bill also takes forward several ancillary issues.

The first one is to allow greater flexibility for an inspector appointed for a full scale investigation to delegate his power. This should help to speed up the progress of investigations and to contain costs.

The second issue concerns the power of the Court to appoint receivers or managers. At present, aggrieved shareholders of a company can apply for a court order to protect their interests. It is proposed to state expressly that the Court can, upon such an application, appoint a receiver or manager of property for the company. This may be the most effective means of protecting the interests of shareholders in some circumstances. Some minor textual amendments are also proposed to clarify the scope of the relevant provision.

The last issue is to rationalize provisions in the Companies Ordinance regarding the exclusion of questions put by an inspector and answers given thereto as evidence against a person giving those answers, if that person has specifically stated that his answer might tend to incriminate him. The amendments proposed are for the sake of consistency.

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

SECURITIES AND FUTURES COMMISSION (AMENDMENT) BILL 1993

THE SECRETARY FOR FINANCIAL SERVICES moved the Second Reading of: "A Bill to amend the Securities and Futures Commission Ordinance."

He said: Mr President, I move that the Securities and Futures Commission (Amendment) Bill 1993 be read a Second time.

The Bill provides the Securities and Futures Commission with the power to conduct preliminary inspections on records and documents of listed companies. The power is similar to that of the Financial Secretary under section 152A of the Companies Ordinance which is the subject matter of the Companies (Amendment) (No.4) Bill 1993 just introduced.

Being a regulator of listed companies, the Securities and Futures Commission encounters from time to time circumstances suggesting fraud, misfeasance or misconduct in the management of the affairs of these companies as well as failure by them to disclose information to their shareholders. At present, the Commission does not have the statutory authority to investigate such

cases. This is considered undesirable since the Commission is denied the opportunity to take prompt investigatory actions at the earliest opportunity.

To facilitate the effective regulation of listed companies, it is proposed that the Commission be provided with the power to initiate preliminary inspections on records and documents of listed companies. This power would be similar to that available to the Financial Secretary under the Companies Ordinance and could be invoked whenever it might appear to the Commission that fraud, misfeasance, misconduct in the management of affairs of companies, or failure to disclose information to shareholders has occurred.

It is at the same time proposed that the Commission be allowed to apply to the Courts for orders to protect the interests of shareholders of listed companies. Similar provisions already exist in the Companies Ordinance under which aggrieved shareholders can apply for court orders to protect their interests. Consultation with the Financial Secretary would be required before the Commission could resort to the use of its power in this regard.

In extending the preliminary investigatory power to the Commission, the Administration is mindful of the fact that the Banking Ordinance already provides extensive power for the Monetary Authority to regulate authorized institutions. Circumstances suggesting fraud, misfeasance or other misconduct committed by listed authorized institutions should continue to be investigated by the Monetary Authority. On the other hand, cases involving disclosure of information to shareholders by listed authorized institutions are not directly related to depositors' interests. Such cases would therefore be handled by the Securities and Futures Commission.

In any event, the Commission must consult the Monetary Authority before any authorized institutions or their related companies could be required to produce records and documents for inspection. Furthermore, the power to apply for court orders would not apply to authorized institutions.

As regards authorized insurers under the Insurance Companies Ordinance, no exemption will be given but the Commission will need to consult the Insurance Authority before requiring such companies to produce their records and documents.

These proposals, if implemented, would supplement the investigatory power of the Securities and Futures Commission while minimizing possible overlap of responsibilities of different regulators. They are designed better to equip the Commission to fulfil its role as the lead regulator on listed companies.

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

STOCK EXCHANGES UNIFICATION (AMENDMENT) BILL 1993

THE SECRETARY FOR FINANCIAL SERVICES moved the Second Reading of: "A Bill to amend the Stock Exchanges Unification Ordinance."

He said: Mr President, I move that the Stock Exchanges Unification (Amendment) Bill 1993 be read a Second time.

The Bill seeks to clarify the power of the Stock Exchange of Hong Kong Limited to make listing rules and to ensure that it enjoys statutory immunity in carrying out its listing functions.

The role of regulating the listing of securities, and thereafter the conduct of listed companies, is shared between the Exchange and the Securities and Futures Commission. In December 1991, the Securities and Futures Commission devolved the primary responsibility for listing matters to the Exchange and these functions are performed on the basis of listing rules made by the Exchange under the Stock Exchanges Unification Ordinance.

The existing scope of the relevant provision in the Ordinance is narrow. As a result, it is unclear whether the Exchange has the statutory power to promulgate certain provisions which must be included in the Listing Rules. One example is the imposition of sanctions to ensure that companies would continue to comply with their obligations following the listing of securities.

Another issue with the existing provision is the uncertainty as to the immunity enjoyed by the Exchange in carrying out listing functions. In performing part of the listing functions before the devolution in December 1991, the Securities and Futures Commission enjoyed a broad immunity conferred by the Securities and Futures Commission Ordinance. On the other hand, whether the Exchange enjoys the same degree of, or indeed any, statutory immunity after the devolution of functions is open to debate.

In order to remove any doubt on these questions, it has become necessary to clarify the power for the Exchange to make effective listing rules and to provide a clear statutory immunity to the Exchange with regard to listing matters.

On the question of immunity, it is essential that the Exchange should be able to act firmly and without the fear of liability in relation to listing matters. Any uncertainty in this regard will hinder its ability effectively to perform these functions. It is understood that threats of legal action against the Exchange and its Listing Committee have been used in attempts to manipulate the listing process. The seriousness of the matter is reflected by instances of companies threatening to sue the Exchange if trading of their shares were to be suspended.

The amendments proposed in the Bill, while fairly simple and straight forward, are important steps in ensuring the effective regulation of listing

matters by the Exchange. This is crucial to maintaining the confidence of investors in the stock market and thus to the reputation of Hong Kong as an international financial centre.

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

PNEUMOCONIOSIS (COMPENSATION) (AMENDMENT) BILL 1993

Resumption of debate on Second Reading which was moved on 5 May 1993

Question on Second Reading proposed.

DR LEONG CHE-HUNG: Mr President, may I start by expressing, as the convenor of the Bills Committee on this Bill, my gratitude to members of the Administration, the Secretariat and members of the Bills Committee for their determination and ingenuity going through this otherwise very complicated Bill. The Bills Committee has received a number of submissions from different concern groups. The message in common is clear — that the Bill should be passed as soon as possible. This objective is shared by the Bills Committee, as members are anxious that the pneumoconiotics be given as much assistance as soon as possible. Similarly, it is the unanimous inclination of members that maximum flexibility be given to the victims, with a view to offering them the highest degree of sympathy, as the disease they have contracted is a long drawn out one which continuously erodes into their quality of life unimpeded until their final death. We look to the Administration too in the hope that they will be more generous in their compensation and ex-gratia package.

The Bill proposes amendments to the Pneumoconiosis (Compensation) Ordinance, which provides for a collective liability compensation scheme for persons diagnosed after 1 January 1981 to be suffering from pneumoconiosis. As the health of pneumoconiotics tends to deteriorate progressively, this Bill provides for continual relief to these sufferers by introducing a system of monthly payments payable during their lifetime. The pneumoconiotic can also ask to be re-examined every two years, and the monthly payment will be increased if the person is found to have suffered additional incapacity.

Improvement is also made in the assessment of incapacity. At present, a pneumoconiotic is only compensated for his loss of earning capacity based on assessment of his physical ability to work. Under the Bill, the assessment of incapacity will take into account the pneumoconiotic's physical incapacity, the likely reduction of his employability, as well as the loss of quality of life. As an illustration, for example, a person with 50% forced vital capacity will be deemed, for the purpose of calculating compensation payments, to have suffered 80% incapacity. The Administration has confirmed that whether the

pneumoconiotic has taken up any employment will not be a factor for consideration in assessing the degree of incapacity under the proposed scheme.

On the use of an overall average wage of construction workers as the "average monthly earnings" for calculating compensation of which some members show concern, the Administration explained that the same method has been adopted under the existing scheme for determining the amount of compensation in most cases. The adoption of an average wage, with an assumption that the person has worked for 26 days a month, is neither inappropriate nor unfavourable to the workers, given the variety of occupations and the wide range of wages in the construction industry. Consideration had also been given to the suggestion that the monthly earnings be determined according to jobs known to carry a high risk of contracting pneumoconiosis, such as caisson operation. The Administration pointed out, however, that based on availability of statistics, only some 35% of the pneumoconiotics had been deployed on caisson operation or related type of work; the majority of them were employed in work in dust-borne environment. Members also note that singling out any particular jobs for calculation of compensation would be inconsistent with the existing arrangement for charging a flat rate of levy on the industries concerned based on the principle of collective responsibility.

Another area of concern is on the funeral expenses. Members urged the Administration to relax the conditions under which the funeral expenses are payable, so as to cover for cases where the causes of death are not directly related to pneumoconiosis. Some members are of the view that the funeral expenses should be paid irrespective of the cause of death of the pneumoconiotic. They consider that the system of payment should be simple and easy to administer, thereby reducing uncertainty regarding eligibility. Members have been informed by the Administration that the Pneumoconiosis Medical Board has always adopted a sympathetic and flexible approach in these cases, and that there has not been any complaint about the arrangement so far. It is hoped that members' concerns would be reflected to the Board and be taken into account in future assessments for eligibility.

Members have also invited the Administration to consider a number of suggestions from concern groups to further improve the compensation package. The Administration advised that the package proposed in the Bill was drawn up after consultation with various organizations, including trade unions and employers associations, as well as the Legal Aid Department. The general response was that the new scheme represents an improvement over the existing one. Nevertheless, the Administration has agreed to the suggestion that reimbursement for approved medical appliances should cover any types of wheelchairs recommended by medical practitioners, and not just mechanical wheelchairs. The Administration has also undertaken to refer to the Pneumoconiosis Compensation Fund Board the suggestions that the coverage of the Fund should be extended to rehabilitation and social care services, and that at least one pneumoconiotic be included as member of the Board.

This Bill provides that the proposed scheme will not be applicable to those who, six months after the enactment of the Bill, are actively continuing proceedings in a court for damages at common law for pneumoconiosis, or an appeal against an assessment for compensation under the existing Ordinance. Members were concerned, firstly, whether these pneumoconiotics would be informed of their respective position under the existing and proposed schemes, and secondly, how their rights to common law damages would be affected if they join the proposed scheme. Confirmation was subsequently received from the Administration that there is nothing in the existing Ordinance nor the Bill that would take away a pneumoconiotic's right to continue an action for damages at common law after joining the proposed scheme or, subject to the usual court procedures and the provisions of the Limitation Ordinance (Cap. 346), to issue fresh proceedings if the earlier proceedings had been withdrawn. Assurance has also been given by the Administration that the pneumoconiotics under the assistance of Legal Aid Department will be clearly advised of their rights and options.

Some concern groups had suggested that the effective date of the compensation scheme should be backdated. The Administration responded that, as a matter of principle, changes in the law should not normally take effect retrospectively. This is essential to ensure that anyone affected by the law could order his affairs in accordance with the law as it stands. Members therefore agree that a more practical solution is to have the Bill enacted at the earliest possible date. In this connection, the Administration will move an amendment at the Committee stage to allow the Bill to take immediate effect upon enactment.

To implement the proposals in the Bill, the rate of levy charged on the building and construction and quarrying industries will be raised from 0.02% to 0.3%. The Administration has accepted the suggestion by the Hong Kong Construction Association that the new rate should apply to contracts with tenders submitted on or after the commencement date of the necessary resolution.

With the enactment of this Bill, an *ex gratia* scheme for pre-1981 pneumoconiotics will have to be considered by the Finance Committee. These pre-1981 pneumoconiotics are not covered by the Pneumoconiosis (Compensation) Ordinance nor the proposed compensation scheme in this Bill. The Administration has explained that when the Ordinance was enacted in 1980, the scope of the compensation scheme was so defined that it would limit the liabilities of construction and quarrying industries to pneumoconiotics diagnosed after 1 January 1981. In recognition of the continual deterioration in the health of the pre-1981 pneumoconiotics and that they deserve the support of the community, further *ex gratia* payments are proposed by the Administration. This includes a monthly rate of \$2,200, to be inflation-adjusted and paid in advance on a quarterly basis until death, and medical examination is not required for establishing eligibility for payment. Members consider that this monthly rate of \$2,200 to be too low and invited the Administration to consider

raising it to \$3,000. The Financial Secretary has undertaken a review and a quick response. It is hoped that a favourable reply can be given before the Finance Committee meeting in this Legislation Council Session.

Some concern groups were worried whether the monthly payments under the proposed compensation scheme and the *ex gratia* scheme will affect the Public Assistance received by the pneumoconiotics. The Administration has informed members that these monthly payments will not count as income for Public Assistance assessment. I hope this point can be reconfirmed by the Administration in its response this afternoon.

Mr President, on a personal basis and on behalf of the medical profession who is actively behind this Bill I have to raise a few areas of disappointment and do hope the Administration would address them in due course of time. First, the medical profession feels that the statutory pre-employment health check-up and regular check-up should be instituted, especially in relation to hazardous occupations to detect occupational disease earlier and to avoid deterioration of functions and reduce disability. In the case of pneumoconiosis, such check-up could bar those of known chronic lung disease from involving in certain occupations as chronic chest conditions are essentially catalyst to pneumoconiosis development. Secondly, the medical profession feels that there is still an inadequacy in the provision of properly co-ordinated rehabilitation programmes for workers with occupational diseases. It would only stand to reason therefore for the Administration to arrange positively the Pneumoconiosis Compensation Fund Board to extend its coverage to such rehabilitation and social care service. Thirdly, the medical profession feels that it is questionable in using only forced vital capacity (FVC) to determine physical incapacity. We urge the Administration to review the situation in the near future and in the light of advanced diagnostic techniques to introduce and set a more comprehensive lung function test as determination criteria so as to offer the fairest compensation to the victims. Finally, Mr President, whilst we do hope that health hazard should be maximally prevented industrial and job related diseases and injuries are inevitable. Proper compensation for all the victims is essential. With the passage of this Bill, I therefore call upon Members of this Council to support the passage of the Employees' Compensation (Amendment) Bill and the Administration to introduce without delay a draft Bill on noise induced deafness compensation scheme.

Mr President, with these remarks, and subject to the amendments to be moved by the Administration at the Committee stage, I support the Bill.

MR PANG CHUN-HOI (in Cantonese): Mr President, life is precious. However, for a group of people, they are so unfortunate that they contracted an incurable occupational disease in their workplace. In their prime of life, they are reduced to watching their life gradually heading towards the end. It is so cruel and tragic.

Workers who have contracted pneumoconiosis are among such unfortunate people. Once they have contracted this kind of occupational disease, their lung function will deteriorate progressively. Despite today's advanced science and medical science, this disease remains incurable and the patient's condition will only get worse instead of getting better.

The amendments put forth in the Bill require employers of the construction and quarrying industries to pay levy to the Government at an increased rate of 0.3% of the value of the construction works contract or quarry products (the existing rate is 0.02%). Yet the revised rate is not a result of a sudden increase. As early as 1981, the government levy rate was already 0.2%. Subsequently, owing to under-spending of the levy, the levy rate was reduced several times in recent years. The rate was reduced from 0.2% to 0.15% on 5 January 1986. It was further lowered to 0.05% on 8 February 1987. On 26 June 1988, it was set at the present low level of 0.02%. Therefore, the upward adjustment this time only reflects the actual needs. In fact, who will wish to receive this so-called *ex gratia* payment? Everyone would wish to live by the sweat of one's brow. However, if he is unfortunate enough to have contracted this incurable occupational disease, his employer and indeed society have the responsibility of looking after his livelihood, so that he can be assured as far as possible a decent living in his remaining years.

To provide sufficient care to pneumoconiotics diagnosed before 1981, the Bills Committee proposes that the monthly *ex gratia* payment be increased from \$2,200 to \$3,000. Committee members met the Financial Secretary on 2 July to seek a further allocation of \$30 million from the Government. The Financial Secretary agreed to consider the proposal. Meanwhile, the Government was so generous as to be prepared to spend \$2 billion as subsidy to meet the housing needs of the sandwich class. However, as many Members of this Council objected to the way such subsidy was made, the Government changed its plan and instead granted a \$0.5 million low-interest loan to each sandwich class household which successfully applies for the loan to purchase a flat. By the same token, I earnestly hope that given the existing huge surplus, the Government should be more generous to those unfortunate people in society.

The amendment provides the pneumoconiotics with better compensation. There is still, nevertheless, some room for improvement. Since this disease would lead to the accelerated deterioration of lung function and the reduction of the sufferers' ability to move about, in some worse cases, the sufferers cannot even take public transport and have to go to and from the clinic for check-ups by private cars or taxis. Up till now, the Government has not provided the patients with travelling allowance.

Recently, Governor Chris PATTEN commented, in response to an industrial accident, that Hong Kong should not be built on the death and industrial accidents of Hong Kong people. I sincerely hope that the Government would be determined to put more efforts on industrial safety education so as to prevent occupational diseases and industrial accidents. As a result, there will be

no more victims through no fault of their own while Hong Kong's economy is booming.

Mr President, with these remarks, I support the motion

MR TAM YIU-CHUNG (in Cantonese): Mr President, I have mixed feelings when the Pneumoconiosis (Compensation) (Amendment) Bill 1993 is going to be read the Second and the Third time today. On the one hand, I am happy to see that the Bill which the labour sector and the pneumoconiotics have been fighting for long is finally put to this Council for endorsement. But on the other, I am still dissatisfied with the new compensation package, though admittedly better than the previous one, because the new package falls far short of the pneumoconiotics' and my expectations.

The Pneumoconiosis (Compensation) (Amendment) Bill 1993 intends to rectify the existing inadequacies regarding compensation for pneumoconiotics. However, the new compensation package has certain shortcomings which significantly reduce the amount of compensation payable to the pneumoconiotics and their dependents. The compensation received by the pneumoconiotics at the moment is measly and is hardly enough to keep body and soul together. Despite their health, they have to take up employment in order to make a living. Their life is really miserable. What they are asking for is loud and clear. They hope that the new compensation package may help to tide them over. They hope that they could live their lives decently and have good rest and recuperation. However, the Bill falls short of their expectations. They can only expect to receive meagre compensation according to the package which is based on harsh computation.

The most baffling part of the Bill is the arrangement between death compensation and incapacity compensation. As a matter of fact, that the pneumoconiotics suffer from the disease is unfortunate enough and some even die as a result of the disease. The pain they suffer is indeed two-fold. But under the new package, the death compensation payable to the deceased's dependents will be a lump sum payment less the monthly payments of incapacity compensation and the compensation for loss of quality of life received by the pneumoconiotic during his lifetime. This arrangement runs counter to the idea of compensation for loss of quality of life, does it not? It is regrettable that under such an arrangement, the death compensation due to the deceased's dependents is used to offset the various compensation payments made to the pneumoconiotic before he met his death.

I do not think that we should only focus our attention on the compensation for this particular occupational disease during the debate of the Pneumoconiosis (Compensation) (Amendment) Bill 1993. Compensation is after all a negative and passive approach. We should take every possible measure to forestall such kind of disease. There is much to be done. And I would like to point out one area today, that is, problems relating to hand dug caissons. It is an indisputable

fact that there is an intolerably high density of silica dust inside a caisson and the incidence of pneumoconiosis among workers toiling in such caissons is also intolerably high. According to the Hong Kong Construction Industry Employees General Union, 150 of their members are silicosis patients. All of them are or were engaged in caisson work. It is evident that hand dug caissons have profound bearing on workers' health. In view of this, it is high time that hand dug caisson operation was banned. On that score, an initial consensus has been reached among the Government, relevant professional groups and the labour sector. From the standpoint of the trade unions, we hope that the operation of hand dug caissons will be banned but at the same time, the affected workers should be provided with proper re-training, occupational counselling and even financial assistance. A total ban on hand dug caissons may be introduced in phases but it should not be dragged on for a long time. I consider a period of not more than three years to be the most appropriate. During the transition period, employers should take adequate dust control measures to prevent workers from inhaling silica dust as far as possible. Silicosis control can be carried out in many ways and at different levels. Resources of the Pneumoconiosis Compensation Fund Board should not be confined to making compensation to the pneumoconiotics. It should play a more positive role and inject more resources into preventive work.

The Pneumoconiosis (Compensation) (Amendment) Bill 1993 is going to be passed later this afternoon. In view of the plight of the pneumoconiotics and the predicament their dependents are in, we are obliged to further improve this Ordinance in the immediate future so that the pneumoconiotics and their dependents may enjoy the attention and care they deserve.

Mr President, I support the motion.

MR RONALD ARCULLI: Mr President, the Bill before us seeks to cure the existing inadequacies regarding compensation for pneumoconiotics. While I agree that there is a need for improving the existing arrangements, two issues were not properly addressed in the original Bill and are of concern to my constituency, particularly members of the Hong Kong Construction Association. However, I am glad that they have now been addressed by the Administration and have been resolved. The first concerns the retrospective effect of the new levy. The Bill proposed to raise the levy charged on building and construction and quarrying industries from 0.02% to 0.3% so as to provide sufficient funds to introduce the proposed new compensation package. The Hong Kong Construction Association supports the increase, which illustrates their concern and their sense of responsibility, but they have raised their concern about the unfairness imposed on contractors who have already submitted tenders prior to the introduction of the Bill, which would not have taken into account the new levy when calculating their tenders.

Following a meeting with the Administration in February, and a subsequent submission to the Bills Committee scrutinizing this Bill, the Administration has finally agreed to introduce an amendment to the Bill, to be moved by the Secretary for Education and Manpower, to the effect that the new rate of levy should not apply to any construction works the tender for which was submitted before the effective date of any amendment.

The second issue concerns the dual claim of pneumoconiosis and deafness which has not been addressed by the original Bill. Indeed since 1991, when the Bill was still in the form of a consultative paper, the Hong Kong Construction Association has raised their concern with the Administration which, put simply, is that the Pneumoconiosis Compensation Fund Board can only take up claims in court proceedings which are strictly related to pneumoconiosis and cannot take up the pneumoconiosis aspect of a claim which also relates to other causes such as deafness. Notwithstanding their written submission to the Administration at an early stage, the Association's view was not taken into account in the Bill when it was introduced earlier this year.

I am glad that subsequent to the Association's meeting with the Administration in March, the issue has now been resolved with the Director of Legal Aid and the Board agreeing that for any plaintiff, who chooses not to opt for the new compensation scheme under the Employees' Compensation Ordinance, his claim for damages for pneumoconiosis will be separated from his other claims. Thus the Board will be able to take up and deal with the pneumoconiosis claim.

Mr President, this Bill, with the proposed amendment, is a good example of how co-operation and a little give and take between employers and employees, with the timely intervention by the Administration, can bring about a fair solution to mutual problems. And I wish to take this opportunity to thank the Commissioner for Labour and her colleagues for their efforts.

MR LAU CHIN-SHEK (in Cantonese): Mr President, just now Dr LEONG Che-hung has very clearly presented, on behalf of the Bills Committee, the various views raised in the course of scrutiny of the Bill. I therefore do not intend to repeat them here. Today, I should like to talk briefly on what positive efforts the Administration should continue to make after the passage of this Bill.

Firstly, the compensation scheme should be improved further. I believe the Administration should again give positive consideration to revising the formula from the current one of using the "average wage" of workers to one of using the average wage of workers most vulnerable to pneumoconiosis, such as jobs involving the use of pneumatic drills and caisson operation. Moreover, the present assessment of incapacity using the lung function test as the sole criterion should be replaced with a comprehensive assessment which includes an assessment of working capacity and an oxidation test.

Secondly, there is the question of the compensation for pre-1981 pneumoconiotics. I have to stress once again that the Administration should be impartial and adhere to "one lung, one scheme". It should raise the compensation for pre-1981 pneumoconiotics and put it on par with the compensation scheme for pneumoconiotics diagnosed from 1981 onwards as proposed under the current Bill. In the short term, the Administration should at least raise the monthly *ex gratia* payment for pre-1981 pneumoconiotics to \$3,000.

The health of a pneumoconiotic deteriorates by the day. According to a government forecast, none of the 600-odd pre-1981 pneumoconiotics will live longer than 14 years. I was shocked beyond bounds by this piece of information. What can we do for them? What can the Administration do? Maybe we can only increase a little bit the monthly *ex gratia* payment to alleviate some of their difficulties. But in the end, even \$100 million may still be not enough. However, I believe that if only the Administration will commit itself to the well-being of these 600 pre-1981 pneumoconiotics who have contributed to Hong Kong with their blood, sweat or even life, it will have shown that we are doing something for these poor sufferers.

Thirdly, there is the question of preventive work. While we are discussing the "appropriate amount" of compensation for pneumoconiotics, we seem to have forgotten the root of the problem. However perfect the compensation scheme, the pay-out will only be "compensation for want of a better deal" to the workers concerned if the Administration continues to neglect asserting effective control to ensure a safe and healthy working environment for workers! In fact, there has been no significant drop in the annual number of confirmed new pneumoconiotics over the last 10 years (more than 100 a year). But pneumoconiosis is the most common among the various occupational diseases. Here I urge the Administration to introduce legislation as quickly as possible to prohibit manual digging of caissons. At the same time, it should also establish as soon as possible safety standards for respiratory equipment and step up publicity on the risks of and prevention against pneumoconiosis.

Finally, I think that the industrial safety situation in Hong Kong and the employee's compensation scheme warrant a comprehensive review, in order to accord effective protection for the safety of all employees in Hong Kong, in addition to giving the unfortunate workers and their families truly reasonable compensation. I hope the Administration will be more positive in taking action in this regard.

I should like to call on all my colleagues in this Council to support this Bill. And I also hope that they will continue to be interested in industrial safety and employee's compensation in the future.

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

MR TIK CHI-YUEN (in Cantonese): It is well-known that pneumoconiosis is an incurable occupational disease. The first case of silicosis diagnosed in Hong Kong was in 1956 and since then, 4 000-odd cases have been reported up to the present. The Compensation Ordinance has undergone several amendments but there is still much room for improvement.

However, it is regrettable that in view of the plight of the patients (some of them are already on the brink of death), we cannot allow the drafting and amending of the Bill to go on indefinitely. Members from Meeting Point, therefore, are going to support the Bill in its present form.

We support the immediate implementation of this piece of legislation even though we still consider the Bill inadequate and inequitable. There are two major reasons for it:

(1) There are serious drawbacks in the existing legislation:

Recently, there was an appeal case concerning pneumoconiosis compensation heard by the District Court. The appellant was a pneumoconiotic. He was unsatisfied with the amount of compensation he was granted under the existing legislation and lodged an appeal. The appellant won the case and was awarded a compensation more than double that of the original amount. The case exemplifies the grossly inadequate compensation to these sufferers. The low level of compensation is totally inequitable and unreasonable to patients with such occupational disease.

(2) The desperate needs of the patients:

According to statistics compiled by the Construction Industry Employees General Union, 143 of its members who contracted the disease have died since 1981. As for the surviving patients, life is rough on them in terms of health, finance, employment, social life and psychology. Some even have the feeling that they are on the brink of death and the earlier the Bill be passed, the sooner they may benefit from it.

Having said that, we hasten to add that the Government should address and review the deficiencies of this piece of legislation expeditiously, including the following areas:

(1) Same treatment to all pneumoconiotics:

The Amendment Bill does not cover the pneumoconiotics (approximately 600-odd persons) diagnosed before 1981. Given that they are mostly aged and seriously ill, the Government should not discriminate against these people who have made certain contributions to Hong Kong. We hold that pneumoconiotics diagnosed before or after 1981 should receive equal treatment.

(2) Areas to be improved: to provide full-scale occupational rehabilitation services:

The cause of pneumoconiosis is very much to do with unhygienic working environment and insufficient precautionary measures. The employer should be largely held responsible on that score.

Since pneumoconiosis is an occupational disease, we are of the view that taxpayers need not bear the financial commitment by way of the compensation payment. Instead, we think that the Pneumoconiosis Compensation Fund Board established more than 10 years ago should play an active role in this respect.

Should we leave it to the Board to provide rehabilitation and social care services, demand on social resources would not be overloaded at the expense of services to other patients with chronic lung diseases. Furthermore, this will give us a true picture of the financial commitment made to the handling of problems arising from pneumoconiosis. In response, employers may have more incentive, and find it hard to resist the pressure, to implement precautionary measures against pneumoconiosis.

At the moment, Japan has set up compensation fund for rehabilitation purposes whereas in mainland China, there are sanatoriums for pneumoconiotics. We can learn from their experience.

From my personal contacts with some pneumoconiotics, I firmly believe that to promote rehabilitation and social care services for such sufferers will enhance their self-caring capability. Unfortunately, the rehabilitation service catering for tuberculosis and chest patients by the medical profession are gravely inadequate. Therefore, I and the other three Members from Meeting Point strongly urge the Government to broaden its scope of financing to include the promotion of rehabilitation and social care services to the pneumoconiotics.

(3) To rationalize the computation of qualifying period for death compensation:

Apparently, the Bill has many improvements and the compensation amount seems to have increased substantially. But I compare it with the recently proposed amendments to the Employees' Compensation (Amendment) Bill and found that the maximum compensation amount made available to the affected persons in both Bills is the same, that is, \$1.26 million. This shows that the new compensation package for pneumoconiosis does not have any substantial increase.

According to statistics of the Pneumoconiosis Compensation Fund Board's Annual Report 1990, pneumoconiotics are on average diagnosed at the age of 53. The compensation payable to the aged group under the Government's death compensation package is even worse than the old package. Therefore, the

computation of death compensation under this Bill is not as good as the existing one.

Mr President, Meeting Point feels that although the Bill has made some headway, there are areas still not considered to be adequate and equitable enough. Members from Meeting Point will go on fighting for further amendments to this piece of legislation so that all silicosis patients may receive their reasonable compensation. Thank you.

MR MICHAEL HO (in Cantonese): Mr President, the United Democrats of Hong Kong support the Bill which we have strived for over the years but seen only a little progress. There are still a good deal of deficiencies in the Bill. Yet I do not intend to repeat those drawbacks here. We would like to specifically point out that the Bill offers extremely insufficient protection for pneumoconiotics diagnosed before 1981. In this connection, we feel a bit disappointed.

According to the Government's calculation, with the injection of \$100 million and the existing fund of more than \$30 million, these patients can receive an *ex gratia* allowance of \$2,200 each month. Our position is that more should be done for these unfortunate people. However, we realize that what we can do for them is very limited. In fact, we can only provide them with some additional financial assistance so as to enable them to live a better life in their remaining years. For this reason, we fully support the increase of the monthly *ex gratia* allowances from \$2,200 as presently proposed by the Government to \$3,000.

We would like to point out that compensation, after all, is something made following the occurrence of mishaps. Compensation to the pneumoconiotics is only some financial assistance, which cannot change the fact that they are suffering from pneumoconiosis. Once a worker contracted pneumoconiosis, everything is too late because the function of their lungs will be permanently damaged. The so-called compensation means no more than some money. It cannot relieve their pain or cure their disease. For this reason, we hope that the Government could put more efforts in its promotion of industrial safety and promptly make more amendments to the existing laws governing industrial safety. We also hope that, through greater efforts on more effective industrial safety publicity campaigns, the great number of workers who know little about industrial safety can see the danger of work associated with silica dust. We would not like to see any more cases whereby workers contract disease through contact with silica dust at work. We call upon the Administration to expeditiously legislate on the ban of hand dug caisson. We also hope that the Government could, through its influence especially on some large organizations such as the Housing Authority, take the lead in abandoning the hand dug caisson operation in construction works.

Mr President, the United Democrats of Hong Kong support the Bill. These are my remarks.

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I am most grateful to Dr LEONG Che-hung and his colleagues on the Bills Committee for their valuable advice and for support of the Bill. As a result, we have agreed to move a number of Committee stage amendments.

Some members suggested that the amendment Bill should come into immediate effect once it is enacted by this Council. We agree to this proposal and corresponding amendment to the Bill will be made by deletion of subclause (2) in clause 1. We also delete "mechanical wheelchair" and replace it by "wheelchair" in clause 42(d) to give more flexibility to the Pneumoconiosis Medical Board in determining the type of wheelchair that suits the user.

We also note the concern of the construction industry that the new rate of levy, which we propose to be increased from 0.02% to 0.3% later this year, should not apply to those construction works the tender for which has been submitted before the effective date of the new rate. I shall move to amend section 36(3) of the Pneumoconiosis Compensation Ordinance to this effect.

Members of the Bills Committee have expressed particular concern on two issues relating to the right of a pneumoconiotic to claim damages at common law and his eligibility to receive financial assistance under the social security system.

I have consulted the Attorney General's Chambers and can assure members that, subject to the normal court procedures and the provisions of the Limitation Ordinance, nothing in the existing Pneumoconiosis (Compensation) Ordinance or the Amendment Bill would take away a pneumoconiotic's right to claim damages at common law.

I have also been advised by the Director of Social Welfare that pneumoconiotics who are either receiving compensation under the Ordinance or *ex gratia* payment under the *Ex Gratia* Scheme will continue to receive Disability Allowances under the Social Security Allowance Scheme if they are so entitled. Also, their eligibility to receive Comprehensive Social Security Assistance shall not be affected if, as under the existing condition, their savings do not exceed the permissible level.

Members have suggested that funeral expenses should be given to pneumoconiotics irrespective of the reason of death. I am afraid we cannot accept this proposal as it is against our principle of providing compensation to workers who die or injured as a result of an incident or an occupational disease relating to their employment. This principle is applied under the existing Pneumoconiosis Compensation Ordinance as well as the Employees' Compensation Ordinance. However, the Pneumoconiosis Compensation Medical

Board has a track record of maintaining a sympathetic and flexible approach and there has been no complaint so far on funeral expenses in these cases.

Finally I have noted Bills Committee Members' strong wish to see improvements made to the *Ex Gratia* Scheme in respect of the pre-1981 pneumoconiotics. We have listened to the case with sympathy and it is under consideration by the Administration.

Thank you, Mr President.

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

Bill read the Second time.

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

MERCHANT SHIPPING (LIMITATION OF SHIPOWNERS LIABILITY) BILL

Resumption of debate on Second Reading which was moved on 24 February 1993

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

Bill read the Second time.

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

INLAND REVENUE (AMENDMENT) (NO. 5) BILL 1992

Resumption of debate on Second Reading which was moved on 25 November 1992

Question on Second Reading proposed.

MR MOSES CHENG: Mr President, the Inland Revenue (Amendment) (No. 5) Bill 1992 is mainly concerned with departure prohibition directions, commonly known as "stop orders". At present, section 77 of the Inland Revenue Ordinance (Cap. 112) allows the Commissioner of Inland Revenue to issue a certificate to a District Judge in respect of a person who he believes is about or is likely to leave Hong Kong without paying all the tax assessed upon him. On receipt of the certificate, the District Judge must issue a stop order to the Commissioner of Police to take such measures as may be necessary to prevent the person from leaving Hong Kong without either paying the tax or furnishing

security to the satisfaction of the Commissioner of Inland Revenue. There is no provision for the affected person to be heard by the Commissioner of Inland Revenue or the District Judge at any stage, nor is there any right of appeal.

With the enactment of the Bill of Rights Ordinance (BOR) in June 1991, the above provision was, in effect, neutralized by the District Court when it expressed doubt as to whether section 77 was consistent with Article 8 of the BOR on liberty of movement.

Clause 30 of the Inland Revenue (Amendment) (No. 5) Bill 1992 seeks to replace the existing section 77 with a new procedure, which is intended to maintain the effectiveness of stop orders, whilst at the same time providing adequate safeguards and remedies to ensure consistency with the BOR.

The Bill was introduced into this Council on 25 November 1992. A Bills Committee of 13 members was formed and commenced scrutiny of the Bill on 3 February 1993. Altogether, we held four meetings, including two with the Administration. We met representatives from the legal and accounting professions and considered submissions from four interested organizations. As chairman of the Committee, I would like to take this opportunity to thank my colleagues in the Committee for the time and effort they put in the discussion, the Administration for their co-operation and the interested organizations for submitting their views and taking part in our deliberations.

Mr President, I now come to the main points discussed by the Committee.

According to the new procedure as contained in clause 30 of the Bill, where the Commissioner of Inland Revenue believes on reasonable grounds that it is in the public interest to prohibit a taxpayer from leaving Hong Kong without either paying the tax assessed upon him or furnishing security, he may issue a stop order to the Director of Immigration and the Commissioner of Police directing them to prevent the person from leaving Hong Kong. The affected taxpayer may either apply to the Commissioner of Inland Revenue for a revocation of the stop order or appeal to the High Court to have it set aside. The Administration believes that this will ensure that basic rights are protected, whilst at the same time, the Commissioner of Inland Revenue will still have an effective means of encouraging compliance with the Inland Revenue Ordinance.

The Committee and some organizations are concerned that the District Judge will be wholly left out in the proposed procedure. This will become a purely executive function. A right of appeal to the High Court is not adequate as the action may be too costly and time-consuming for the general public. We therefore consider that the issue of the stop order should be made a judicial function in order to protect the individual's right of freedom of movement and to guard against possible abuse.

After detailed discussion, the Administration agrees to adopt a revised procedure as follows. Firstly, the decision to issue a stop order will be exercised by a District Judge. Secondly, application for the stop order will be made on an *ex parte* basis, by statement made on oath by the Commissioner of Inland Revenue or an authorized officer. Thirdly, the stop order will be issued where the District Judge is satisfied that the person has not paid all the tax assessed upon him; that there are reasonable grounds for believing that the person intends to leave or has left Hong Kong to reside elsewhere; and that it is in the public interest to ensure that the person does not leave Hong Kong without first paying the tax or furnishing security. Finally, appeal against the stop order will be made to the High Court.

The Administration considers that the revised approach will satisfy the BOR without seriously impairing an essential revenue protection mechanism. The Committee is satisfied that its concern has been properly addressed. The Secretary for the Treasury will move the necessary amendments at the Committee stage.

Other than clause 30, the Bill contains some minor amendments which are technical in nature. The Committee has found them to be in order.

With these remarks, I support the Bill.

SECRETARY FOR THE TREASURY: Mr President, the purpose of the Bill before Members is to ensure that "stop orders" issued under the Inland Revenue Ordinance conform fully with the Bill of Rights. The opportunity has also been taken to make minor amendments, largely to repeal redundant provisions.

Following the introduction of the Bill into this Council the Administration has received valuable advice and specific suggestions from the Bills Committee chaired by Mr Moses CHENG. As a result of our discussions with the Committee, we have agreed that the discretion to issue stop orders should lie with a District Judge rather than the Commissioner of Inland Revenue. To give effect to this agreement, the originally proposed section 77 has been substantially redrafted, and I shall be moving the necessary Committee stage amendments later this afternoon.

During our discussions, the Administration was also able to clarify how the new provisions would operate in practice. I would like to place on record my sincere appreciation for the hard work done by the Committee and its chairman.

Mr President, our main objective in drafting this Bill has been to balance the need to protect the rights of the individual, in accordance with both the letter and the spirit of the Bill of Rights, with the need to have in place a reliable and efficient system for preventing tax defaulters from absconding from Hong Kong. I am confident that the Bill, as refined with the assistance of

the Bills Committee, achieves this objective. I accordingly commend this Bill to the Council, subject to the amendments which I shall move shortly.

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

Bill read the Second time.

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

BANK NOTES ISSUE (AMENDMENT) BILL 1993

Resumption of debate on Second Reading which was moved on 2 June 1993

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

Bill read the Second time.

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

EXCHANGE FUND (AMENDMENT) BILL 1993

Resumption of debate on Second Reading which was moved on 2 June 1993

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

Bill read the Second time.

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

INSURANCE COMPANIES (AMENDMENT) (NO. 3) BILL 1992

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

Question on Second Reading proposed.

MR MARVIN CHEUNG: Mr President, the Bill before us has two main purposes. It seeks to amend the Insurance Companies Ordinance to facilitate the reporting of suspected fraud by auditors, accountants and actuaries. It also

seeks to designate the retirement schemes management business undertaken by insurers as a new class of long-term insurance business.

Members of the Legislative Council Subcommittee set up to study the Bill fully supported the proposal relating to the first objective.

As we know, auditors, accountants and actuaries are bound by their duty of confidentiality to their clients. The proposed legislation will enable these "prescribed persons" to report to the Insurance Authority irregularities relating to authorized insurers which came to their notice in the course of their work. This will strengthen the healthy supervision of the industry and enhance the protection of the interests of policy holders, and should therefore be welcomed. As a matter of fact, provisions are already in place under the Banking Ordinance and the Securities and Futures Commission Ordinance to permit such reporting to the relevant authorities by auditors.

For similar reasons, the Subcommittee supported the proposal to require the Insurance Authority to be notified of any change or prospective change of an auditor or actuary, as such changes may signify possible irregularities in the operation of an insurer's affairs.

The Administration originally intended to exclude overseas insurers from this notification requirement owing to enforcement difficulties. But in view of the concern expressed by the insurance industry about unlevel playing fields, the relevant provisions will now be amended such that the duty imposed upon the auditor and the actuary may be placed, in the case of an overseas insurer, upon the insurer.

A greater part of the Subcommittee's 16 meetings was, however, devoted to discussions on the second objective. Here, various matters of principle had required careful consideration. Some issues entailed research and/or consultation with the interested parties. Some also involved close cross-referencing with the Occupational Retirement Schemes Ordinance. In the course of study, the Subcommittee invited the Administration to undertake a comprehensive review on the correlations between the two pieces of legislation. As a result, a number of consequential amendments to the Occupational Retirement Schemes Ordinance were found necessary. These will be reflected in the amendments to be moved at Committee stage.

I shall report briefly the major areas considered by the Subcommittee in relation to this part of the Bill.

The first point which we took up with the Administration was why the Bill should seek to regulate investment management activities undertaken by insurers, while non-insurance institutions were not subject to such regulation. In their representations to the Subcommittee, the insurance industry queried the rationale of the proposal.

The Administration explained that the objective of designating the management of retirement scheme assets as a new class of long-term business was to ensure that such assets were kept separate from those of other insurance business. Investments management providing for a guaranteed capital or return could carry material risks. Failure of this function could affect the solvency of the insurance company as a whole, thereby jeopardizing the interests of the policy holders. The Administration did not agree with the industry's view that the proposed statutory requirements would put authorized insurers at a competitive disadvantage. On the contrary, there could be incentives for a prudent employer, who wishes to establish a retirement scheme, to enter into contract with an insurer regulated under the Insurance Companies Ordinance rather than an unregulated fund manager.

In the light of the above explanations from the Administration and having studied the practices in other jurisdictions, the Subcommittee accepted that there was a case for regulating classes G and H business under the Insurance Companies Ordinance.

We noted that the mode of operation of classes G and H was different from those schemes undertaken by other fund investment managers in that monies were passed from the policy holder to the insurer to become the assets of the insurer. In other situations, the monies were only held on trust by the investment managers for the scheme members. In any event, the practical effect of the proposed legislation on insurers should be minimal.

The Subcommittee was glad to note that the Hong Kong Federation of Insurers had subsequently come to accept the Administration's position. Nevertheless, the Subcommittee was persuaded that the larger question of regulating fund management business undertaken by other authorized institutions was worth looking into, and the Administration was asked to do so separately.

The next point we dealt with was the nature of business covered by the Bill. After discussions with the Subcommittee, the Administration has agreed to amend the definitions of the new classes of long-term business to make it clear that the only types of business covered are those where the ownership of the assets under management passes onto the insurer.

The Subcommittee noted that the nature of class I business, of which an endowment policy would appear to be an example, combined class G or H with a long-term insurance contract, and was thus in conflict with the provision of clause 15 (para. 3A) of the Bill. We questioned why the insurance element and the retirement element of such policies could not be split to ensure compliance and were advised that it was not the practice of the insurance industry to do so. Having regard to the insignificant and diminishing share of such business, the Subcommittee considered it supportable to allow class I contracts to continue subject to exception allowed by subsidiary legislation.

As regards the impositions on the authorized insurer in respect of each new class of business, members of the Subcommittee shared the reservation of the insurance industry about the requirement for an insurer to maintain a solvency margin of not less than \$2 million for classes G and H business. Particularly class H which offered no guaranteed return. In response, the Administration agreed to do away with the proposed solvency margin for classes G and H, on the understanding that the guarantees element specific to class G business would be addressed in a separate review to be conducted in due course.

Still on the subject of statutory requirements in respect of the various new classes of insurance business, the Subcommittee questioned the need for actuarial input in classes G and H business. We also questioned the appropriateness of the requirements for actuarial certification as stipulated under paragraph 5, Part I, Third Schedule of the Insurance Companies Ordinance. The justification put forward by the Administration was that the profitability or otherwise of classes G and H would have an impact on other areas of the insurer's business. The Hong Kong Federation of Insurers which we consulted also favoured actuarial involvements in these classes of business. Given the view on both sides, we accepted the case to appoint an actuary for classes G, H and I, subject to the role of the actuary being clearly spelt out in subsidiary legislation to be enacted at a later stage.

One last area I wish to cover is the deliberations by the Subcommittee on the interpretation of "assets" of a retirement scheme effected under an insurance arrangement.

According to the Administration, the original intention when drafting the Occupational Retirement Schemes Ordinance was that "assets" should mean the underlying assets of the insurer. The provisions for asset separation (section 21) and restriction of self-investment (section 27) had been drafted to reflect this intention. Members, on the other hand, considered that "assets" of a scheme should be taken as the claim under the insurance policy. We were concerned that practical difficulties would be caused to the insurance industry and the accounting profession if the interpretation intended by the Administration were to be applied. Having taken further legal advice, the Administration finally accepted our recommendation.

The Subcommittee reckoned that this might affect certain provisions in the Occupational Retirement Schemes Ordinance. Section 21(1) of the Ordinance requires that scheme assets shall be kept separate from and shall not form part of the assets of the relevant employer of the scheme. As the assets of a scheme under an insurance arrangement is the claim under the insurance policy, the employer, being the policy holder as well as owner of the claim, would be in breach of this asset separation principle. To overcome this problem, a consequential amendment to the Occupational Retirement Schemes Ordinance will be moved at Committee stage to enable retirement schemes

regulated by insurance arrangements (with the employer as the policy holder) to operate without having to interpose a trust intermediary.

The Subcommittee was very much concerned about the protection for scheme members and considered it important that this should be properly safeguarded. In this connection, we resolved to amend the Occupational Retirement Schemes Ordinance to specify that, in the event of the insolvency of the employer, the assets of the employer available for distribution should exclude those assets representing the retirement entitlements of scheme members under the insurance policy. The Secretary for Financial Services, I am sure, will deal with this in greater detail when he moves the relevant amendments.

The Subcommittee also agreed that the Registrar should be empowered to make rules to impose investment restrictions upon an insurer's funds under an insurance arrangement to parallel those in section 27 of the Occupational Retirement Schemes Ordinance. With the asset of a scheme under an insurance arrangement now taken to be the claim under the policy, section 27 will no longer apply. Rules may be required to be made by the Registrar to ensure that the principles of section 27 of the Occupational Retirement Schemes Ordinance are observed for funds held by insurance companies against such policies.

As can be seen from the above, the Subcommittee has tried to ensure that the provisions in the Bill are reasonable and workable, and at the same time, are compatible and consistent with those in the Occupational Retirement Schemes Ordinance. I hope our efforts have proved useful.

In closing, I would like to thank the Hong Kong Federation of Insurers, the Hong Kong Society of Accountants, the Law Society of Hong Kong and Carlingford Swire Assurance Limited for giving their valuable views to the Subcommittee. They have greatly facilitated our deliberations.

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

SECRETARY FOR FINANCIAL SERVICES: Mr President, as Mr Marvin CHEUNG has said, the purpose of this Bill is two-fold: it seeks to regulate retirement schemes managed by insurance companies and to facilitate the reporting of fraud by auditors, accountants and actuaries.

I am particularly grateful to Mr Marvin CHEUNG and members of the Subcommittee for their careful consideration of the Bill as well as the members of the insurance industry and the accounting and actuarial professions for their expert advice. The amendments I shall propose and those to be moved by Mr CHEUNG later on have been agreed between the Administration and the Subcommittee after very detailed discussions which Mr CHEUNG has described and which should make for a much improved Bill.

The proposal to designate retirement schemes management business as a new class of long-term business would supplement the Occupational Retirement Schemes Ordinance by requiring insurers to set aside adequate assets to meet the long-term liabilities arising from that business. As a result of our examination of the inter-relationship between the two Ordinances, we have identified a need for several consequential amendments to the Occupational Retirement Schemes Ordinance. These are to be included in the Bill.

The Subcommittee has recently expressed concern, as Mr CHEUNG has indicated, that the legitimate claims of employees under a scheme regulated by an insurance arrangement may not be met if the employer becomes insolvent, because a liquidator may seize upon a claim under the employer's staff retirement benefit insurance policy as an asset of the employer. In the brief time available, it has not been possible formally to consult the Standing Committee on Company Law Reform. However, with the advice and support of the Official Receiver, it is proposed to amend the Occupational Retirement Schemes Ordinance to ensure that, if an employer becomes insolvent, the assets available for distribution shall not include such a claim. Subsidiary rules, consistent with current legislative requirements providing for the orderly winding up of companies, will give effect to the detailed arrangements.

As mentioned by Mr CHEUNG in the resumption of Second Reading of the Occupational Retirement Schemes Ordinance last December, that Ordinance is a "reasonable and practicable first step" in the regulation of retirement schemes in Hong Kong. The Administration recognizes that, as the future Registrar gains practical experience in monitoring existing schemes and promoting new ones, further amendments may become necessary.

The proposal to facilitate the reporting of fraud by auditors, accountants and actuaries, collectively referred to in the Bill as "prescribed persons", will enable the Insurance Authority to become aware of any irregularities that may affect an authorized insurer's financial health. Regular communication between an insurer and the Insurance Authority helps ensure that the interest of policy holders are protected and the integrity of the insurance industry is preserved.

I shall deal in more detail with other points raised by Mr CHEUNG when I move the Committee stage amendments.

With these remarks, Mr President, I recommend the Insurance Companies (Amendment)(No. 3) Bill 1992 to this Council.

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

Bill read the Second time.

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

Committee stage of Bills

Council went into Committee.

PNEUMOCONIOSIS (COMPENSATION) (AMENDMENT) BILL 1993

Clauses 2 to 41 and 43 were agreed to.

Clauses 1 and 42

SECRETARY FOR EDUCATION AND MANPOWER: Mr Chairman, I move that clauses 1 and 42 be amended as set out in the paper circulated to Member.

*Proposed amendments***Clause 1**

That clause 1 be amended, by deleting subclause (2).

Clause 42

That clause 42(d) be amended, in the proposed Part II, in item 1 by deleting "Mechanical wheelchair" and substituting "Wheelchair".

Question on the amendments proposed, put and agreed to.

Question on clauses 1 and 42, as amended, proposed, put and agreed to.

New clause 30A Rate of levy

New clause 44 Repeal

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

SECRETARY FOR EDUCATION AND MANPOWER: Mr Chairman, I move that new clauses 30A and 44 as set out in the paper circulated to Members be read the Second time.

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

Clauses read the Second time.

SECRETARY FOR EDUCATION AND MANPOWER: Mr Chairman, I move that new clauses 30A and 44 be added to the Bill.

Proposed additions

New clause 30A

That the Bill be amended, by adding —

"30A. Rate of levy

Section 36(3) is repealed and the following substituted -

- "(3) A resolution under subsection (1) varying the rate of levy -
- (a) shall come into effect 30 days after the publication of the resolution in the Gazette; and
 - (b) shall not apply to any construction works the tender for which was submitted before the effective date of the resolution."."

New clause 44

That the Bill be amended, by adding —

"Consequential Amendments

Pneumoconiosis (Compensation) (Computation of Earnings) Regulations

44. Repeal

The Pneumoconiosis (Compensation) (Computation of Earnings) Regulations (Cap. 360 sub. leg.) are repealed."

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

MERCHANT SHIPPING (LIMITATION OF SHIPOWNERS LIABILITY) BILL

Clauses 1 to 12, 14, 16 to 18, 20, 21, 23, 24, 26 to 28 and 30 were agreed to.

Clauses 13, 15, 19, 22, 25 and 29

SECRETARY FOR ECONOMIC SERVICES: Mr Chairman, I move that the clauses specified be amended as set out in the paper circulated to Members.

As Members will recall, the purpose of the Bill is to provide the necessary legislative backing in Hong Kong to implement two international conventions which provide for and set limits on the liability of shipowners.

The amendments proposed in the paper I have circulated fall into three categories. The first arises from the recent abolition of the post of Secretary for Monetary Affairs and the subsequent transfer of some of his functions to the Monetary Authority. Clauses 19 and 25 are amended to reflect this transfer of functions.

The second amendment relates to a point omitted during the drafting of this Bill and I am grateful to the Legal Adviser to the Legislative Council for drawing it to my attention. As originally drafted, the Bill would invalidate rate of interest orders previously in force. The result would be that funds would bear no interest upon enactment of the Bill. This is not the intention of the Bill and clause 29(2) is amended to save all rate of interest orders previously in force in Hong Kong.

The third set of amendments consists of minor alterations to the Chinese text.

Mr Chairman, I beg to move.

Proposed amendments

Clause 13

That clause 13(a)(ii) be amended, by deleting "、" and substituting "並".

Clause 15

That clause 15(1)(b) be amended, by deleting "供款以分擔維持該基金；而該等供款" and substituting "繳付分擔款項以維持該基金；而該等款項".

Clause 19

That clause 19(1) be amended, by deleting "Secretary for Monetary Affairs" and substituting "Monetary Authority".

Clause 22

That clause 22(1)(a) be amended, by deleting "災" and substituting "警".

Clause 25

That clause 25(1), (2) and (3) be amended, by deleting "Secretary for Monetary Affairs" and substituting "Monetary Authority".

Clause 29

That clause 29(2) be amended, by deleting paragraph (b) and substituting —

- "(b) any order made under paragraph 8 of Part II of Schedule 4 to the Merchant Shipping Act 1979 (1979 c. 39 U.K.) as modified and extended to Hong Kong by the Merchant Shipping Act 1979 (Hong Kong) Order 1980 (App. III, p. AN1) shall continue in force and shall be deemed for all purposes to have been made by the Monetary Authority under section 19(1);".

Question on the amendments proposed, put and agreed to.

Question on clauses 13, 15, 19, 22, 25 and 29, as amended, proposed, put and agreed to.

Schedules 1 and 2

SECRETARY FOR ECONOMIC SERVICES: Mr Chairman, I move that schedules 1 and 2 be amended as set out in the paper circulated to Members.

These amendments are minor alterations to the Chinese text to reflect more accurately the intention of the conventions.

Mr Chairman, I beg to move.

Proposed amendments

Schedule 1

That schedule 1 be amended —

- (a) in paragraph 3 of Article 3 -

- (i) by deleting "災" and substituting "警"; and
 - (ii) by adding "在其受僱或受委託的範圍內行事時" after "代理人" where it twice occurs.
- (b) in paragraph 1 of Article 10, by adding "明文" after "書面".
- (c) in paragraph 3 of Article 12, by adding "(視屬何情況而定)" after "實際承運人" where it secondly occurs.
- (d) in Article 13 -
- (i) by deleting "輕率" where it twice occurs and substituting "罔顧後果"; and
 - (ii) in paragraph 2 -
 - (A) by adding "的僱員或代理人" after "承運人" where it first occurs; and
 - (B) by deleting "承運人或實際承運人的" and substituting "該".

Schedule 2

That schedule 2 be amended —

- (a) in paragraph 1(a) of Article 2 -
 - (i) by deleting "，包" and substituting "(包"; and
 - (ii) by adding ")" after "損壞" where it secondly occurs.
- (b) in Article 4, by deleting "輕率" and substituting "罔顧後果".
- (c) in paragraph 3 of Article 6, by adding "的救助人" before "或僅".

Question on the amendments proposed, put and agreed to.

Question on schedules 1 and 2, as amended, proposed, put and agreed to.

Schedule 3 was agreed to.

INLAND REVENUE (AMENDMENT) (NO. 5) BILL 1992

Clauses 1 to 7, 9 to 24, 26 to 29 and 31 were agreed to.

Clauses 8, 25, 30 and 32

SECRETARY FOR THE TREASURY: Mr Chairman, I move that clauses 8(c), 25(2), 30 and 32 be amended as set out in the paper circulated to Members.

The most important of the new clauses is clause 30, which substitutes a redrafted section 77 for that originally proposed. The redrafted section gives a District Judge, rather than the Commissioner of Inland Revenue, the discretion to decide whether a stop order is issued to prevent a person, who has not paid his assessed tax, from leaving Hong Kong.

The new provisions have been described in great clarity by the Honourable Moses CHENG. Under these new provisions, applications for the issue of stop orders will be made to the District Court on an *ex parte* basis by means of a statement made on oath by the Commissioner, or an authorized officer not below the rank of Chief Assessor in the Inland Revenue Department. The stop order will then be issued where the judge is satisfied, first, that the person has not paid all tax assessed upon him; second, that there are reasonable grounds for believing that the person intends to leave, or has left, Hong Kong to reside elsewhere; and third that it is in the public interest to ensure that the person does not depart from Hong Kong — or if he returns does not depart again — without first paying the tax or furnishing security to the satisfaction of the Commissioner.

The net effect of these amendments is to ensure that, on the one hand, decisions to issue stop orders will be taken by a member of our independent Judiciary, rather than administratively; while on the other hand ensuring that stop orders can be issued quickly and effectively when necessary to protect public revenue.

The amendments proposed are of a very minor nature. In particular, they change the number of the new schedule to the main Ordinance, making it schedule 8 rather than schedule 7.

Mr Chairman, I beg to move.

Proposed amendments

Clause 8

That clause 8(c) be amended, in the proposed section 14(2), by deleting "Schedule 7" and substituting "Schedule 8".

Clause 25

That clause 25(2) be amended, in the proposed section 63H(1A), by deleting "Schedule 7" and substituting "Schedule 8".

Clause 30

That clause 30 be amended, by deleting the proposed section 77 and substituting —

**"77. Recovery of tax from persons
leaving Hong Kong**

(1) If the Commissioner, or an officer of the Inland Revenue Department not below the rank of chief assessor authorized in writing by the Commissioner for the purpose ("authorized officer"), satisfies a District Judge, by statement made on oath -

- (a) that a person has not paid all tax assessed upon him; and
- (b) that there are reasonable grounds for believing that the person intends to depart, or has departed, from Hong Kong to reside elsewhere, and if the District Judge is satisfied that it is in the public interest to ensure that the person does not depart from Hong Kong or, if he returns, does not depart again, without first paying the tax or furnishing security to the satisfaction of the Commissioner for payment of that tax, he shall issue a direction ("departure prevention direction") to the Director of Immigration and the Commissioner of Police directing them to prevent the person from departing from Hong Kong without paying such tax or furnishing such security.

(2) The District Judge shall, as soon as practicable after he makes a departure prevention direction under subsection (1), cause a copy of it to be served upon the person who is the subject of the direction, if he can be found, but, whether or not a copy is so served, the direction comes into force immediately upon being issued and continues in force until -

- (a) the tax is paid;
- (b) security is furnished to the satisfaction of the Commissioner for payment of the tax; or
- (c) the departure prevention direction is set aside by the High Court under subsection (9).

(3) Where -

- (a) an immigration officer or immigration assistant (within the meaning of section 2(1) of the Immigration Ordinance (Cap. 115)); or
- (b) a police officer,

believes on reasonable grounds that -

- (i) a person the subject of a departure prevention direction made under subsection (1) is about to depart from Hong Kong; and
- (ii) the Commissioner has not authorized the person to depart from Hong Kong nor has the High Court suspended or otherwise varied the departure prevention direction so as to permit the person to depart from Hong Kong,

he may take such measures including the use of such force as may be necessary to prevent the departure of that person from Hong Kong.

(4) Where -

- (a) a copy of a departure prevention direction has been served on the person the subject of it or the person has been verbally advised of its existence by a person referred to in subsection (3)(a) or (b); and
- (b) the Commissioner has not authorized the person to depart from Hong Kong nor has the High Court suspended or otherwise varied the departure prevention direction so as to permit the person to depart from Hong Kong,

the person commits an offence if he departs or attempts to depart from Hong Kong, and an immigration officer, immigration assistant or police officer may arrest him without a warrant.

(5) Any person who commits an offence under subsection (4) is liable to a fine of \$20,000 and to imprisonment for 6 months.

(6) Where a departure prevention direction made under this section is in force, the Commissioner may, if he thinks fit, on the written application of the person the subject of the direction or, in the absence of any such application, of his own initiative, authorize, in writing, the person to depart from Hong Kong on one or more occasions as specified in the authorization.

(7) Where -

- (a) the tax owing has been paid or security has been furnished to the satisfaction of the Commissioner for payment thereof;
- (b) a departure prevention direction is set aside or temporarily suspended under this section; or
- (c) the Commissioner authorizes a person to depart from Hong Kong on one or more occasions,

the Commissioner shall, as soon as practicable, notify -

- (i) the Director of Immigration; and
- (ii) the Commissioner of Police,

that the person is permitted to depart from Hong Kong.

(8) Where a person the subject of a departure prevention direction applies under subsection (6) and the Commissioner does not see fit to authorize his departure, the Commissioner shall, as soon as practicable, serve a notice ("notice of decision") upon the person.

(9) A person aggrieved by a departure prevention direction under subsection (1) or a notice of decision under subsection (8), as the case may be, may appeal to the High Court which may -

- (a) make an order setting aside the departure prevention direction subject to such conditions as the Court may consider necessary, including the supplying of security to the Commissioner as specified by the Court;
- (b) make an order temporarily suspending or otherwise varying the departure prevention direction, and the Court may attach such conditions to the suspension or variation as it considers necessary; or
- (c) dismiss the appeal.

(10) Service of -

- (a) a copy of a departure prevention direction under subsection (2) shall be effected personally on the person who is the subject of it;
- (b) a notice of decision under subsection (8) may be effected personally on the person who is the subject of it or by post addressed to that person at his last known place of abode, business or employment.

(11) Where a direction was issued by a District Judge under section 77 as repealed by the Inland Revenue (Amendment) (No. 5) Ordinance 1992 (of 1992), that direction shall be deemed to be a departure prevention direction issued under this section and the provisions of this section shall apply to it accordingly.

(12) In this section, "High Court" has the same meaning as in section 2 of the Supreme Court Ordinance (Cap. 4) and includes the Registrar and a Master as defined in that Ordinance.

(13) In proceedings under this section, the production of a certificate signed by the Commissioner or an authorized officer stating the name and last known postal address of the person referred to in subsection (1) and particulars of the unpaid tax assessed upon him shall be sufficient evidence of the amount and a court shall not entertain any plea that the tax is excessive, incorrect, subject to objection or under appeal.

(14) The Commissioner or an authorized officer may apply ex parte to the District Court for a departure prevention direction.

(15) In any proceedings in the District Court under this section, the Commissioner or an authorized officer, as the case may be, may appear in person or may be represented either by a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87) or by any other person authorized in writing by the Commissioner."

Clause 32

That clause 32 be amended, in the proposed Schedule, by deleting "SCHEDULE 7" and substituting "SCHEDULE 8".

Question on the amendments proposed, put and agreed to.

Question on clauses 8, 25, 30 and 32, as amended, proposed, put and agreed to.

BANK NOTES ISSUE (AMENDMENT) BILL 1993

Clauses 1 to 3 were agreed to.

EXCHANGE FUND (AMENDMENT) BILL 1993

Clause 1 to 3 were agreed to.

INSURANCE COMPANIES (AMENDMENT) (NO. 3) BILL 1992

Clauses 1 to 4, 8, 10, 13 and 17 were agreed to.

Clauses 5 and 16

MR MARVIN CHEUNG: Mr Chairman, I move that clauses 5 and 16 be amended as set out under my name in the paper circulated to Members.

The proposed amendments to clause 5 seek to tighten up the requirements on the qualifications of auditors appointed by an overseas insurer. With the proposed amendments to section 15(1)(a)(ii) an insurer incorporated outside Hong Kong shall appoint as its auditor a person who may lawfully practise in the insurer's home country. The person should also hold such qualification as the Insurance Authority accepts as being of a standard comparable with someone qualified for appointment locally (that is, under the Professional Accountants Ordinance and not disqualified under section 140 of the Companies Ordinance).

Section 15(1)(a)(iii) will be repealed to remove the power of the Insurance Authority in accepting any qualification of an overseas auditor at its discretion.

These amendments will ensure that the auditor appointed by an overseas insurer will be of readily identifiable standards. This in turn will enhance the supervisory effectiveness of the Insurance Authority.

The proposed amendments to clause 16 seek to exclude new classes G and H business from the contents of the actuarial certificates as specified under paragraph 5, Part I, Third Schedule of the Insurance Companies Ordinance. I have already given the reasons for this arrangement in my speech during the resumption of the Second Reading debate of the Bill earlier this afternoon.

The Administration would consult interested parties, including the Actuarial Society of Hong Kong, over the requirements for the proposed actuarial reports and incorporate these requirements in subsidiary legislation.

Mr Chairman, I propose to move.

Proposed amendments

Clause 5

That clause 5 be amended, by deleting the clause and substituting —

"5. Appointment of auditor and actuary

Section 15 is amended -

(a) by repealing subsection (1)(a)(ii) and (iii) and substituting -

"(ii) in case of an insurer incorporated outside Hong Kong, a person -

(A) who may lawfully practise as an auditor in the place of its incorporation; and

(B) without prejudice to sub-subparagraph (A), who holds such qualification as the Insurance Authority accepts as being of a standard comparable to that of a person referred to in subparagraph (i); and";

- (b) by repealing subsection (4); and
- (c) in subsection (5), by adding ", together with a further fine \$500 for each day on which the offence continues" after "\$10,000".

Clause 16

That clause 16 be amended, by adding before paragraph (a) —

"(aa) in paragraph 5 -

- (i) in subparagraph (1), by repealing "The" and substituting "Subject to subparagraph (1A), the"; and
- (ii) by adding -

"(1A) In subparagraph (1), "long term business" does not include long term business which is of the nature specified in either class G or H in Part 2 of the First Schedule.";

Question on the amendments proposed, put and agreed to.

Question on clauses 5 and 16, as amended, proposed, put and agreed to.

Clauses 6, 7, 9, 11, 12, 14 and 15

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

Clause 6 is amended to extend to insurers incorporated outside Hong Kong the requirement to notify the Insurance Authority of any changes in the appointment of an auditor or actuary. This amendment would ensure that overseas insurers were subject to the same requirements as those incorporated here.

The clause is also amended to impose a requirement on an insurer to notify the Insurance Authority whenever the appointment of an auditor or actuary is rescinded or voluntarily terminated.

Apart from clause 6, the other amendments covered by this motion are interrelated and I shall take his opportunity to explain the reasons for them.

The amendments to clauses 7 and 9 would exclude funds in proposed classes G and H, that is to say, funds for retirement schemes under insurance arrangements, from the requirement to maintain a solvency margin, that is to say, a minimum excess of assets over liabilities. The reason for this exemption is that claims under such arrangements can be worked out in advance with a fair degree of certainty and the Insurance Authority will receive regular reports from the insurer regarding his financial position. Where the Authority considers that an insurer may become insolvent, he may intervene and take appropriate action either to help and try to nurse the insurer back to health, or to limit damage by liquidating the company and to retain the assets for disposal to meet the claims of policy-holders.

Consequently, clause 9 specifies that the assets of an insurer attributable to classes G and H business should be applicable for the purposes of that business only, except to the extent that the value of the assets in those classes exceeds the liabilities attributable to those classes.

Clause 11(c), which provides for the distribution of excess assets to other long term business, is amended to clarify that surplus assets in a fund would be shared between other funds in proportion to the deficiencies in the value of those funds.

Clause 12, which covers exemptions, seeks to ensure that institutions authorized under the Banking Ordinance which accept deposits under retirement schemes will not be drawn inadvertently into the definitions of the proposed new classes of long term business. It is not our intention to submit these institutions to control by the Insurance Authority. Thus, even with the revised definition of proposed classes G and H business, the amendment will allow such an institution to continue operating retirement scheme management business on a deposit-taking basis, provided that this is solely for the purpose of its banking business.

New section 53E, in clause 14, specify the circumstances in which the auditor or actuary must report to the Insurance Authority, for instance where the financial position of the insurer may be adversely affected. At the suggestion of the Subcommittee, the proposed notification requirements for auditors and actuaries, in clause 14 of the Bill, have been redrafted to distinguish between those more appropriate to auditors and those more appropriate to actuaries.

The Bill originally proposed that classes G and H business should not be combined in a single contract with any other long-term business conducted by the insurer. However, insurers frequently offer packages containing one or more contracts, for instance, endowment policies which combine retirement benefits with insurances risk cover. To ensure that the proposed amendments will not interfere unduly with market practice, clause 15(a) is amended to empower the Insurance Authority to exempt certain contracts from this requirement by notice in the Gazette.

The Subcommittee has emphasized the need for precise definitions to enable insurers to comply more easily with the new statutory requirements. A definition of "retirement schemes" is therefore introduced in clause 15(a) to clarify the types of scheme the Bill addresses. The proposed definition is intentionally wide. It covers all types of retirement scheme, whether or not employment related. It may therefore have captured unintentionally arrangements that should not be treated as retirement schemes. For this purpose, the Insurance Authority is empowered to provide for exceptions by notice in the gazette.

The original paragraph 3D in the same clause has been deleted to ensure that all liabilities, including administrative expenses, attributable to retirement scheme management business are met.

The amendment also attempts to clarify what classes G, H and I long-term business cover. Clause 15(b) now states that such business excludes arrangements under which assets attributable to a retirement scheme are entrusted to an insurer as investment manager.

Mr Chairman, I beg to move.

Proposed amendments

Clause 6

That clause 6 be amended —

- (a) by deleting the proposed section 15A(1) and (2) and substituting -

"(1) An insurer shall immediately give written notice to the Insurance Authority if -

- (a) the insurer decides to remove or replace an auditor appointed under section 15;

- (b) a person appointed under section 15 to be the auditor of the insurer ceases to be such auditor otherwise than in consequence of a decision referred to in paragraph (a); or
- (c) in relation to an insurer incorporated in Hong Kong -
 - (i) the insurer either -
 - (A) proposes to give special notice to its shareholders of a resolution removing an auditor appointed under section 131 of the Companies Ordinance (Cap. 32) before the expiration of his term of office; or
 - (B) gives notice to its shareholders of a resolution replacing an auditor so appointed at the expiration of his term of office; and
 - (ii) the auditor so appointed has also been appointed under section 15 to be the auditor of the insurer.

(2) An auditor appointed under section 15 by an insurer shall immediately give written notice to the Insurance Authority if he

-

- (a) resigns;
- (b) where he has been so appointed for a fixed term, decides not to seek reappointment; or
- (c) decides to add a qualification or adverse statement to his certificate annexed to the accounts and statements of the insurer required to be submitted under the Third Schedule."

(b) by deleting the proposed section 15B(1) and (2) and substituting -

"(1) An insurer which carries on long term business shall immediately give written notice to the Insurance Authority if -

- (a) the insurer decides to remove or replace an actuary appointed under section 15; or
- (b) a person appointed under section 15 to be the actuary of the insurer ceases to be such actuary otherwise than in consequence of a decision referred to in paragraph (a).

(2) An actuary appointed under section 15 by an insurer shall immediately give written notice to the Insurance Authority -

- (a) if he resigns;
- (b) where he has been so appointed for a fixed term, decides not to seek reappointment; or
- (c) if -
 - (i) he has advised the insurer that, in his view, a course of action is being, or is proposed to be, followed by the insurer which is likely to cause him to add a qualification or adverse amplification or adverse explanation to his certificate accompanying the information required to be submitted under the Third Schedule in respect of the long term business of the insurer; and
 - (ii) after the insurer has had, in the opinion of the actuary, a reasonable time within which to act on that advice, that course of action is still being, or is still proposed to be, followed by the insurer."

Clause 7

That clause 7 be amended, by deleting the proposed section 22(3) and substituting —

"(3) Any funds maintained by an insurer in respect of its long term business shall be so maintained that -

- (a) in the case of a fund maintained in respect of that part of that business which is of the nature specified in either class G or H in Part 2 of the First Schedule, the value of the assets representing the fund (as determined in accordance with any applicable valuation regulations) is in the aggregate not less than the amount of the liabilities attributable to that part of that business (as so determined);
- (b) in the case of any other funds, the value of the assets representing those funds (as determined in accordance with any applicable valuation regulations) in the aggregate exceeds the amount of the liabilities attributable to those parts of that business to which the funds relate (as so determined) by not less than \$2,000,000 or its equivalent."

Clause 9

That clause 9(b) be amended, by deleting the proposed section 23(2) and substituting —

"(2) Where in respect of an insurer's long term business it is shown, by an investigation to which section 18 applies or which is made in pursuance of a requirement under section 32 -

- (a) in the case of a fund maintained in respect of that part of that business which is of the nature specified in either class G or H in Part 2 of the First Schedule, that the value of the assets representing the fund exceeds the amount of the liabilities attributable to that part of that business; or
- (b) in the case of any other funds, that the value of the assets representing the funds exceeds the aggregate of the amount of the liabilities attributable to those parts of that business to which the funds relate and \$2,000,000 or its equivalent,

the restriction imposed by subsection (1) shall not apply to so much of those assets as represents the excess."

Clause 11

That clause 11(c) be amended, in the proposed section 45(4A)(a), by deleting "paragraph, those last-mentioned liabilities to the extent to which they exceed those last-mentioned assets;" and substituting -

"paragraph -

- (i) if there is only one such other fund, the liabilities of that other fund to the extent to which they exceed the assets of that other fund;
- (ii) if there are 2 or more such other funds, the respective liabilities of those other funds pro rata to the extent to which they exceed the respective assets of those other funds;"

Clause 12

That clause 12 be amended, by deleting the clause and substituting —

"12. Exempted persons

Section 51(f) is amended -

- (a) by adding "class G or H, or" after "specified in"; and
- (b) by repealing "and 7" and substituting ", 7 and 11".

Clause 14

That clause 14 be amended, by deleting the proposed section 53E and substituting —

"53E. Prescribed person to send report directly to Insurance Authority in certain cases

(1) Where a prescribed person (other than an actuary or former actuary), during the performance of his duties in that capacity in respect of the insurer concerned (including a former insurer), becomes

aware of any matter (including, in the case of a former auditor or former accountant referred to in the definition of "prescribed person", a matter of which he became aware when he was an auditor or accountant, as the case may be, referred to in that definition) which in his opinion adversely affects the financial condition of the insurer to a material extent, the prescribed person shall, as soon as practicable thereafter, send to the Insurance Authority a report in writing of the matter.

(2) Where a prescribed person (other than an auditor, former auditor, accountant or former accountant), during the performance of his duties in that capacity in respect of the insurer concerned (including a former insurer), becomes aware of any situation (including, in the case of a former actuary referred to in the definition of "prescribed person", a situation of which he became aware when he was an actuary referred to in that definition) which in his opinion -

- (a) creates a material risk that a fund maintained by the insurer in respect of its long term business may be insufficient to meet the liabilities attributable to that fund; or
- (b) has resulted or may result in the insurer failing to satisfy an obligation in respect of its long term business to which it is or was subject by virtue of this Ordinance,

the prescribed person shall, as soon as practicable thereafter, send to the Insurance Authority a report in writing of the situation.

(3) Where a prescribed person, during the performance of his duties in that capacity in respect of the insurer concerned (including a former insurer), becomes aware of evidence (including, in the case of a former auditor, former actuary or former accountant referred to in the definition of "prescribed person", evidence of which he became aware when he was an auditor, actuary or accountant, as the case may be, referred to in that definition) -

- (a) of a failure by the insurer to comply with any conditions imposed under section 8(1)(a);
- (b) that there exists a ground on which the Insurance Authority would be prohibited by section 8(3)(a), (b), (d) or (f) from authorizing the insurer if the insurer were to make application in that behalf;

- (c) of a failure by the insurer to comply with any of the provisions of section 22, 22A or 23; or
- (d) of any default of the insurer in complying with any requirement under section 27, 28, 29, 30, 31, 32, 33, 34 or 35(1),

the prescribed person shall, as soon as practicable thereafter, send to the Insurance Authority a report in writing of the failure, ground or default."

Clause 15

That clause 15 be amended —

- (a) in paragraph (a) -

- (i) by deleting the proposed paragraph 3A and substituting -

"3A. There shall not be combined in the one contract long term business of the nature specified in class G or H in Part 2 of this Schedule and business of any other nature specified in this Schedule unless that contract is a contract (or belongs to a class or description of contract) specified by the Insurance Authority by notice in the Gazette under paragraph 3AA as being a contract to which this paragraph shall not apply.

3AA. The Insurance Authority may specify, by notice in the Gazette, any contract (including any class or description of contract) to which paragraph 3A shall not apply.";

- (ii) by deleting the proposed paragraph 3D and substituting -

"3D. In Part 2 of this Schedule, "retirement scheme" means any scheme, whether in writing or oral, express or implied, under which benefits, in the form of pensions, allowances, gratuities or other payments, are payable to or in respect of a member of the scheme on the cessation of his -

- (a) employment (including any self-employment) by termination of service (including termination for disability), death or retirement;

- (b) service under a contract for services; or
- (c) membership of an association or partnership,

but does not include any scheme (including any class or description of scheme) specified by the Insurance Authority by notice in the Gazette under paragraph 3E as not being a retirement scheme.

3E. The Insurance Authority may, except in relation to a scheme which is an occupational retirement scheme within the meaning of the Occupational Retirement Schemes Ordinance (88 of 1992), specify, by notice in the Gazette, any scheme (including any class or description of scheme) as not being a retirement scheme.

3F. It is hereby declared that a notice under paragraph 3AA or 3E is subsidiary legislation."; and

(iii) by deleting "and" at the end.

(b) by deleting paragraph (b) and substituting -

"(b) in Part 2, by adding -

"G Retirement
scheme
management
category I

Effecting and
carrying out
contracts -

(a) under which
contributions (or
premiums) are paid
to, and become the
property of, one
party to the contract
in return for the
provision by that
party of assets to be
applied, whether
directly or indirectly,
towards the
provision of benefits
under a retirement
scheme; and

- (b) which provide for a guaranteed capital or return

- H Retirement scheme management category II Effecting and carrying out contracts –
 - (a) under which contributions (or premiums) are paid to, and become the property of, one party to the contract in return for the provision by that party of assets to be applied, whether directly or indirectly, towards the provision of benefits under a retirement scheme; and
 - (b) which do not provide for a guaranteed capital or return

- I Retirement scheme management category III Effecting and carrying out contracts of insurance to provide, whether directly or indirectly, benefits under retirement schemes (excluding contracts of the nature specified in class G or H in this Part deemed under section 3(2) to be contracts of insurance)."; and

(c) in Part 4, by repealing the entry relating to number 9 and substituting -

"9 Long term Classes A to I inclusive.

10	Long term risks	Classes A to F inclusive and class I.
11	Retirement schemes	Classes G and H."."

Question on the amendments proposed, put and agreed to.

Question on clauses 6, 7, 9, 11, 12, 14 and 15, as amended, proposed, put and agreed to.

New clause 3A	Meaning of "relevant amount" in section 8(3)
New clause 18	Interpretation
New clause 20	Requirements in relation to assets
New clause 21	Rules
New clause 22	Documents required for registration

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

SECRETARY FOR FINANCIAL SERVICES: Mr Chairman, I move that new clauses 3A, 18, 20, 21 and 22 as set out in the paper circulated to Members be read the Second time.

As a consequence of the exclusion of the new classes G and H business from the solvency margin requirement, new clause 3A is introduced to amend the meaning of the term "relevant amount" as set out in section 8(3) of the Insurance Companies Ordinance.

I now turn to the proposed consequential amendments to the Occupational Retirement Schemes Ordinance. In doing so, I would first like to state that the related amendments to be moved shortly by Mr Marvin CHEUNG have been fully discussed and agreed by the Administration during our discussions with the Legislative Council Subcommittee.

The need for the amendments I am now introducing has emerged during closer consideration of the implications of the Ordinance for retirement schemes under insurance arrangements.

New clause 18 would amend the interpretation section of the Ordinance to define more clearly an "insurance arrangement" and a "pooling agreement".

New clause 18 would also make it clear that, under schemes regulated by an insurance arrangement, the scheme's assets should be taken to mean the claim against the authorized insurer under the insurance policy, not the insurer's underlying assets available to meet that claim.

New clause 20 would amend section 21 of the Occupational Retirement Schemes Ordinance, which stipulates that the assets of an occupational retirement scheme shall be kept separate and distinct from, and shall not form part of, the assets of the relevant employer of the scheme or the administrator of the scheme, in this case the insurer. These amendments would enable existing retirement schemes managed by insurers to continue operating, although, technically the employer, being the policy holder, would not be able to comply with the asset separation requirement. The new clause 20 therefore specifies that the assets of an employer in liquidation, available for distribution to general creditors, excludes assets representing the retirement entitlements of scheme members under an insurance arrangement.

The protection afforded by new clause 20 is supplemented by amendments introduced under new clause 22, which would ensure that any amount payable to members under a scheme, on termination of the insurance arrangement but not necessarily of the scheme itself, can only be paid by the administrator to another authorized insurer or a trustee for the purpose of continuing operation of the scheme.

New clause 21 would enable the Registrar of Occupational Retirement Schemes to make rules under section 73 of the Occupational Retirement Schemes Ordinance further to enhance protection for beneficiaries under schemes regulated by insurance arrangements. Such rules would seek to ensure that only scheme members would be able to benefit from retirement entitlements.

As the assets of a scheme under an insurance arrangement will be the claim under the policy, not the insurer's underlying assets, the investment restrictions imposed by section 27 of the Occupational Retirement Schemes Ordinance will not apply to those underlying assets. New clause 21 would, therefore, enable the registrar to impose restrictions upon an insurer's funds paralleling the requirements of the Occupational Retirement Schemes Ordinance. Such restrictions would prevent the insurer from investing too heavily in the business of the relevant employer, or his associate, as defined in the Ordinance.

With these words, Mr Chairman, I recommend to this Committee the new clauses I am about to move.

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

Clauses read the Second time.

SECRETARY FOR FINANCIAL SERVICES: Mr Chairman, I move that new clauses 3A, 18, 20, 21 and 22 be added to the Bill.

Proposed additions

New clause 3A

That the Bill be amended, by adding —

"3A. Meaning of "relevant amount" in section 8(3)

Section 10(3)(b) is amended by adding "if any part of the long term business carried on or intended to be carried on is of a nature other than that specified in class G or H in Part 2 of the First Schedule," before "\$2,000,000".

New clause 18

That the Bill be amended, by adding —

"Consequential Amendments Occupational Retirement Schemes Ordinance

18. Interpretation

Section 2 of the Occupational Retirement Schemes Ordinance (88 of 1992) is amended -

- (a) in subsection (1), in the definition of "insurance arrangement", in paragraph (a), by repealing "and its assets";
- (b) in the Chinese text, in subsection (1), in the definition of "保險安排", in paragraph (a), by repealing "及其資產";

- (c) in subsection (4) -
- (i) by adding "or arrangement" after "means an agreement";
 - (ii) in paragraph (a)(ii), by adding "or description" after "same class";
 - (iii) in paragraph (c) -
 - (A) by repealing "which is an agreement or arrangement under which" and substituting "under which, in the case of an agreement or arrangement governed by such trust, "; and
 - (B) by repealing "pooling agreement" and substituting "agreement or arrangement, as the case may be"; and
 - (iv) by repealing paragraphs (d), (e) and (f) and substituting -
 - "(d) which is managed, in the case of an agreement or arrangement governed by such trust, by a registered trust company;
 - (e) in relation to which, and its participating schemes, proper accounts and records are kept; and
 - (f) under which the value of the assets attributable to, and the liabilities of, each of its participating schemes are readily determinable from such accounts and records.";
- (d) in the Chinese text, in subsection (4) -
- (i) by adding "或安排" after "指符合以下條件的協議";
 - (ii) in paragraph (a)(ii), by adding "或種類" after "屬同一類別";

- (iii) in paragraph (c) -
- (A) by adding " (如協議或安排是由上述信託所管限) " before "在該協議"; and
- (B) by repealing "匯集協議" and substituting "該協議或安排 (視屬何情況而定) "; and

- (iv) by repealing paragraphs (d), (e) and (f) and substituting -

- "(d) (如協議或安排是由上述信託所管限) 由註冊信託公司所管理;
- (e) 就該協議或安排及其各項參與計劃均有備存妥善的帳目及紀錄; 及
- (f) 根據該協議或安排, 可歸入每項參與計劃名下的資產及其每項參與計劃的負債的價值, 可以輕易從上述帳目及紀錄中計算出來。";

- (e) by adding -

"(7) For the avoidance of doubt, it is hereby declared that where a registered scheme is the subject of or regulated by an insurance arrangement, the assets of the scheme are, in so far as that arrangement is concerned, any claims (including contingent and prospective claims) which may be made against the authorized insurer concerned under that arrangement."; and

- (f) in the Chinese text, by adding -

"(7) 為免產生疑問, 現聲明凡註冊計劃構成一項保險安排的主題或受一項保險安排所規管, 則就該安排來說, 該計劃的資產即為可根據該安排提出的以有關的獲認可承保人為申索對象的申索 (包括待確定申索及預期申索)。".

New clause 20

That the Bill be amended, by adding —

"20. Requirements in relation to assets

Section 21 is amended -

- (a) in subsection (1)(a), by adding "subject to subsection (4)(b)," before "shall, except";
- (b) in the Chinese text, in subsection (1)(a), by adding "在符合第(4)(b)款的規定下，" after "情況外，";
- (c) by adding -

"(4) Where a registered scheme is the subject of or regulated by an insurance arrangement, it is hereby declared that -

- (a) notwithstanding -
 - (i) the terms of the scheme (including of that arrangement);
 - (ii) the other provisions of this Ordinance;
 - (iii) the provisions of any other enactment; or
 - (iv) any rule of law,

the assets or estate of the relevant employer of the scheme available for distribution in the event of the bankruptcy or winding up of that employer shall not include so much of the assets of that scheme as equals the aggregate past service liability of the members of that scheme;
- (b) subsection (1)(a) shall not operate to either -
 - (i) prevent the relevant employer of the scheme from being the policy holder of the policy issued by

the authorized insurer concerned under that arrangement; or

- (ii) require any claim which may be made against that insurer under that arrangement to be kept separate and distinct from and not form part of the assets of that employer.

(5) For the avoidance of doubt, it is hereby declared that the operation of subsection (4)(a) in relation to a registered scheme shall not prejudice the operation of subsection (1)(c) in relation to so much of the assets of that scheme as are not, by virtue of that first-mentioned subsection, included in the assets or estate of the relevant employer of the scheme available for distribution in the event of the bankruptcy or winding up of that employer."; and

- (d) in the Chinese text, by adding -

"(4) 凡註冊計劃構成一項保險安排的主題或受一項保險安排所規管，現聲明 —

- (a) 不論以下各項有何規定 —
 - (i) 該計劃的條款（包括該安排的條款）；
 - (ii) 本條例的其他條文；
 - (iii) 其他成文法則的條文；或
 - (iv) 任何法律規則，

相等於該計劃的成員的過去服務總負債的該計劃部分資產，不得計入該計劃的有關僱主破產或清盤時可予分配的該僱主的資產或產業內；

(b) 第(1)(a)款並不具有以下效力 —

- (i) 防止該計劃的有關僱主成爲由有關獲認可承保人根據該安排發出的保險單的持有人；或
- (ii) 規定可根據該安排提出的以該承保人爲申索對象的申索，須與該僱主的資產分開及有所區別，而不得構成該僱主的資產的一部分。

(5) 爲免產生疑問，現聲明如將(4)(a)款施用於某註冊計劃，並不影響第(1)(c)款施用於該計劃的下述部分資產，即憑藉第(4)(a)款不計入該計劃的有關僱主破產或清盤時可予分配的該僱主的資產或產業內的部分資產。

New clause 21

That the Bill be amended, by adding —

21. Rules

Section 73 is amended -

(a) in subsection (1), by adding -

"(na) without prejudice to section 18(1)(c), specifying the method or methods to be used to pay benefits payable to members of registered schemes;

(nb) where a registered scheme is the subject of or regulated by an insurance arrangement, restricting -

(i) the investments which the administrator of the scheme may make in relation to -

(A) the relevant employer of the scheme or an associate of such employer;

- (B) any non-listed company within the meaning of section 27(1);
- (ii) the loans which that administrator may make to that employer or associate (excluding any loan which is a deposit made with an authorized institution within the meaning of the Banking Ordinance (Cap. 155));";
- (b) in the Chinese text, in subsection (1), by adding -
- "(na) 在不影響第 18(1)(c)條的情況下，指明用以支付須支付給註冊計劃的成員的利益的方法；
- (nb) (如註冊計劃構成一項保險安排的主題或受一項保險安排所規管) 限制 —
- (i) 該計劃的管理人就以下的人或公司可作出的投資 —
- (A) 該計劃的有關僱主或該僱主的有關連人士；
- (B) 第 27(1)條意指的任何非上市公司；
- (ii) 該管理人可向該僱主或有關連人士提供的貸款(但不包括屬存放於《銀行業條例》(第 155 章)意指的認可機構的存款的任何貸款)；";
- (c) by adding -
- "(3) Rules made under subsection (1)(nb) shall be subject to the approval of the Legislative Council."; and
- (d) in the Chinese text, by adding -
- "(3) 根據第(1)(nb)款訂立的規則須經立法局批准。".

New clause 22

That the Bill be amended, by adding —

22. Documents required for registration

Schedule 1 is amended -

- (a) in Part 1 -
 - (i) in paragraph 1 -
 - (A) in subparagraph (d)(ii), by repealing "and" at the end;
 - (B) in subparagraph (e), by repealing the full stop and substituting "; and"; and
 - (C) by adding -
 - "(f) where the scheme is the subject of or regulated by an insurance arrangement, that the terms of that arrangement provide that the sum, if any, payable by the administrator of the scheme in the event of the termination of that arrangement may be paid by the administrator only to -
 - (i) another authorized insurer for the purposes of another insurance arrangement which that scheme will be subject to or regulated by; or
 - (ii) a person who will hold that sum on trust as an asset of that scheme in accordance with the provisions of section 25.";
 - (ii) in paragraph 2(a), (b), (c)(i)(A) and (c)(ii)(B), by adding "in his opinion" after "not"; and
 - (iii) in paragraph 2(c)(i)(B), by adding "in his opinion" after "(if any)";
- (b) in the Chinese text, in Part 1 -
 - (i) in paragraph 1 -
 - (A) in subparagraph (d)(ii), by repealing "及" at the end;

- (B) in subparagraph (e), by repealing "。" and substituting "；及"; and
- (C) by adding -
 - "(f) (如該計劃構成一項保險安排的主題或受一項保險安排所規管)有關的安排的條款規定,該計劃的管理人只可將在該安排終止時須由他支付的款項(如有的話)支付予 —
 - (i) 屬另一項保險安排的另一獲認可承保人,而該計劃將會構成該另一項保險安排的主題或將會受該另一項保險安排所規管;或
 - (ii) 將會依照第 25 條的規定以信託形式持有該款項作為該計劃的資產的人。";
 - (ii) in paragraph 2(a), by repealing "是否已就" and substituting "他是否認為已有就";
 - (iii) in paragraph 2(b) -
 - (A) by adding "他是否認為" before "在該財政年度"; and
 - (B) by repealing "是否受" and substituting "受";
 - (iv) in paragraph 2(c)(i)(A), by repealing "是否" and substituting "他是否認為";
 - (v) in paragraph 2(c)(i)(B), by adding "他所認為" before "在該財政年度"; and
 - (vi) in paragraph 2(c)(ii)(B), by repealing "是否" and substituting "他是否認為"; and
- (c) in Part 2 -
 - (i) in paragraph 2 -
 - (A) in subparagraph (e)(ii), by repealing "and" at the end;

- (B) in subparagraph (f), by repealing the full stop and substituting "; and"; and
- (C) by adding -
 - "(g) where the scheme is the subject of or regulated by an insurance arrangement, that the terms of that arrangement provide that the sum, if any, payable by the administrator of the scheme in the event of the termination of that arrangement may be paid by the administrator only to -
 - (i) another authorized insurer for the purposes of another insurance arrangement which that scheme will be subject to or regulated by; or
 - (ii) a person who will hold that sum on trust as an asset of that scheme in accordance with the provisions of section 25.";
 - (ii) in paragraph 3(a), (b), (d)(i)(A) and (d)(ii)(B), by adding "in his opinion" after "not";
 - (iii) in paragraph 3(c), by repealing "respect of" and substituting "relation to"; and
 - (iv) in paragraph 3(d)(i)(B), by adding "in his opinion" after "(if any)"; and
- (d) in the Chinese text, in Part 2 -
 - (i) in paragraph 2 -
 - (A) in subparagraph (e)(ii), by repealing "及" at the end;
 - (B) in subparagraph (f), by repealing " ◦ " and substituting " ; 及"; and

- (C) by adding -
- "(g) (如該計劃構成一項保險安排的主題或受一項保險安排所規管)有關的安排的條款規定,該計劃的管理人只可將在該安排終止時須由他支付的款項(如有的話)支付予 —
- (i) 屬另一項保險安排的另一獲認可承保人,而該計劃將會構成該另一項保險安排的主題或將會受該另一項保險安排所規管;或
- (ii) 將會依照第 25 條的規定以信託形式持有該款項作為該計劃的資產的人。";
- (ii) in paragraph 3(a), by repealing "是否已就" and substituting "他是否認為已有就";
- (iii) in paragraph 3(b) -
- (A) by adding "他是否認為" before "在該財政年度"; and
- (B) by repealing "是否受" and substituting "受";
- (iv) in paragraph 3(d)(i)(A), by repealing "是否" and substituting "他是否認為";
- (v) in paragraph 3(d)(i)(B), by adding "他所認為" before "在該財政年度"; and
- (vi) in paragraph 3(d)(ii)(B), by repealing "是否" and substituting "他是否認為".

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

New clause 14A Regulations

New clause 19 Registered schemes' trustees etc. to keep proper accounts and records, etc.

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

MR MARVIN CHEUNG: Mr Chairman, I move that new clauses 14A and 19 as set out in the paper circulated to Members be read the Second time.

New clause 14A proposes to amend section 59 of the Insurance Companies Ordinance to enable the Governor in Council to make regulations amending the Third Schedule so as to impose duties on actuaries appointed under section 15. The requirements for actuarial reports for proposed classes G and H will be dealt with in subsidiary legislation.

New clause 19 proposes to amend section 20 of the Occupational Retirement Schemes Ordinance to provide for the preparation and audit of accounts of retirement schemes that are effected under insurance arrangements.

The Legislation Council Subcommittee set up to study the Bill was advised by the insurance industry that it was costly and impractical to require the insurer to ensure that the correct amount of contributions were collected from the relevant employer. Under the proposed amendments, the employer is required to appoint an auditor to supply the scheme administrator's auditor (that is, the insurer's auditor) with a statement confirming the correct amount of contributions that should have been made in accordance with the terms of the scheme. The cost of this certification is not expected to be substantial. This will minimize the work and costs involved in auditing the accounts of the scheme.

Mr Chairman, I propose to move.

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

Clauses read the Second time.

MR MARVIN CHEUNG: Mr Chairman, I move that new clauses 14A and 19 be added to the Bill.

Proposed additions

New clause 14

That the Bill be amended, by adding —

"14A. Regulations

Section 59 is amended by adding -

"(ca) without prejudice to the generality of paragraph (c), amend the Third Schedule so as to impose, for the purposes of this Ordinance, duties on actuaries appointed under section 15;".

New clause 19

That the Bill be amended, by adding —

"19. Registered schemes' trustees etc. to keep proper accounts and records, etc.

Section 20 is amended -

- (a) in subsection (3)(b), by adding "in the opinion of the auditor preparing the report" after "not";
- (b) in the Chinese text, in subsection (3)(b), by adding "按製備該報告的核數師的意見" after "說明" where it first appears;
- (c) by adding -

"(7A) The auditor appointed under subsection (7B)(a) of the relevant employer of a registered scheme ("the employer's auditor") to which subsection (1)(b) applies shall, not later than 4 months after each of the schemes' financial years or such longer period as the Registrar may in his absolute discretion permit in any particular case, give to the auditor preparing the report under subsection (3)(b) ("the administrator's auditor") a statement -

- (a) in such form as the Registrar may specify in guidelines issued by him;
- (b) containing such information as may reasonably be required for the purposes of enabling the administrator's auditor to discharge his duty under subsection (3)(b) in relation to the scheme; and
- (c) where the employer's auditor -
 - (i) has been denied access to the employer's books and records in contravention of subsection (7B)(b)(i); or

- (ii) has not been given necessary information and explanations as required by subsection (7B)(b)(i),

of that fact.

(7B) For the purposes of subsection (7A), the relevant employer of a registered scheme to which that subsection applies shall -

- (a) ensure that, at all relevant times, he has appointed an auditor to discharge the duty imposed under that subsection on the employer's auditor; and
- (b) as soon as reasonably practicable after a request is made of him by that auditor -
 - (i) allow the auditor and such other person as may be authorized by that auditor, to have access to such books and records of the employer; and
 - (ii) give to the auditor such information and explanations,

as the auditor may reasonably require for the purposes of discharging his duty under that subsection.";

- (d) in the Chinese text, by adding -

"(7A) 第(1)(b)款適用的註冊計劃的有關僱主根據(7B)(a)款委任的核數師“僱主的核數師”)須在該計劃的每個財政年度結束後4個月內，或在處長就個別情況運用其絕對酌情決定權准許的較長期間內，向根據第(3)(b)款製備報告的核數師(“管理人的核數師”)提供一份報表，而該報表須 —

- (a) 符合處長在他所發出的指引中指明的格式；

- (b) 載有為使管理人的核數師能夠履行其根據第(3)(b)款對該計劃所負的職責而合理地需要的資料；及
- (c) 在有以下情況時，說明其實際情況 —
 - (i) 有人違反第(7B)(b)(i)款的規定，不讓僱主的核數師接觸僱主的簿冊及紀錄；或
 - (ii) 僱主的核數師不獲給予第(7B)(b)(ii)款所規定的所需資料及解釋。

(7B) 為第(7A)款的施行，該款所適用的註冊計劃的有關僱主須 —

- (a) 確保他在所有有關時間均有委任核數師履行根據該款委以僱主的核數師的職責；及
- (b) 在該核數師向他提出要求後，在合理的切實可行範圍內盡快 —
 - (i) 容許該核數師及經該核數師授權的人，接觸該核數師為履行其在該款下的職責而合理地需要的僱主簿冊及紀錄；及
 - (ii) 向該核數師提供該核數師為履行其在該款下的職責而合理地需要的資料及解釋。”；
- (e) in subsection (8), by adding "or (7B)" after "subsection (7)"; and
- (f) in the Chinese text, in subsection (8), by adding "或(7B)" after "第(7)".

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

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

PNEUMOCONIOSIS (COMPENSATION) (AMENDMENT) BILL 1993

MERCHANT SHIPPING (LIMITATION OF SHIPOWNERS LIABILITY) BILL

INLAND REVENUE (AMENDMENT) (NO. 5) BILL 1992 and

INSURANCE COMPANIES (AMENDMENT) (NO. 3) BILL 1992

had passed through Committee with amendments and the

BANK NOTES ISSUE (AMENDMENT) BILL 1993 and

EXCHANGE FUND (AMENDMENT) BILL 1993

had passed through Committee without amendment. He moved the Third Reading of the Bills.

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

Bills read the Third time and passed.

Members' motions**INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

MRS SELINA CHOW moved the following motion:

"That in relation to the Declaration of Number of Proposed Districts and Specification of District Names Order 1993 published as Legal Notice No. 209 of 1993 and laid on the table of the Legislative Council on 9 June 1993, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance for amending subsidiary legislation be extended under section 34(4) of that Ordinance until 21 July 1993."

MRS SELINA CHOW: Mr President, I move the motion standing in my name on the Order Paper. The motion seeks to extend the period for amending the subsidiary legislation on the Declaration of Number of Proposed Districts and Specification of District Names Order 1993 to 21 July 1993.

The said Order proposes to reduce the number of districts from 19 to 18 as from the next District Board elections and consequently to combine Yau Tsim

and Mong Kok to form a single district, Yau Tsim Mong. This is strongly opposed by the two District Boards in question. In order to allow more time for discussion, it is necessary to extend the expiry date for amendment.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

PRESIDENT: I have accepted the recommendations of the House Committee as to time limits on speeches for the motion debates on "Policy on Service Industry" and "Railway Development Study" and Members were informed by circular on 5 July. The mover of the motion will have 15 minutes for his speech including his reply; other Members will have seven minutes for their speeches. Under Standing Order 27A, I am required to direct any Member speaking in excess of the specified time to discontinue his speech.

POLICY ON SERVICE INDUSTRY

DR HUANG CHEN-YA moved the following motion:

"That as Hong Kong is going through a phase of structural transformation in its economy of which service industries have become a dominant part, this Council urges the Government to conduct a comprehensive review of the requirements for the development of our service industries, to formulate relevant policies and to set up appropriate committees with a view to making Hong Kong a major service centre in Asia."

DR HUANG CHEN-YA (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper.

In Hong Kong, since the 1980s, the importance of the service sector has never stopped rising. The contribution of the service sector to the gross domestic product (GDP) rose from 69% in 1980 to 76.2% in 1990. As a share of the total number of people engaged in economic activities, the service sector's payroll rose from 48.8% in 1980 to 62.7% in 1990. Regrettably, the Government has been turning a blind eye to the economic restructuring going on in Hong Kong all these years. The same industrial policy of old is still being followed conservatively. It has not revised its policies to cope with changes in Hong Kong's manufacturing and service industries. I must stress that, while "no change for 50 years" may sometimes be a good thing, manufacturing and service industries will be doomed if the policies on them are to remain unchanged for 50 years! The Government must conduct a review of policies to find out what changes should be made to cope with the requirements of the structural transformation of our economy, and then set new goals for service and manufacturing industries and give them substantial support.

There are two reasons why importance must be attached to service industries. The first is the importance of service industries to Hong Kong's economy. The second is that a review of the policy on service industries is required by the fight against inflation, since inflation in the service sector is a major cause of inflation.

The contribution of the service sector to the GDP is reaching proportions similar to those in industrial countries, that is, those in Europe, the United States and Japan. The service sector is becoming increasingly important in Hong Kong not because manufacturing has moved to China but because Hong Kong has increasingly become the financial centre of the Far East and the gateway to China trade. In China, service industries are quite underdeveloped because they have long been under tight and rigid government control. Service industries accounted for 27% of China's gross national product in 1991 and employed a mere 3.4% of the Chinese population in 1988. In China, as the economy undergoes reform and liberalization and as living standards improve, the demand on the service industries is growing day by day. If service industries in China remain underdeveloped, it will be a drag on the development of China's economy as a whole. Also, in order to return to GATT, China must gradually open its market to international trade in services. Therefore, Hong Kong's service industries not only have a huge potential market waiting to be tapped but can also play an important role in the modernization of China's service industries.

In addition, statistical evidence shows that services are now the fastest growing component of international trade. Services now account for 20% of total international trade. The United States service exports account for 30% of all the United States exports. Evidently, service exports are a major international trend. The trade in services covers a broad range of items. GATT's present list contains more than 150 of them. The most important items are financial services, investment services, transportation and tourism. Other items include telecommunications, information services, education, health care, culture, sports, advertising, designing, accounting, management and legal services. In 1992, the tourist industry earned \$48 billion for Hong Kong and became the second largest earner of foreign exchange. As a matter of fact, Hong Kong exports substantial services to China and other nearby countries. Yet, over the past 10 years, Hong Kong's service exports grew by only 9% while its service imports grew by 11%. This illustrates the negative result of the absence of a clear government policy on service industries. If there had been such a policy, it might have helped Hong Kong's service industries.

Secondly, Hong Kong has been plagued by inflation in recent years. Inflation not only adds to the everyday burden of the community in general and the low-income groups in particular; it also adds to the cost of production, thereby undermining Hong Kong's competitiveness. If one looks at the Hang Seng Consumer Price Index (CPI), one will see that prices have risen mainly in service-related components of the CPI. From 1986 to 1990, the CPI rose by a cumulative 43%. Three quarters of the rise was attributable to higher

local consumer prices. Evidently, service inflation has had a major effect on Hong Kong's inflation. If there is a policy on service industries and if this policy is effective in raising the productivity of the service sector, it will be of great help to the alleviation of inflation.

Hong Kong at present does not have a policy on service industries. Still less is there a co-ordinating or supporting department for service industries in the same way that there is the Industry Department for manufacturing industry. This condition is at odds with the role that service industries now play in Hong Kong's economy. Therefore, the United Democrats of Hong Kong (UDHK) think that the Government should conduct a comprehensive review of the requirements for the development of Hong Kong's service industries, set long-term development goals, formulate relevant policies and set up appropriate committees with a view to making Hong Kong a major service centre in Asia.

First of all, the Government should improve the compilation of statistics on service industries and provide more information to enable service industries to be better understood. At present the Government does not have a consumer price index for services and does not compile statistics on the output of the service sector. This illustrates the inadequate statistical coverage of service industries.

The Government must study each service industry in terms of its present conditions, its outlook and what problems it faces. Service industry is the generic term for a broad range of services. Roughly, they can be divided into: (1) financial services; (2) manufacturing-related services; (3) tourism, conferences and exhibitions; (4) entertainment and information; (5) everyday services having to do with clothing, food, housing and transportation and (6) professional services. The Government should study each of these groups in terms of: (1) facilities and technology; (2) manpower and training; and (3) support and supervision. I would like to cite a few examples. Other Legislative Council Members from the UDHK will be speaking on other aspects of the topic. With regard to facilities, we have seen a slowing down in tourism development because the existing airport is saturated; yet the construction of the new airport is experiencing delays. The development of conferences and exhibitions services is facing problems because existing facilities are saturated. The new Convention and Exhibition Centre will not be completed until several years later. The Government should conduct reviews to find out if facilities are adequate to cope with the needs of tourism, sports, arts, culture, transportation and storage. Concerning technology, the Government should find out if automation and upgraded management techniques may be adopted by the wholesale and retail trades and by the restaurant business so as to raise productivity, thus easing inflationary pressure.

With regard to support and supervision, the Government should conduct a review to find out if there is sufficient competition, if competition is fair, and if conditions are enough to support the healthy development of service industries. For instance, the healthy development of financial services may be affected by

impediments to competition between banks and non-banking financial companies, by unsound regulatory control on electronic money management and insider trading and by the lack of protection for small share holders when companies are privatizing or when major share holders commit abuses. The establishment of a central clearing and depository system will have a positive effect on the foreign exchange market and the securities market.

With regard to manpower, the Government should conduct a review to find out how the redundant manpower of manufacturing industry may be retrained for service industries and how on-the-job training may be conducted for employees during the upgrading of service industries. Such retraining and on-the-job training will enable employees to find new jobs in high value added service trades. Of course, the Government should also provide enough school places to train the people that, according to trend forecasts, will be needed by the various service industries.

Secondly, the Government should lay down a policy of support for service industries. The policy on service industries is likely to be different from that on manufacturing industry. This is mainly because the provision of services is different from the production of goods. One difference is that, while a manufacturer invests mainly in fixed assets or machinery, a service provider's principal assets are his data bank, his information technology and his trained personnel.

The Government must understand that inflation in the service sector differs from that in the manufacturing sector and that measures effective for fighting inflation in the manufacturing sector is often ineffective for the service sector.

In fact, one study shows that the best way to raise productivity and slow down inflation in the service sector is to introduce competition. In view of this, the introduction of an anti-monopolization policy by the Government is a matter of great urgency. Therefore, I urge the Government once more to take a square look at the anti-monopolization issue. Fair trade laws should be enacted and fair trade committees should be set up to make sure that the market, particularly the market for services, is sufficiently competitive to provide a driving force for the raising of productivity.

In order to promote service exports, the Government should: (1) gather information on trends and developments in the international service market; (2) require the Trade Development Council to conduct feasibility studies and market studies on trade in services in addition to promoting merchandise trade; (3) provide more training opportunities to employees in service industries and enable them to meet the international service market's standards for quality and professionalism; and (4) voice support for the increasing liberalization of trade in services at GATT meetings.

At present, the Government's policy on manufacturing industry is out-dated. Still, the Government is paying some attention to it. From time to time, the Government studies the problems faced by it. In addition, the Government gives institutional support to it. The Productivity Council also places its emphasis on manufacturing industry. In contrast, in the service sector, only financial services, tourism and manufacturing-related services receive some government attention. For the other service industries, there is no advisory body or a distinct department that makes studies, compiles statistics and formulates supporting policy. Therefore, the UDHK urge the Government: (1) to improve the compilation of statistics to enable each service industry to be studied, and (2) to set up appropriate committees which will comprise members of the industries, scholars, consumer representatives and government officials. They will make recommendations to the Government to enable it to formulate supporting policies with a view to developing service industries more successfully and making Hong Kong a major service centre of the Far East.

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

Question on the motion proposed.

MR TAM YIU-CHUNG (in Cantonese): Mr President, today's motion covers a rather wide range of issues because the term "service industries" carries an extensive spectrum of meaning. Industries ranging from those of catering, hotel, banking and financial services, transport and express delivery, retailing and wholesaling or even insurance and tourism all fall under the category of service industries. Therefore, with regard to the formulation of policies for the development of service industries, it is not easy to thrash out one policy or two to promote the development of various industries in the service sector because the development as well as the problems encountered by each and every industry in that sector is different. That said, now that there is a motion which eggs on the Government to place more emphasis on service industries, I would also like to urge the Government to step up manpower training for the service industries and to strengthen its supervision on the quality of the service industries.

Given the general trend of economic restructuring, the service industries are playing an increasingly important role in Hong Kong. Similarly, the number of people employed in the service sector is climbing up year by year. According to the figures of the Census and Statistics Department, at the end of last year, the labour force of Hong Kong showed a strength of some 2 763 800 persons, out of which about 773 000 are employed in the wholesaling and retailing trade, as well as the hotel and catering industries, accounting for 28% of the entire labour force. There are about 1.09 million persons employed in other service industries, for example, in transportation and communication, financial services, insurance, real estate and other commercial activities, or 39.5% of the entire labour force. As such, there is a total of about 1.86 million persons employed in the service industries, accounting for 67.5% of the entire labour force.

With the service industries developing so rapidly, public demands on such services also increase accordingly. In this connection, it is only natural for the Government to step up its employee training programme for the service industries. Currently the Government offers training courses for employees of certain service industries such as the hotel and banking industries. Certainly, work in this area can be enhanced. The Government may also forge closer liaison with the trade associations of the various industries in the service sector and study in conjunction with these associations the development trend as well as the demand for manpower and resources of each industry before deploying resources to assist in the training and cultivation of talents in the respective fields.

In addition, as there is a growing social demand on the service industries, I am also a bit worried about the tendency among employers of certain service industries to move their businesses to China. Just recently the accounting department of a well-established commercial firm was relocated to Guangzhou. If such a practice is to continue unchecked, not only the livelihood of workers in the local service sector will be threatened, but the employment opportunities of manufacturing workers who wish to enter the service sector through retraining will also look bleak. Therefore, the Government should also pay attention to the trend whereby many operations of the service industries are moving to China.

Actually, for Hong Kong to become the service centre in Asia, it is imperative that the local service industries must reach a very high level of standard so that they can win confidence among countries abroad. To achieve this, the Government should step up its manpower training programme to ensure that employees of the various service industries become more professionalized and their service can achieve an increasingly high standard. Apart from this, it is also very important to regulate certain service industries. For investment-related services in the areas of, say, banking, finance and real estate transactions which have a direct bearing on the livelihood of the public, the Government should also strengthen its supervision and control. This is to ensure that the practices of people engaged in such trades will not bring damage to the interests of the public or mar the confidence of investors, and they can maintain their integrity into the bargain.

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

MR MARTIN BARROW: Mr President, I am pleased that the Honourable HUANG Chen-ya has introduced the issue of government policy towards the service sector. It is however an extremely broad subject covering so much of what is going on in Hong Kong ranging through tourism, financial services, retailing, transport and so on.

The debate is timely as it follows the recent debate on industrial policy led by the Honourable Henry TANG. I was surprised by some of the comments

made in that debate, particularly the concern that manufacturing had fallen to 16% of GDP and that the number of people employed in that sector had fallen by 300 000. These developments are an inevitable result of the opening up of southern China and I do not share those concerns. Indeed these changes are exactly the right direction for Hong Kong and manufacturing's contribution to GDP would no doubt fall to less than 10% in the years to come. We cannot look at Hong Kong in isolation, but must consider Greater China as a whole.

It would be entirely wrong in my view for the Government artificially to subsidize the maintenance of an industrial base in Hong Kong. However I do of course support government investment in technology upgrading, productivity and training but this is going to be in support of manufacturing in the region as a whole rather than just in Hong Kong itself.

It is the service sector which is going to provide the engine of growth for Hong Kong's domestic economy both before and after 1997 — but the fuel for this engine is the development of manufacturing in southern China, which is now becoming the fifth and largest dragon of all in East Asia.

Once the community has a clear vision of Hong Kong as a service centre and really understands what is meant by the sector, the energy of the Government can be devoted to that end, in conjunction with improving the overall quality of the lifestyle of our people.

A priority for the Government is to re-examine all existing procedures, search for inefficiencies in the system which slow down the development of the service sector and take action to resolve problems: for example the extraordinary bureaucratic steeplechase related to restaurant licensing. It is essential that all government departments involved get together and set up a one-stop shop which can resolve this type of regulatory overkill. I am delighted that the Urban Services and the Efficiency Unit are grasping the nettle.

Another priority in the context of Hong Kong as a service centre is the need to ensure Hong Kong remains a competitive regional centre for multinationals. The labour shortage and high housing costs are a major concern to the international business community. I urge the Government to re-examine the needs of multinational enterprises.

I turn now to two important sectors in the service industry. Firstly,

Hong Kong as a financial services centre

In 1990, I proposed in this Council that the Government should consider setting up a development board for the financial services sector. That was rejected by the Financial Secretary at the time as he argued that the financial services field was too broad for one committee. Nevertheless I would like the Government to reconsider this possibility. Hong Kong has a whole variety of boards and committees concerned with the promotion of industry and trade.

But there is no such equivalent body for financial services. In recent years, there has been too much concentration on development of imported regulatory rules and bureaucracy, rather than on the marketing and development of Hong Kong as an international financial centre. A balance needs to be struck. I urge the Financial Secretary to re-examine that proposal for a financial services development board and would suggest that a working group should be set up together with members of the private sector to examine it. It should be remembered that there is little evidence that investors take the level of regulatory bureaucracy into account in making their investment decisions.

The tourism sector

I turn now to tourism. The importance to the service sector of tourism and its contribution to the community's prosperity has often been underestimated in Hong Kong. This is not just a Hong Kong characteristic but also a global habit. Numerous international perception surveys show this to be the situation elsewhere. The simple fact is that tourism and travel together constitute the world's largest industry and is growing faster than the world economy and world trade as a whole. In 1992, it generated a total of US\$2.7 trillion in output which is equivalent to 6% of the world GNP. Travel and tourism employs more than 120 million people around the world or 1 in 15 of all employees. In Japan tourism creates double the proportion of total national wealth than the automobile industry. In Germany it provides more than steel, textile and agricultural industries combined. By the turn of the century, it is predicted that tourism will be an even greater giant, with tourism world receipts growing from a 1990 level of US\$225 billion to US\$527 billion, a 134% increase.

Here in Hong Kong we welcomed over 8 million visitors in 1992, up 18% on 1991. These visitors spent around HK\$50 billion. Tourism is now the second largest earner of foreign exchange and a major contributor to the territory's overall wealth. Almost 200 000 people are employed directly in the industry and of course many hundreds of thousands also depend on the success of tourism for their livelihood. It is important to remember that as an integral part of the territory's business infrastructure, tourism works for everyone's benefit. It is linked to virtually every walk of life here. When tourism goes well, business confidence improves and the knock-on effects throughout Hong Kong are positive.

But we must not be complacent and we must look to the future. Are we developing our infrastructure in the way which will cater for the growth in the number of visitors coming into Hong Kong? Whether it is for business or purely holiday purposes, Hong Kong will need the facilities and environment to attract our visitors, in the face of strong competition from elsewhere. The Tourist Association looks forward to working closely with the Government in planning for the long-term development of the industry.

Conclusion

In conclusion, Mr President, I would like to comment on the specifics of Dr HUANG's motion. He calls for a comprehensive review by the Government. The service sector is so broad that it would be difficult for one review to cover all aspect. Much of it must be done sector by sector — just as I have suggested there should be a development board for the financial services industry. However, I do feel that a strong and positive message from the Government on the development of the service sector is needed, so that the private sector and the community as a whole can work together in achieving the vision of Hong Kong as the service centre for southern China.

Thank you.

MR JIMMY MCGREGOR: Mr President, I must confess that I am puzzled by the wording of the motion. To begin with, there is not one service industry. There are many many such industries making up a very broadly based service sector in the economy. Import, export, re-export, shipping, shipowning and chartering, insurance, banking in all its aspects, other financial services, and again there are many of these. These are only the principal service industries which support our function as a major financial, commercial and shipping centre. Many other industries, including construction, real estate, and retail, are also classified as service industries. In fact almost all the industries in Hong Kong except manufacturing can be classified as service industries. A comprehensive review of all these industries could not be conducted as a simple exercise since each service industry has its own characteristics, its own state of development, its own problems and its own system of monitoring, of advising the Government on its progress, what it perceives as its requirements both short and longer term, and its own way of working with the Government to ensure that it is given every opportunity to continue to improve its efficiency with the least possible government intervention, interference and bureaucratic red tape.

All these service industries work and operate under a very general policy of free market, free enterprise and the least possible involvement by the Government. Each one has the inevitable committee system to consider the industry generally and specifically. The Government works closely with this committee system often by participating in its membership and always being willing to consider important submissions and proposals.

What I am saying is co-operation, co-ordination and consideration by the private and public sectors throughout the service industry sector is already extensive and, in my view, quite efficient.

It cannot have escaped the notice of this Council that fundamental changes have been going on in the development and structure of the Hong Kong economy since the later 1970s. The opening up to foreign participation in the Chinese economy with all the opportunities for Hong Kong participation, and

more particularly for Hong Kong servicing, has steadily moved our economy from industrial to service orientation. Over 70% of our GDP and the bulk of our employment is service oriented.

But these changes did not happen overnight nor did they occur silently and without clear signals. Their significance was properly assessed many years ago and, as the changes have occurred, studies have been undertaken and consultancy work carried out by major institutions to determine how best to provide Hong Kong with the physical and institutional infrastructure which would encourage the fastest and most efficient growth in these familiar areas.

A great deal of work has been done and much has been achieved. We have today one of the most efficient service sectors in the world. In recent years and as our economy has become more and more sophisticated, the Government, advised by the private sector, has steadily provided stronger regulatory and supervisory controls in key areas of our service sector. These steps have been taken to keep our service industries working within acceptable international rules and criteria. Banking, insurance, stock exchange activity, securities regulation and improved capability for government intervention when strictly necessary have kept pace with our needs.

Physical infrastructure includes massive planning and building activity in our port and airport facilities, transport development of every kind, including the proposed railway network expansion due to be discussed later today.

The Government, in its efforts to provide an effective institutional framework to support our economic development, helped to set up and finance the Federation of Hong Kong Industries, the Trade Development Council, the Productivity Council, the Export Credits Insurance Corporation, the Securities and Futures Commission, the Insurance Authority and so on, and so on, and so on. These were not isolated events nor have they been unsuccessful. They have contributed to a very efficient service sector, one of which we can be proud. This sector and all the industries in it monitor their own progress and are very vocal when they see trouble ahead. Planning and programmes are multi-year in nature and it is not often that Hong Kong has to react hurriedly to repair damage that should have been foreseen.

I do not want to sound complacent and there is, I am sure, a need for continual review of our service industries. These must continue to change and develop to meet changing circumstances and conditions. I believe that most of them do have the institutional means of ensuring that they can do so. Some of them may need to be specifically reviewed from time to time. Many of them are in fact reviewed and changes are made. The Coalition of Service Industries, for example, feels that continual attention must be given to the need to improve productivity at all levels within the economy. It will not be sufficient to depend on cheap labour from, and in, China. There will also be a continual battle to keep inflation within reasonable bounds and this will need concerted action

throughout the economy. We have the enormous benefit however of an economy influenced, indeed directed, by market forces. So it should remain.

The Uruguay round of the GATT will set up the international rules of operation of the service industries. I understand that Hong Kong service industries already meet almost all the likely requirements. So the kind of comprehensive review suggested in the motion is really not necessary and would be very wasteful of time, effort, and money. I do appreciate Dr HUANG's motives but I cannot agree with his proposal.

MR VINCENT CHENG: Mr President, I fully share Mr Jimmy McGREGOR's sentiment on the motion. I would like to put on record that I will abstain from voting. The reason being that I cannot put my finger on the pulse of this motion. The wording of the motion is too vague and the scope covered is too wide. It is like trying to describe a dinosaur with one word — you can hardly say whether the description is right or wrong. The services sector comprises a wide range of activities, from escort service to banking. (I am not saying that there is any similarity between the two). How can the Government conduct a comprehensive review and have a comprehensive policy on such a diversity of activities? The motion asks for the setting up of committees, without specifying in what area. There are many such committees already and I sit on a number of those. There are also many trade associations which have constant dialogue with the Government. Maybe we need more, but we need to be more specific. I therefore find this request difficult to endorse.

The motion asks the Government to examine the requirements for Hong Kong to become a major services centre. This is also beyond my intellectual ability to comprehend. Hong Kong is already a major services centre in Asia, and a very successful one too. Many service industries are already well developed. So the requirements must already be there. Do we need to conduct a comprehensive study to find out the requirements for making Hong Kong a major services centre when we are already one?

I admire Dr HUANG's sincerity in raising this motion and I cannot disagree with his concern that we must remain alert to the competition we face in the region, and inflation. We must be aware of the fact that Hong Kong is becoming more expensive for many service industries. I also agree with Mr Martin BARROW that the Government should not import foreign rules and regulations on a wholesale basis, particularly Bank of England practices which were even rejected by banks in the United Kingdom.

But I find the phrasing of the motion muddled and unclear. Dr Samuel WONG and Mr Eric LI also share my feeling. Therefore we will abstain from voting.

THE PRESIDENT'S DEPUTY, MRS ELSIE TU, took the Chair.

MR FREDERICK FUNG (in Cantonese): Madam deputy, as we crossed the threshold of the 1990s, a structural transformation has been under way in our economy. In the wake of China's economic reform and liberalization, economic co-operation between China and Hong Kong has become ever closer. Most Hong Kong manufacturers have now moved some of their industrial production bases to southern China, particularly areas around the Pearl River Delta. Such a development has had a considerable impact on Hong Kong's economic structure. The share of traditional manufacturing in Hong Kong's economy declined from 30% in 1970 to 16.7% in 1990. Manufacturing industry's payroll peaked at over 900 000 in 1984 and has since declined to about 600 000 at the moment.

Everyone in Hong Kong, be a member of a pro-democracy political group, a businessman, a government official or an ordinary citizen, thinks that economic development and wealth acquisition is very important to Hong Kong. Therefore, in face of the structural transformation of Hong Kong's economy and the growing importance of the service sector, we must support service industry with corresponding facilities and manpower training so that better-quality services may be provided. Only thus can we overcome our problems in terms of adjustment to the economic structural transformation, and successfully deal with the negative effects of massive structural unemployment. To put it in another way, we must identify the needs of the future and work to improve the quality of service industry in order to maintain Hong Kong's superior position as a service centre. In response to China's economic reform and liberalization and sustained economic growth, we should forge a relationship of mutual support and mutual benefit between China and Hong Kong. We should create more wealth and promote economic growth in all sectors both for China and ourselves.

In macro-economics, service industry is defined as any trade outside of fishery, agriculture, animal husbandry and manufacturing. Service industry is also known as the tertiary industry. According to the classification of Hong Kong Government's Census and Statistics Department, service industry may be divided into (1) construction, (2) merchandise retail and wholesale, food establishments and hotels, (3) financial services, insurance, real estate industry and commercial services, and (4) other service trades. There is also another classification, to wit, (1) professional and technical occupations, (2) administration and management, (3) clerical and related occupations, (4) sales, (5) service trades, and (6) transportation and other trades involving the operation of equipment.

The above classifications are for statistical use only. There are other trades which are important in Hong Kong's service sector, such as product designing, marketing, outward and inward shipping, warehousing, transportation, computer services, and telecommunications. In this connection, it is necessary to study the realities and find out which of the service trades are

the most in need of further promotion and must be developed on a priority basis in the interests of the stable development of the economy undergoing structural transformation. After these service trades are identified, studies should be made to find out how training should be conducted to aid their development and what standards should be set for the necessary manpower training or, in other words, professional standards which include standards of operational skills. In addition, the Government should make sure that these service trades will be accorded priority in its development plan by way of tax policy and other relevant measures. And only the Government has sufficient resources in terms of data and manpower to produce accurate and detailed studies which will help to chart the future course of development for these trades.

Policy study, as a rule, can be carried out in two ways. One is the "manifest function" method, which is to study the facts, unearth the truth and then solve the problem. The other is what we call the "latent function" method, whereby those adopting it would primarily try to influence public opinion and secure legitimation so that the public would support and approve an idea that is to be put forth or an action that is to be taken. Regrettably, I do not feel that the Government attaches importance to such policy study. The last official forward-looking study of Hong Kong's economy was the 1979 report on economic diversification. One recommendation of that report was the establishment of a permanent exhibition centre. This recommendation has already been accepted and acted on. Yet it appears that the Government has given no positive response, made no preparation and taken no action with regard to how we should take Hong Kong's economic development forward into the 21st century. Instead, it is those in the business community or the commercial and industrial community that have put forth specific recommendations. As a matter of fact, the recommendations made by the Director-General of Trade in one of his studies indeed deserve our consideration. But, after all, we can see that the Government is really lacking in vision on that front. As the saying goes, it is never too late to mend. I think that the Government should now proceed actively with a study to find the way forward for Hong Kong's economic development. In particular, the Government must conduct a comprehensive review of the development needs of Hong Kong's service industry and set up a committee to formulate relevant policies, with an aim to enable Hong Kong's economy to achieve further success.

During the period from 1983 to 1992, the average real wages of all trades in Hong Kong rose by 1.6%, which was far below the average increase of 5.3% increase in productivity. The average real wages of manufacturing industry rose by 1.2%, the lowest rate of all. In other words, workers did not get the full reward that they deserved. To put it in yet another way, the increase in wages simply failed to match the average increase in productivity. I feel that such a situation tends easily to spawn a disparity of wealth, which is contrary to the principle of fairness. Therefore, I feel that, if the Government decides to take up its responsibility for studying the development of service industry, it must at the same time design a good programme for manpower retraining so that workers will not become unemployed during the process of structural

transformation of the economy. An increase in the ranks of Hong Kong's unemployed will unleash a negative impact on the territory. For this reason, I feel that, in the course of the study, the policy of how to distribute the fruits of Hong Kong's economic success should be mapped out, so that workers will not suffer during the process of the structural transformation of the economy but will be able to partake, with Hong Kong's other social strata, of the economic achievements resulting from the process. This will further motivate the people of Hong Kong and help to turn Hong Kong into a major service centre in Asia.

With these remarks, I support the motion.

MR MICHAEL HO (in Cantonese): Madam deputy, the past 10 years, as Hong Kong's economy became gradually interwoven with southern China's economy, saw the number of local manufacturing workers decline steadily. It fell from 900 000 in 1980 to 580 000 in 1992. On the other hand, the number of employees in the service sector rose sharply, by an average of 5% per year over the last decade. Regrettably, in face of the structural transformation of Hong Kong's economy, the Government has failed to take a positive approach to the shortage of manpower in the service sector or to do anything about the problem of structural unemployment. As a result, workers in declining industries have difficulties in switching to other trades whereas some employers in other trades are complaining about recruitment difficulties and about the consequential upward pressure on wages. Such a government approach is indeed doing harm to the development of Hong Kong's service industry.

The long-term solution for the problems in relation to structural unemployment and manpower shortage lies in long-term planning for education, training, capital investment and innovation in technology. For the medium and the short term, employee retraining programme can be, after all, a feasible and effective solution. The redundant workers of manufacturing industry can be trained and made to join service industry. This will ease the social problems stemmed from the massive unemployment of manufacturing workers. It will also enable service industry to grow with full utilization of local manpower resources.

From a plan on manpower resources for the 1990s released by the Education and Manpower Branch in 1991, one can see that Hong Kong's need for low-skilled workers will decline further as the economy enters a new phase of development. By 1996, Hong Kong will have a surplus of nearly 58 000 workers with junior secondary education or below. At the same time, because of the development of service industry and the increasing need for skilled workers, there will be a shortfall of more than 52 000 vacancies which require senior secondary education or above. This being so, the Government should devise an employee retraining scheme to deal with the problems that will emerge in 1996.

Statistical evidence shows that, as of 19 March 1993, 386 workers had completed retraining and 125 were receiving it. Clearly, the small-scale retraining scheme now in operation will be unable to meet the goal for 1996. In this connection, the Government should increase the annual number of retrainees from the present level of 10 000 to that of at least 20 000. In addition, to encourage workers to participate in retraining programmes voluntarily, the Government should raise the retraining allowance from the present \$2,800 to \$4,000.

Among the 386 workers who had completed the retraining programmes, 134, or 35% of the total, did not seek the Labour Department's employment referral service. But only 53% of the retrained workers had found employment. This precisely shows that the retraining scheme needs to be improved in terms of its operation. One possible improvement is to make the retraining which workers receive responsive to market needs. The retraining scheme must not pursue retraining for retraining's sake. Instead, it must be geared to enabling retrained worker to find employment in service industry. The courses should be designed to teach skills that are in demand by the target service trades. And they should be revised from time to time in the light of changes in the market and of relevant technological advance. Only this will enable us to train workers whose skills are marketable and give real relief to the tight labour market in the service sector.

Some people think that the importation of foreign workers will ease the inflationary pressure unleashed by the shortage of labour in service industry. The truth, evident from government statistics, is that foreign workers are mainly imported by restaurant or hotel operators, wholesalers and retailers. The wage level in these three trades is, as a matter of fact, lower than that in the other trades. It is lower than that in manufacturing industry by between 10% and 30%. Evidently, productivity in these three trades must be raised. In terms of increase in productivity, service industry has a poor record. During the 1980s, the output value in real terms per employee in service industry increased at an annual rate of only 2.4%. In fact, work reorganization, quality control and cost information are some of the areas that should be reviewed expeditiously to enable productivity to be raised.

During the past seven years, average wages in the service sector were doubled, while rentals for office space were more than trebled. Clearly, the runaway property prices have had an impact on our service industry. Therefore, we hope that the authorities will increase the supply of land and enable more commercial and residential units to be built in Hong Kong so that our service industry will not be troubled by high property prices.

With these remarks, I support the motion.

MR LAU CHIN-SHEK (in Cantonese): Madam deputy, service industry has now replaced manufacturing industry as the mainstay of Hong Kong's economy. In fact, manufacturing industry has been on the decline ever since the mid-1980s as a share of gross domestic product (GDP), and the number of workers employed in it has almost fallen to half of the peak level. By contrast, service industry, in terms of its share of GDP, has risen sharply. The best performers have been import and export, transportation, financial services and real estate. We can even say that, had it not been for the vigorous development of the service sector in recent years, it would simply have been difficult for Hong Kong's economy to grow at a 5% annual rate. I totally agree that the Government should conduct a comprehensive review of the requirements for the development of service industry in Hong Kong and formulate the relevant policies. But there is one point that I wish to add. It is that, while the Government proceeds to develop service industry, we must ask two questions:

- (1) Over the long term, what will be the problems with an economy highly dependent on its service sector?
- (2) Will there be protection for the interests of local workers when service industry is promoted?

Madam deputy, I would like to offer my comments on these two questions.

I believe that everybody knows that Hong Kong owes the vigorous development of its service industry today largely to the spectacular economic development in southern China in recent years. The development of Hong Kong's transportation services, import and export services and banking services has indeed more or less to do with China trade. Of course, while it is true that the development of Hong Kong's service industry has been dependent on China's economic development, it is also true that the decline of Hong Kong's manufacturing industry in recent years has stemmed, to some extent, from the relocation of manufacturing processes to China. The result is that, as China becomes more open, the tone is set for a more marked structural transformation of Hong Kong's economy from a manufacturing-led economy to a service-led economy. However, this so-called structural transformation of the economy in Hong Kong is definitely not a result of higher productivity or upgraded technology. Instead, it is the result of a revised regional division of labour between Hong Kong and southern China. Some call this situation the "shop in front, factory at the back" mode. For the long-term prospect of Hong Kong's economic development, many dangers lurk in such an all-out development of service industry at the expense of manufacturing industry. We cannot afford to ignore these potential dangers. The most likely scenario is that in the event that China's economic growth slows down or suffers a setback, or that China is subjected to trade sanction, Hong Kong will be hard hit and it is totally beyond its control, with very serious consequences. Lately, as China's inflation gets out of control and economic adjustment becomes likely, some people have

commented that Hong Kong's economy may be severely affected as a result. This shows that such potential troubles do exist.

The second question is: Will the workers of Hong Kong benefit from the development of service industry? If one looks at statistics alone, then it seems that employees in service industry have received higher wage increase than that of manufacturing workers. However, even some of the well-established companies in service industry have recently begun importing foreign workers. (Hong Kong and Shanghai Banking Corporation, for instance, has imported over 300 tellers.) If this becomes a trend, not only will manufacturing workers find it difficult to switch job, but the bargaining power of employees in service industry will also be undermined. In the final analysis, no matter how the service sector may prosper, it will not bring much good to the workers.

Last month, in a debate in this Council on the industrial policy, I said that Hong Kong's economy could be assured of a stable and bright long-term future only if a powerful and highly competitive industrial base was laid. Only thus would our workers, those previously engaged in manufacturing industry in particular, have a chance to receive their fair share of the fruits of prosperity. I hope that, even as we affirm the contribution and importance of service industry, we should, in the process, carry out a comprehensive study of its impact on industrial development.

Madam deputy, with these remarks, I support the motion.

MR MAN SAI-CHEONG (in Cantonese): Madam deputy, in Hong Kong, it is often thought that entertainment, culture, arts and sports make only negligible contributions to the economy. I think that such a misconception must be corrected. In fact, as an outstanding service trade, the entertainment business is a very important part of Hong Kong's economy. The amount of money spent each day on entertainment is by no means small. Going to performances at the Hong Kong Coliseum, going to movies in the theatres, listening to music records and watching video tapes have become pastimes for the average citizen. Vast amounts of money are spent on these pastimes. Nor should the economic development potentials of culture, arts and sports be belittled. In addition to entertaining the local people, they can promote the development of Hong Kong's tourism. I believe that, if the Government gives them the needed structural support and support in terms of venues and infrastructure, it will not be difficult for them to become pillars of Hong Kong's economy.

A sound structure not only can take care of the problem of efficiency and productivity (which are lowered by duplication of roles), but can also provide a good mechanism for development. I would like to discuss the problem of structure and illustrate the problem with the movie industry, which is a combination of entertainment and art. At present, the Government's assistance to the movie industry is provided through different government departments, including the Information Services Department, the Police Force and the

Government Secretariat's Recreation and Culture Branch. The Hong Kong Tourist Association, too, has worked through its overseas offices to make Hong Kong an important site for location shots and a world-class movie-making centre. Clearly, a number of government departments and institutions are participating in, and helping, the development of Hong Kong's movie industry. Regrettably, however, there is not a centralized body with responsibility for helping the development of the local movie industry and for the overseas promotion of locally made movies. The Trade Development Council (TDC), limited by its functions, can engage only in the promotion of merchandise trade. The promotion of movie exports is not within the TDC's functions. The Legislative Council's panel on recreation and culture last year discussed the idea of setting up a Hong Kong Film Commission. Such a body might be able to do precisely the work that is needed. Regrettably, the Government has so far shown no enthusiasm for the idea.

I would like to point out that the setting up of a centralized body for the movie industry will be good for Hong Kong's economy in many ways. At present, when location shots are needed in the making of local movies, applications have to be made to various government departments. This body can help to simplify the application procedure, increase the efficiency of movie-making and raise the productivity of the movie industry. The centralized body, as a representative organization, can also help to attract foreign movie-makers to shoot movies in Hong Kong. These foreign movie-makers will only have one specific channel to go through. They will then not be deterred by the complexity of the paper work as is required when they have to go through several channels. If more foreign movie-makers are attracted to shoot movies in Hong Kong, not only will Hong Kong be able to learn from their movie-making experience and techniques, but they themselves will be spending money on consumer items and hiring supporting crews locally. This will be good for Hong Kong's service trades generally. In addition, foreign movies shot in Hong Kong will help foreign audiences to understand Hong Kong better. This will be good for tourism. Externally, the Film Commission can help to promote Hong Kong's movie exports. Under agreements of international joint movie-making that may be signed, a larger share of the international market will be won for Hong Kong's movies. This will be a systematic way to gain exposure for Hong Kong's high-quality movies at international film festivals, a cost-effective way to help the development of Hong Kong's movie industry.

Madam deputy, the Government has the responsibility for providing an adequate infrastructure. The Government should provide well-equipped venues and sufficient facilities. I would like to illustrate my point with the example of sports. Just as the Hong Kong Convention and Exhibition Centre has provided a major base for trade promotion, the Hong Kong Coliseum has enabled the performing arts to be staged for much larger audiences. Sports simply cannot develop in a significant way, nor can good athletes be groomed, unless there are large sports fields and suitable facilities. When higher standards are attained by spectator sports, not only will there be more spectators and commercial

sponsors, but tourists will be attracted to come to Hong Kong to watch the sports events.

Because of its geographical location, Hong Kong has the potential for the development of water sports. Building an aquatic stadium will help such development. Demand alone provides ample justification for the building of an aquatic stadium in Hong Kong. Each year, Hong Kong holds several local and international water sports events including the dragon boat race, the row boat race, the wind-surfing regatta and the canoeing race. The aquatic stadium will provide a world-class venue for these events. This will not only improve the standards of the sportsmen but also attract more international races to be held in Hong Kong. Building the aquatic stadium will be a positive move to enrich and promote Hong Kong's sports and culture and to attract more local and foreign spectators. It will greatly promote the development of professional sports.

Madam deputy, entertainment, culture, arts and sports have great development potential and their development can greatly aid the development of tourism. This is why I think that the Government should provide them with the needed structural support and support in terms of venues and basic facilities, thus causing them to develop significantly and promoting Hong Kong's economic growth.

With these remarks, I support the motion.

MR HENRY TANG (in Cantonese): Madam deputy, the fact that we could be bargaining with China over matters pertaining to resumption of sovereignty in the interest of the people of Hong Kong, is, if I may say so, entirely because of Hong Kong's outstanding economic achievement and China's fervent wish to maintain the *status quo* in Hong Kong. 1997 is approaching. After becoming a Special Administrative Region of China, Hong Kong still must remain the way it is. Only by strengthening Hong Kong's economic superiority can we ensure that the idea of "Hong Kong people ruling Hong Kong with a high degree of autonomy and one country, two systems" can be put into practice on a long-term basis. I believe that everybody understands this political reality. Traditionally, the secret of Hong Kong's survival has been its attention to economic interests, increasing competitiveness and continuous self-improvement. Without these, Hong Kong will be reduced to a faceless Special Administrative Region among the other Special Economic Zones of China and will even be overtaken and supplanted by other provinces or counties, by Shanghai, for example.

Hong Kong has been successful in its practice of free market economy and adherence to "positive non-intervention" policy. However, as everybody knows, Hong Kong is going through a phase of structural transformation in its economy. If we add this fact to the uncertainties surrounding the transition in 1997, then, despite my continued strong belief that the Government should not intervene in the marketplace, I am afraid that the Government must formulate some policies to support the smooth structural transformation of the economy.

Hong Kong used to have a manufacturing-led economy. And it has evolved into an economy with a diversified service sector. Many colleagues spoke a moment ago the impact of such evolution on the community as a whole, and the gigantic scale of the change. I am not going to repeat them. I only want to make some suggestions:

(1) Closer economic co-operation between China and Hong Kong

Hong Kong owes its economic successes today to its wealth of international business experience, highly efficient administrative and management systems, professional knowledge, and its sound infrastructure. Not only must these strong points be maintained, but Hong Kong should share its experience with China as co-operation between China and Hong Kong becomes closer. Thus, Hong Kong could continue to play an irreplaceable role and become China's window to the world economy and serve as a bridge for China to develop international trade and to introduce capital and technology. Because of geographical proximity, China's economic potential will, in turn, be conducive to the further development of financial services, shipping, insurance and other services in Hong Kong.

(2) A full range of training programmes

I have always stressed that employee training is something that must never be neglected when the territory's economy is going through structural transformation. The Government's current retraining scheme is intended only to answer the needs of the unemployed and the underemployed. It helps displaced manufacturing workers to find jobs soon in the service sector, thus resolving the incongruous condition of unemployment on one hand and manpower shortage on the other. However, the scheme is of no help to the overall improvement of the quality of our workers' performance. I have repeatedly urged the Government to lay down a territory-wide training strategy. Hong Kong's high value added economy can be maintained only if both its skilled and semi-skilled workers are taught the latest skills. The long-term economic benefits of training in high technology, management, telecommunications and marketing are beyond doubt.

(3) Easing restrictions on the movement of people

Hong Kong has a manpower shortage. Therefore, the Government should review its policy governing skilled and non-skilled workers coming from China to work in Hong Kong. This will speed up the merger of Hong Kong's labour market with China's and allow greater flexibility in the importation of labour. Negotiations should be held with foreign governments on reciprocal recognition of professional standards. Restrictions on foreigners who have professional credentials that are recognized by Hong Kong and want to practise in Hong Kong should be eased. This will make Hong Kong's professional services market more open and more competitive. However, there must be reciprocity, as the principle of equity should be upheld.

(4) Promotion of education

I believe that it is widely accepted that education is the safeguard of basic quality, and the necessary investment to ensure an ideal future for Hong Kong. The Government has in recent years taken active steps to expand post-secondary education and to improve teacher training. However, the education system has quite a number of structural problems yet to be solved. Examples are as follows: language skills, which are not yet up to the international standard; convergence between secondary education and post-secondary education; and post-secondary courses' practicality vis-a-vis the present structural transformation of the economy. The Government must address these problems.

Madam deputy, China is opening itself to the outside world at an accelerated pace and is heading in the direction of "a socialist market economy with Chinese characteristics". During the past year or two, we clearly saw major changes taking place in the Chinese economy. In the coming decades, China will continue to develop its immense potential. How can Hong Kong keep pace with China's development? Can Hong Kong continue to act as a pilot and proceed successfully to switch from a labour-intensive economy to a diversified service centre? Can Hong Kong join up with southern China to play the pivotal role of an important service centre in the Asian Pacific Region? The answers to these questions depend on whether the Government is aware of the dynamic impact of support in the form of a policy on the development of the economy as a whole. It should be realized that the mere construction of a new airport and an extension to the Convention and Exhibition Centre will not be enough for overcoming the difficulties now faced by Hong Kong as its economy is going through a phase of structural transformation. The Government of late has paid too much attention to constitutional development. It has made light of the need to make an effort in the interests of long-term economic development. I hope that this imbalance will be corrected.

The Honourable HUANG Chen-ya proposes the establishment of a committee to deal with the issues in question. I believe that this committee may model on the Industrial Technology Committee in form. With representatives of the business community as its members, such a committee could map out a general programme for the future development of service industries. I believe that its collective deliberations will produce more constructive recommendations for the Government.

Madam deputy, with these remarks, I support the motion.

MR JAMES TO (in Cantonese): Madam deputy, as some colleagues pointed out just now, the importance of service industries has never stopped rising in Hong Kong. Service industries have also created a significant number of employment opportunities. This is shown by statistical evidence covering the period from 1980 to 1990. In 1980, service industries' payroll accounted for

48.8% of the working population. In 1990, they accounted for 62.7%. The rate of growth was 28.5%.

A recent report on global economic growth by the United Nations shows a higher economic growth rate in Asia than in Europe. It also shows that China's economic growth is as high as 11%. It can be predicted that Asia will be experiencing a big economic upturn and will become the focus of the world's attention insofar as economic development is concerned.

After endless hard work, Hong Kong has become an international city, an important financial centre and an entrepot. Since the adoption of open door policies by China in 1979, Hong Kong's economic relationship with China, particularly with the coastal special economic zones of southern China, has undergone rapid development. This close relationship has led Hong Kong to switch from an economy based on labour-intensive, manufacturing industry to a service-led economy. Hong Kong is now undergoing a major phase of structural transformation in its economy.

Given that there is a huge market in China and the economies of Southeast Asian countries like Vietnam, Malaysia, Thailand and Indonesia are taking off, the role of Hong Kong in the Pacific rim is not to export labour but to export services mostly. Hong Kong is developing in the direction of becoming the service centre of the Asian-Pacific Region.

During this process of economic transformation, which has vast and far-reaching repercussions, it is very important that the Government should have a policy of quick and effective support. If things are allowed to follow their natural course of internally generated change, the change will surely take a long time to come about, and the result may not be satisfactory. Then, it will be hard for Hong Kong to develop quickly into an efficient service centre, and Hong Kong will easily be replaced by other Asian countries, such as Japan and Korea, as the service centre of the Asian-Pacific Region.

I believe that necessary changes must be made in support of the structural transformation of Hong Kong's economy. Changes must be made in our understanding of service industries, in training and in social conditions. True, beginning in September this year, the Government will introduce in the secondary schools a new "travel and tourism" course. But this is very modest support for the current structural transformation trend. I even feel that instead of showing foresight, the Government is insensitive to the needs of the economy.

I urge the Government to make comprehensive arrangements for service industries. As we all know, Hong Kong's stock market has recently seen a flurry of activities involving the listing of the shares of Chinese companies. Hong Kong has thus become an important centre of international financing for Chinese companies. Investors from all over the world can now invest through Hong Kong's stock market in Chinese companies. The listing of Chinese

companies has made trading in our stock market more active and created more jobs in the financial service sector.

Another thing is that some companies, such as the banks, which contribute to the growth of the service sector, should review their operations. China is gradually using Hong Kong as a place for raising capital, selling bonds and arranging property mortgages. There is a lot that Hong Kong's banks can do to service the China market. While doing a lot, how can they protect the interests of investors? Credibility is also a very important question. Therefore, Hong Kong's banks, which now maintain secrecy on their real assets and liabilities, should become more open. This will make them more credible against the competition.

Generally speaking, if Hong Kong wants to become a centre of services for China's economic development, then members of professions like accountants and lawyers must be trained accordingly. They should be knowledgeable about their own fields in Hong Kong. They should also be knowledgeable about China's laws and regulations. Only then will they be able to take advantage of Hong Kong's objective environment and work to develop a market for services in China.

Some service industries, such as public utilities and banks, are under the Government's regulatory control. The Government must carefully enact rules and regulations for these service industries, which can then be placed under appropriate supervision. The controls should not be too tight, or the industries will lose interest in raising productivity.

Not only must the existing service industries be encouraged to improve themselves, but it is very important to encourage the introduction of new service industries. We know that any service that Hong Kong can export to China will necessarily be a product of the capitalist system. China has had a public ownership system for a long time. Products have been allocated by the state. Enterprises have been owned by the state. Market studies and analyses, marketing strategies, advertising techniques and advertising strategies have usually been neglected. Now that the Chinese market needs these kinds of services, it is very important for Hong Kong to train the needed talent, and for the Government to have a policy supporting such training.

Another thing is that Hong Kong already has the advanced technologies and can use them to develop new service industries. For example, Hong Kong has a good information network. The whole world is now closely watching China's economic data and reports and analyses on developments in China. Therefore, Hong Kong can well become a centre of information services for China.

All of the above shows that China is a huge market for services and that the Government should study the outlook on Hong Kong's service industries and formulate a policy for them accordingly. This will be in keeping with the

torrent of the structural transformation of Hong Kong's economy, satisfy the needs of the China market arising from the open-up of the Chinese economy, create more jobs in Hong Kong and bring about an important revolution in Hong Kong's economy.

Madam deputy, with these remarks, I support the motion.

MR HOWARD YOUNG (in Cantonese): Madam deputy, it is an undisputed fact that Hong Kong is going through a phase of structural transformation in its economy. The service industries that we now have are already playing an increasingly important role in Hong Kong's economy. 60% of Hong Kong's working population are now working in the service sector. The tourist industry, which I represent, is a significant component of the service sector. This is why I closely watch how the Government uses its resources to promote its policy in support of the development of service industries.

The development of service industries depends on two prerequisite conditions, namely a good infrastructure and the supply of manpower. I hope that the port and airport development projects, which are of massive scale, will be completed smoothly without obstacles. Hong Kong will then put on brand new looks.

With regard to manpower availability, Hong Kong already has a highly educated, hardworking and highly motivated working population. Still, the Government must invest more resources in retraining and in the designing of school courses to teach Hong Kong's service workers the needed professionalism and knowledge.

I further think that the Government should introduce courses on service industries in secondary schools to give students an early chance to acquire relevant knowledge. At present, many students looking for work upon finishing Form V have never received vocational training. This is because our present education system puts too much emphasis on teaching academic subjects while failing to provide vocational training. (As far as I know, in many foreign countries, students who have finished Form V must go out to work for a few weeks before they can receive graduation diplomas.) As a result, in some cases, the skills possessed by our working population are not the skills required by their jobs, so they must be retrained with the spending of additional resources. The introduction of relevant courses in secondary schools will certainly help to enhance the quality of the manpower resources.

With regard to education development, the Government must work closely and exchange information with service industries. This will make sure that the training that is provided gears to the needs of the service industries. Take tourism for instance. Recently, the Education Department, working with tourist organizations, successfully introduced a tourism course in 27 secondary schools. In the process, the tourist industry actively supplied teaching notes and

materials to the teachers. I think that this is a very meaningful test case. I hope that the Government will work with other service industries, such as financial services, insurance, computer services, telecommunications, advertising, import and export, trading services, and introduce courses in the same manner. This will make Hong Kong's manpower resources better and more professional.

With regard to manpower training and education development, I suggest that the Government should pay attention to the following areas. Firstly, the courses must meet the needs of the service industries, and their contents must be constantly updated in light of developments in the industries. Also, the Government must provide other kinds of assistance, such as an information centre, teaching aids and opportunities to gain field experience. In this way, students can gain practical knowledge. The Government may also wish to consider introducing examinations for these subjects. For instance, the recently introduced tourism course may be made an optional test subject for students wishing to be qualified for this service industry. Students passing this test will also be qualified to pursue advanced studies on the industry if they wish to do so at a later time.

The idea of a special body with responsibility for manpower development for service industries deserves our consideration. Such a body can act as an intermediary between the Government and the service industries. One of its functions is to encourage private enterprises to invest more resources in manpower training. It should also help them to organize on-the-job training courses for their employees. I think that on-the-job training is necessary for every employee doing whatever work. It will enable him to do his service work better and better. Also, the training courses must cover a broad range of skills. This will enable everybody from the most basic service employee up to the employee in an executive position to improve himself through training. Externally, the proposed body can work to increase the public's understanding of the career prospects and opportunities for advancement offered by service industries, so that more people will be attracted to join service industries.

Looking ahead, Hong Kong faces competition from many Asian countries. Despite its favourable natural, geographic and human factors, Hong Kong must not belittle its competitors. This is particularly because many uncertainties still lie ahead of us. China's open market will undoubtedly create more opportunities for our service industries including tourism. But we must remain alert to the economic powers that are emerging in Asia. If the Government is able to invest in manpower resources for service industries now, this will undoubtedly put Hong Kong in an advantageous position when competing with other countries. We must closely monitor changing trends in service industries and respond to them with appropriate supporting measures. Thus, Hong Kong will be able to maintain its superior economic position among China and the Southeast Asian countries.

Madam deputy, I support the motion.

THE PRESIDENT resumed the Chair.

SECRETARY FOR FINANCIAL SERVICES: Mr President, the proposer of this motion has presented us with a very broad proposition which he used in his opening speech very much in the manner of a Christmas tree on which he and others have hung an enormous array of ornaments. It would take me from now until the Christmas after next to attempt to address them all in any degree of depth. I shall therefore confine myself largely to addressing the wording of the motion itself, not because many of the useful and interesting points that have been made by some speakers in this debate are not worthy of consideration, but simply because it is not possible to do them all justice in the context of a debate as broad as this where almost anything can be raised and has been. Members may be assured, though, that their points have been carefully noted.

Mr President, the structural transformation of the Hong Kong economy to which this motion refers has been proceeding for many years as an autonomous process driven by market forces. It is not a managed process and certainly does call for a managed response. A relative decline in the significance of local manufacturing has taken place while the service sectors have continuously grown in importance. Between 1981 and 1991 the share of the manufacturing sector in the Gross Domestic Product fell from 23% to 16%, while that of the service sectors as a whole rose from 64% to 73%. The changes in the shares in total employment were even more dramatic; in 1981, manufacturing provided jobs to 39% of our total workforce; in 1992, it was only 24%. By contrast the service sectors as a whole employed 66% of our workforce in 1992, up from 50% in 1991.

By any reckoning Hong Kong now clearly has the profile of a predominantly service-oriented economy. Prompted by the economic opportunities emerging from the open-door policy of China to which many speakers have referred, the structural transformation of our economy has been proceeding at a phenomenal pace. Resources have been moving quickly across from the manufacturing sector to such activities as wholesale/retail and import/export trade, restaurants and hotels, transport storage and communications, and financial, insurance and other professional and supporting business services. It is remarkable that we have experienced little structural unemployment in the process. Employment has been declining very rapidly in manufacturing whilst concurrently it has been rising equally quickly in the main service sectors with the net result that the overall unemployment rate has remained persistently low.

The high degree of adaptability and versatility of our workforce, which thus far has contributed much to easing the process of structural change, would be hard to match elsewhere in the world. Over the years, the private sector, the market practitioners themselves, have been the main driving force behind the structural change. This is only right. None other than the entrepreneurs and their employees know better about the prospective trends and directions of their

own markets and the specific business opportunities unfolding before them. They have enjoyed success and profits in making their own decisions for change. They are certainly capable of continuing to do so. External direction and pressure for any particular type of market development, especially if it were to come from the Government, may well be counterproductive and would most probably not be welcomed — and rightly not — by the businesses concerned. What the Government aims to provide and has been consistently providing is a sound business environment and an excellent network of economic infrastructure on the basis of which individual companies in whatever sectors can seek to maximize their own profit potential and thereby prosper. In parallel with this, individual companies have to face their own commercial risks, make adequate contingencies for possible adverse developments and, if fortune is against them, bear the consequence of losses.

Our policy for the economy is sound and has served Hong Kong well. It will continue to do so. Indeed important elements of it are recognized by the Joint Declaration and the Basic Law. The main foundations of this policy include: adherence to free market principles and a free trade regime; a sound legal system and effective institutions for commercial activities; a simple tax system with a low tax rate; the relatively small size of the public sector in relation to the economy; adequate regulations in the financial sector to ensure market integrity and orderly functioning whilst maintaining a level playing field and without stifling private sector initiative; strong commitment to maintaining monetary and exchange rate stability; substantial investment in education, training and human resource development generally; investing directly and/or otherwise facilitating the development of essential economic infrastructure and ensuring an adequate supply of land. All of these elements are crucial for the longer-term development to the service sectors, as indeed they are for the development of the economy as a whole.

At this point, Mr President, I would recall the wording of the motion. As Mr Jimmy MCGREGOR and Mr Vincent CHENG pointed out, it appears to carry the implication that Hong Kong is not yet a major service centre in Asia and that relevant policies need to be formulated and committees established to make it one. If this accurately reflects the intended meaning of the motion — and I find it very hard to believe that it can — it would be an extraordinary proposition indeed. For some years now Hong Kong has been well recognized internationally to be a major service centre already, not just in Asia but in the world as a whole. This is particularly true in the areas of banking and other financial services, shipping, airlines, telecommunications and tourism, to name but a few. Hong Kong has become a major service centre on the basis of the policies long since formulated and already well established, to which I have just referred. These policies are firmly entrenched in our economic system and have been well tested over the years. They have contributed substantially to our economic success. It would be ill-advised, to say the least, even to consider going for anything materially different, particularly at a time when the world is littered with the economic and social debris left by the abject failure of the

intrusive interventionary policies of those who tried to control, direct and command their economies instead of allowing their markets to function freely.

It is nevertheless true that we in Hong Kong are not living in a static world. Situations do change, businesses are becoming more complex and intertwined. There has to be a process of continuous adaptation for the Hong Kong economy to remain in the best position to reap benefits and to minimize hazards. It follows that specific aspects in different service policy areas may have to be adjusted when the need arises although our overall policy basis, which I have just gone into at some length, should remain intact. It equally follows that we do not see the need for a comprehensive review. Rather we should continue to develop our consultative, regulatory and adjustment mechanisms on a sector-specific basis, recognizing that the enormous spread from diversity of the service sectors necessitates somewhat different approaches in different areas that often have little in common with each other.

Mr President, let me offer a few examples, mainly from my own policy area of financial services, to illustrate how policy formulation is already operating with existing committees in the individual service sectors to enable effective adaptation to sectoral developments. Through these mechanisms, we have preserved the basic virtues of our overall economic stance, whilst being alert to any demonstrated need for change or possibility of improvement. On banking, through a consultative mechanism involving the Government's Banking Advisory Committee and Deposit-taking Companies Advisory Committee as well as close liaison with the relevant industry organizations, namely, the Hong Kong Association of Banks and the Deposit-taking Companies Association, a new and less mechanistic system of banking supervision is being developed following the introduction in 1986 of a new Banking Ordinance. This places greater emphasis on supervisory judgement and discretion. The main objective is to ensure stability in the banking system and that the business of authorized institutions is conducted in a prudential manner. Emphasis is also placed on ensuring that supervisory standards and requirements are constantly reviewed and updated to keep abreast of developments in the market and relevant international standards. A few examples of such efforts include: compliance with the Basle Capital Adequacy Standards by locally incorporated institutions at the end of 1989, three years ahead of the target for the world; the reform to the three-tier system in 1991 introducing the category of restricted licence banks to replace the category of licensed deposit-taking companies; and more recently the introduction of requirements enabling the supervisory authority to require auditors to report on the adequacy of the internal control system of authorized institutions.

On insurance, through the established consultative mechanism of the Government's Insurance Advisory Committee and the industry's Hong Kong Federation of Insurers and associated bodies, a regulatory system is being developed with the aim of ensuring the integrity of the market whilst still permitting market forces to determine pricing and risk cover, the main regulatory considerations of the solvency of the insurers and the protection of

policy holders' interests. The Insurance Authority will monitor and supplement self regulation by the industry with brokers and agents within a framework of supportive legislation.

On securities and futures, the main consultative and advisory mechanism is provided by the Securities and Futures Commission (the SFC) which maintains very close contact with market practitioners, the Stock Exchange Council and the Futures Exchange Board. Major market development measures have been identified and implemented since the stock market crash of 1987, such as the establishment of the SFC itself as well as the central clearing and settlement system, which has greatly improved risk management and thereby enhanced confidence in the market. This year alone has seen important developments with the launch of index options traded on the futures exchange and the arrangements for the listing of Chinese state-owned enterprises on the stock exchange. Further developments in view include the introduction of the automated order matching and execution system as well as short selling and options trading on individual shares on the stock exchange. The Government has specifically shown its support with the further reduction of stamp duty and the transaction levy. The securities sector offers an excellent illustration of how the Government and the private sector can and do co-operate to provide a necessary regulatory framework without impeding the operation of market forces.

In the area of companies regulation, the Standing Committee on Company Law Reform was established in 1984 to ensure that the legal framework under which business is conducted in Hong Kong facilitates the operation of the market while providing a set of ground rules that give an essential level of confidence to investors, creditors and other interested parties. The Standing Committee is composed chiefly of private sector practitioners, including members from banking, accountancy and commercial law, from the company secretarial sector and the stock exchange in addition to members from the regulatory agencies. It reports annually, through me, to the Governor in Council. Through this means the companies regulatory framework is kept under constant review. The views of the Standing Committee are given considerable weight by the Administration. We have implemented or are in the process of implementing the vast majority of its recommendations.

Mr President, these are just some examples of existing mechanisms for policy formulation and facilitating service sector development. There are many others, such as those in policy areas covered by my colleagues, the Secretary for Trade and Industry, the Secretary for Economic Services, the Secretary for Transport, the Secretary for Works as well as the departments under their purview.

There is however one area in which services are being looked at, if not comprehensively, at least on an across-the-board basis, and that is in the context of trade. One of the areas in which the Uruguay round of GATT negotiations is far more ambitious than its predecessors is in seeking to extend the equal access, non-discriminatory GATT principles on trading goods to the much broader,

more complex and diverse field of trade and services. This can only be to Hong Kong's advantage just as GATT membership has been with regard to goods. Hong Kong has therefore been an active participant in the service negotiations working for a strong and comprehensive agreement with maximum participation.

Hong Kong has thrived in a free market environment and our service sectors stand to gain much from the liberalization and deregulation in other markets that should follow from a successful multilateral agreement on trade and services. It was against this background that the Government encouraged the formation of the Hong Kong Coalition of Service Industries (HKCSI) which was established in 1990 under the auspices of the Hong Kong General Chamber of Commerce. The CSI's aims include promoting the development of service industries both in Hong Kong and internationally, representing the interest of service industries in Hong Kong, formulating policies and making submissions on behalf of its members, establishing and maintaining co-operation between members of Hong Kong service industries for the purpose of achieving common goals, and promoting the development of a service friendly environment in Hong Kong. The CSI therefore provides a focal point for liaison between the service sector and the Government.

We have been working particularly closely in connection with the Uruguay round of negotiations. Since its inception, the CSI has been active not only locally but internationally. It hosted the Seventh International Conference of Coalition of Services Industries in October 1991, with speakers from its counterpart organizations around the world as well as international trade organizations, including GATT and the International Chamber of Commerce. My own Branch keeps in touch with the CSI's. Financial Services Committee and other government representatives attend meetings of different sectoral committees established by the CSI as well as its Executive Committee. The existence of the Coalition certainly helps to expand and strengthen our range of contacts with the service industries and to ensure closer co-operation on the general development of the service sectors. There may well be scope for further development of such broad based advisory mechanisms in future.

One other recently established body, albeit with a wider economic purview than just services, deserves a mention in the context of reflecting the views of industry and ensuring that Hong Kong retains its pre-eminence as a commercial and financial centre. This is the Governor's Business Council which has an all-embracing remit, covering the full spectrum of the economy. It advises the Governor, among other things, on how to keep Hong Kong as the most business friendly location in Asia, on the impact of government policies on business so as to modify and abolish those that stand in the way of progress and on how to maximize the potential of all our resources and of our position at the heart of the Asian economy. Inevitably, with such a remit, the Governor's Business Council is bound to cover subjects relevant to the interest and concerns of service industries, such, for instance, as the supply of labour.

Before concluding, I should mention one particular aspect — which has been picked up in this debate and which warrants more focused attention and the devotion of more resources, not only by the Government but also by the private sector working in partnership — and that is service sector productivity. While the service sectors are the fastest developing in recent years, there is evidence, though not conclusive evidence, suggesting that these sectors are the ones having slower increases in productivity, at least slower than in the manufacturing sector. Perhaps the tasks in services are more varied and involve more human input, hence rendering them lesser amenable to mechanistic processing. Perhaps an office offers far less scope for automation than a factory, but it will be useful for us to ensure that whatever scope there is for productivity to be further improved — whether by upgrading the quality of the staff concerned or by complementing them with equipment support — will be identified and utilized. I am sure that Members will share my interest in this area. Investment in capital equipment, where it will pay off, needs no urge by the Government. As to planning of manpower supply and upgrading its quality, my close colleague, the Secretary for Education and Manpower, is playing his role fully.

Mr President, to sum up the Administration's response to the motion, we do not see the need to conduct a comprehensive review in order to establish the requirements. The main requirements are already well known and reflected in well-established policies. Finer detailing and adjustment to the requirements in the light of changing circumstances should best be made through specific monitoring and appraisal which is in fact an important part of our ongoing work. As I said earlier, our economic policies are fundamentally sound and have been facilitating the development of the service sectors. Numerous committees in various spheres, many with non-official participation, have been working with us to promote such development. We value the views of those committees and their useful contribution should continue. These existing committees are mainly sectors-specific to reflect the different needs of the various service industries, but some more broadly based mechanisms have been introduced and there might be further scope for such development in future.

Finally, it is clear that Hong Kong is already a major service centre, not just in Asia but in the world. Nevertheless, all of us will no doubt agree that we should work together, as in the past, to help Hong Kong service sectors continue to develop and flourish.

Mr President, to the extent that we have difficulty with the specific suggestions and implications in the motion, though not with its spirit of seeking to enhance the further development of the service sectors, the official Members will not support the motion.

PRESIDENT: Dr HUANG, do you wish to reply? You have 3 minutes 36 seconds.

DR HUANG CHEN-YA (in Cantonese): Mr President, I must first thank Members for speaking in this motion debate and their support. I am very surprised to learn that the Administration and some Members seem not to know how to review and support the service industry. Therefore they have found the excuse that the matter is too big and too comprehensive for discussion. This evening, many Members have in fact raised quite a number of substantial questions, to which the Administration has been unable to make reply. This reflects that the Administration does not have sufficient knowledge about the service industry, and that it has only rhetoric but not policies and is afraid that a review may expose its deficiencies.

The Administration's opposition to formulating relevant policies has in fact revealed that it lacks the ability to formulate an efficient supporting policy. Just like its failure in respect of industrial policy, the Administration is equally at its wit's end when it comes to the service industry. As a matter of fact, does the manufacturing industry not include a myriad of different industries in it? Can we say that the pharmacy industry, the clock and watch production industry, the aircraft production industry and the garment production industry are all the same? Nevertheless, has such difference ever prevented other countries around the world from formulating and reviewing policies on the manufacturing industry?

Today, the United Democrats of Hong Kong, the Hong Kong Association for Democracy and People's Livelihood and the Liberal Party have all raised a number of requests that the authorities concerned should pay attention to the requirements of the service industry. Mr Martin BARROW has proposed the setting up of a development board for the financial services sector. He and Mr Howard YOUNG are also concerned about a number of problems relating to the tourism sector. Mr MAN Sai-cheong has highlighted the economic value of the film and sports industries. Mr James TO has raised the problems concerning the financial sector and other professions. I myself have also raised certain service industry-related issues concerning the financial sector and other industries. We have all proved with facts that the coverage of the service industry is not so extensive that a review and formulation of policies are impossible. In fact, the trades within the service industry have things in common which, as I said, are subject to analysis in the perspective of macroeconomics under the headings of design, technology, human resources, support and monitoring. The service industry does not, like what the Administration has described, cover an area which is too large for any review or formulation of policies. I hope that the Administration will rectify its own mistakes and undertake its responsibilities of reviewing and formulating a supporting policy on the service industry of Hong Kong.

Question on the motion put and agreed to.

RAILWAY DEVELOPMENT STUDY

MR LAU WAH-SUM moved the following motion:

"That, in view of the important role of railways in our transport infrastructure both in terms of carriage of passengers and transportation of freight, this Council urges the Administration to fully consider and take into account the views expressed by the public on the Railway Development Study before deciding on the plans for future development of our railway system."

MR LAU WAH-SUM (in Cantonese): Mr President, I am glad to see that the Government has finally completed the Railway Development Study (RDS). During the consultation period, I hope the public will spare some time to study this Paper and offer comments to the Government, particularly concerning the impact of railway development on the economy and on people's livelihood.

In July 1989, this Council had a debate on the Green Paper on Transport Policy in Hong Kong. At that time, I drew the Government's attention to Hong Kong's mass transit systems and expressed the hope that it would make a further feasibility study of container transport by rail. We could then take full advantage of railway transportation, which is efficient and cheap, to increase the importance of Hong Kong in the re-export of Chinese goods. Since China has opened up its economy, the demand for re-export service has risen sharply, and this has been a very important factor in Hong Kong's economic growth. A container freight rail can help to ease traffic jams on the highways, which are caused by the container trucks' heavy road use. In order to cope with the sharp increase in the volume of re-export which will continue into the 21st century, the Government should formulate a policy on a container freight rail as expeditiously as possible. The information provided by the Government in the Consultation Paper is really too scant. From it, the public probably cannot learn anything really useful about the importance of mass transit systems to the economy or to people's livelihood. For instance, the proposed container rail terminal of the Western Corridor will be located in the backup area of Container Terminal 8. As everybody knows, the very point in having a container freight rail is to prevent the kinds of traffic jams that are caused by container trucks. At present, serious traffic jams are already frequent on roads near the Kwai Chung Cargo Terminal. Has the Government given any thought to the fact that, unless suitable arrangements are made, traffic conditions in this area will continue to be affected by container trucks moving back and forth between the container rail terminal and Container Terminals Nos. 1 to 8? As for the long-distance passenger services, the proposed terminal will be located at Cheung Sha Wan on the West Kowloon Reclamation. I doubt that there will be sufficient feeder services, such as MTR trains and buses, for this terminal. Why can the Western Corridor not be extended so that its terminal may be located at the Tai Kok Tsui Station or the West Kowloon Station of the Airport Railway? It is because these two stations are interconnected with the MTR Island Line and

the various stations of the Airport Railway. Alternatively, passenger can switch to the MTR line at the Lai King Interchange.

The residents of northwest New Territories have in recent years been very unhappy with the traffic conditions and the transportation services in the area. If the proposed Northwest New Territories Urban Link is extended to Tuen Mun North, then the residents will have an express railway to urban centres via the MTR. They will then not be compelled to use the Tuen Mun Highway. This will not only ease the highway traffic but also shorten the time taken travelling to and from the urban areas. Over the long term, we need a railway that extends westwards from the Tsuen Wan MTR Station to Tuen Mun. This railway will link up with the outer Western Corridor to form a circular railway system.

As for the Eastern Corridor, the residents of Tseung Kwan O have a compelling case for the early construction of an MTR branch line serving that area. If the Government, for lack of vision, continues to put such a project on hold until such time as when the population of the area reaches 250 000, then the delay will be at the expense of the interests of the present residents of Tseung Kwan O. The population of the area is growing rapidly. They are urgently in need of a mass transit system to help them to solve their transportation problem. In fact, an MTR branch line will accelerate the growth of population in that area. I hope that the Government will quickly arrive at a decision to build this MTR branch line.

It is suggested in the Paper that the MTR branch line serving Ma On Shan should not be built until year 2011. Ma On Shan has already become the outskirts of Sha Tin, a satellite town. Its population is growing rapidly. The demand for a mass transit service is growing day by day. I personally think that a railway between Ma On Shan and Tai Wai should be built first by itself. There is no need to wait until it can be built simultaneously with the other stations of the East Kowloon Route. Thus, the residents of Ma On Shan do not have to wait until year 2011 before they will have a railway to the Tai Wai Station, through which they can travel along the KCR line to the urban areas.

With regard to financing, the Government may consider letting private consortia develop the projects so as to achieve maximum cost-effectiveness. During the debate in July 1989, I proposed that the Government should consider setting up a Railway Authority that would take over the assets of the MTRC and the KCRC and manage both these companies, thus eliminating unwanted vicious competition. The truth has always been that a single Railway Authority should be responsible for the financing and development of all railways. Wherever possible, investment needs should be financed with borrowings. This is consistent with the principle of cost-effectiveness.

On Hong Kong Island, Hong Kong Island South has always needed a mass transit system. Only the early construction of a mass transit system will satisfy the needs of the residents of Hong Kong Island South, who need fast and direct

access to the urban centre. Likewise, for the early construction of the North and South Hong Kong Lines, the Government should consider turning over the work to the private sector. This will prevent the Government's resources from being spread too thin.

Lastly, I hope that the Government will give thought to the impact of railway development on Hong Kong's economy and people's livelihood and take the views of the public into consideration. The economies of China and Hong Kong are interdependent. After the Beijing-Kowloon Railway is built, it is bound to pave the way for closer economic links between China and Hong Kong and between them and East Europe. This will take Hong Kong's economy to a new peak of development. In view of Hong Kong's geographical location, the proposed Port Rail Line serving Hong Kong's container terminals can be linked up with the railway network of the Pearl River Delta. This will further facilitate the railway freight transport between China and Hong Kong. Insofar as people's livelihood is concerned, I hope that the Government will take proper environmental protection measures during the construction of the railways. There should be tight control over noise pollution, water pollution and the discharge of wastes. After the railways are opened to traffic, noise levels must be kept low enough to be acceptable to residents along their lines.

Mr President, with these remarks, I move the motion standing in name.

Question on the motion proposed.

MRS SELINA CHOW: Mr President, I rise to welcome the Railway Development Study in general, but to express dissatisfaction and disappointment on some of its deficiencies which could be addressed by certain readjustments in priorities and policies. I refer specifically to the way that Hong Kong Island has been neglected in this exploration of future provisions of mass transit systems for the entire territory into the next century.

The Government should be acutely aware of the transport problems that face those parts of the Hong Kong Island which are not served by the MTR presently. As early as 1988, District Board members of Central and Western, with the support of 40 000 signatures, requested that the MTR be extended to Kennedy Town. As late as last week, a similar request by the District Board was once again rejected on grounds of cost and population. The cost estimate quoted by officials was \$5.8 billion. I find this unacceptably high, for in distance it is comparable to the North Hong Kong line which has an estimated cost of \$2.3 billion, while the South Hong Kong line, which is considerably longer and more expensive and involves tunnelling, is estimated to be \$5.8 billion. As for population, the Western District has over 170 000 residents if one does not count the Mid-levels residents which add another 25 000. Compared to Tung Chung, which will only have 20 000 people in 1997, 60 000 in 2001 and 120 000 in 2006 but will enjoy the service of the Airport Railway, one cannot understand why the Western District is so neglected.

The Southern District of the Hong Kong Island is in a worse off position. The shortage of public transport modes in this district is well known. The confusion caused by the CMB strike crisis cannot be easily forgotten. The heavy reliance on buses alone is totally unsatisfactory. Yet the Southern Hong Kong line included in the study enjoys no serious consideration to speak of, and the strong request of the residents for a mass transit system has obviously fallen on deaf ears. Yet the need here is even more acute than others whose case has been taken on board in the study, such as Tseung Kwan O which will only have a population of 250 000 by the time the MTR is extended to it in the year 2001 as proposed in the study.

The population of Southern District is already 250 000 today and other private and public developments will follow. I cannot understand therefore how this established need should be given such a low priority rating in the study.

We are all aware that a major company in Hong Kong has previously approached the Government with a scheme to link up the Southern District with a vast private development in Central through a mass transit system. This proposal was not taken on board. I must say I have absolutely no interest to declare, and I am in no position to comment whether the proposal at that point is the right solution to the traffic problem in the Southern District. However, I do urge the Government to examine the option of privatizing the Southern Hong Kong line as a serious option as well as the possible advancement of the line as a public project so as to alleviate the undisputed transport needs endured by the residents of the Southern District within an acceptable time frame.

Mr President, I support the motion.

MR TAM YIU-CHUNG (in Cantonese): Mr President, in order to make sure that the economic prosperity of Hong Kong will continue into the future, it is imperative that the Government should remain committed to the various infrastructural development projects. However, given the fact that China will resume the exercise of sovereignty over Hong Kong in four years' time, coupled with the already very close economic relationship between China and Hong Kong at this point in time, it follows that in the planning of our future infrastructural projects, the Government should also see how they can dovetail with the infrastructural development in China. It is up to the Government to take more initiative to step up liaison and joint study effort with the relevant departments of the Chinese Government. This is in order to forestall any possible inco-ordinate situation in which each side is doing its own thing without either side knowing what the other side is up to. Recently, certain recommendations regarding the future development of the passenger and freight transport system of Hong Kong have been put forward in the consultative document, Railway Development Study, put together by the Transport Branch. It goes without saying that one major consideration regarding the future development of the railway system of Hong Kong is the need for it to tie in with the development of the railway system in China. China and Hong Kong should

act in tacit agreement in terms of formulating the relevant development strategies. However, it would appear that the reality is not exactly the way it should be.

There was a visit to the Guangdong province by a delegation of the Democratic Alliance for the Betterment of Hong Kong (DAB) from 28 to 30 June 1993. Discussions were held and views exchanged between the delegation and related departments on the issue of co-operation between Guangdong and Hong Kong as well as other issues which have a direct bearing on the people of Hong Kong. Members of the delegation invariably felt, when the discussion came to how railway developments in Guangdong and Hong Kong might tie in with each other, that communication between the Hong Kong Government and the related departments of the Guangdong provincial government has been extremely inadequate. The provincial officials of Guangdong admitted that they did not have much information regarding the future development of the railway system in Hong Kong and that they had yet to do a thorough study of the various recommendations put forth by the Transport Branch. In this regard, we fear that the railway development of Hong Kong may not be able to tie in with the railway development of China.

I will use as an example the Lok Ma Chau passenger rail line of the northwest railway mentioned in the consultative document. The Government has proposed to build a northwest rail line running from Kwai Chung to Lo Wu in order to relieve the pressure on the Kowloon-Canton Railway (KCR). The proposed northwest railway will run a passenger rail line connecting Kam Tin and Lok Ma Chau in order to enable commuters wishing to use the Huanggang border check point in Shenzhen to get there from Lok Ma Chau. However, the fact is that the existing Huanggang border check point is essentially designed for the purpose of inspecting goods vehicles and passenger-carrying vehicles. It has great difficulty in meeting the requirements of a border check point for commuter service as such. Meanwhile, the relevant authorities in Shenzhen have no knowledge at all of the proposed passenger rail line on the Hong Kong side. It is for this reason that no consideration has been given yet to the expansion of the facilities at Huanggang in order that the check point may be able to meet the large volume of commuter demand in the future. It can be envisaged hence that the completion of the Lok Ma Chau passenger rail line will only give rise to traffic chaos at Huanggang. What is more, the proposed railway extension will only get passengers to as far as Lok Ma Chau where they will still have to travel some 2 km to reach the border check point at Huanggang. As a commuter transit line it does not make much sense for it to necessitate its passengers to actually walk all the way to the Huanggang border check point with their luggage in hand, braving the scorching sun or torrential rains. The best arrangement, after all, would be for a railway section to be built between Huanggang and Lok Ma Chau passenger rail line so that passengers can get off at Huanggang directly. However, since the Shenzhen authorities are not aware of the Lok Ma Chau project, they have yet to devise a plan for a rail link to keep pace with the development on the Hong Kong side.

Meanwhile, the enormous commuter demand on the through train service running between Guangzhou and Hong Kong is also an issue which should be addressed by the Government. On our visit to Guangdong, it came to our knowledge that the provincial railway department is now in the process of expanding the train services between Shenzhen and Guangzhou with a view to upgrading the services from two-line to three-line operation by the year 1994 at the latest. Meanwhile, the authorities concerned will also be purchasing a fleet of double-deckers to back up the through train service. It can be envisaged that the through train service will be substantially improved as a result. However, with KCR continuing to run a two-line operation, it will not be able to tie in with the expansion plans in Guangdong. It is in this regard that, while KCR will be faced with an ever-increasing burden in the future, the through train service between Hong Kong and Guangzhou will be plagued with even greater problems due to the lack of co-ordination. As a matter of fact, in order to improve the through train service to cope with the rising commuter demand along its route, the expansion of KCR has become a matter of topmost priority. It is unfortunate that the consultative document does not appear to adequately address this issue. One has the impression that this is somehow a reflection of the extent of lack of communication between the Hong Kong Government and Chinese railway authorities.

Mr President, the Government may think that it is only a consultative document containing the findings of a study which are by no means conclusive. But how the railway developments of China and Hong Kong are to tie in with each other is a very important issue indeed. One wonders why the Government has failed to make that issue a focal point of the study in the first place. In this regard, I would like to urge the Government to take a pro-active attitude and take initiative to work together with the Chinese authorities for a study on the ways in which our two railway systems may complement each other. Chinese experts in particular should be approached by experts from Hong Kong in an effort to come up with the best solution through rational discussion. Development plans should not be drawn up without consideration to practicalities for otherwise even greater chaos will be created and valuable resources wasted.

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

8.00 pm

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

CHIEF SECRETARY: Mr 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.

MR ANDREW WONG (in Cantonese): Mr President, the consultation period for the consultative document, namely, Railway Development Study, which was released in early April, expired towards the end of last month. The timing is right for the debate to be held today to urge the Government to take the opinions of the public into full consideration before making a decision regarding the future development plan. The fact is that railway development is closely related to social development. If the consultation exercise undertaken by the Government turns out to be a cosmetic one which is devoid of any practical consideration, then it will not only be a waste of public money but, more importantly, what emerges at the end of the day will only be a misconceived project like the Light Rail Transit System which fails to meet the needs of the community.

For the time being, we have no way of knowing whether the Government is really serious about listening to public opinion. However, even if we should be sceptical and dismiss the consultation exercise as entirely cosmetic, there is all the more reason for us as legislators to express our views even more vigorously. The most important thing is that our views are really expressed in a rational manner and what we say can stand to reason.

In this regard I would like to first of all make the point that the Government has failed to tackle railway development in an open manner. The Government should follow a full-scale open policy with regard to railway development such that there will be greater participation by the private sector, bearing in mind the fact that the private sector is able to assist in the development of our railway system more effectively by providing the necessary impetus. If the Government is to embark on railway development entirely by using its own financial resources, then chances are that public resources will be over-committed to the development of infrastructure at the expense of other activities. Private sector participation will ease the financial burden on the Government. And indeed there are already many infrastructural projects which are being undertaken in this fashion.

First of all, as to freight transport, we should give top priority to the development of the newly designed northwest freight and passenger transit line in the New Territories. It will not only be conducive to the significant alleviation of the heavy demand on the road network of Hong Kong in terms of freight traffic but equally importantly, it will also be beneficial to commuter flow in New Territories East.

In so far as commuter flow is concerned, residents of New Territories East are badly in need of a mass transit system which will alleviate the existing traffic congestion, quite apart from the relief expected to be provided by the facility at Sham Shui Po. However, I have the impression that the Government is unreasonably dragging its feet — after studying the notion of developing an Easter Corridor in the government consultative document, which is to say the development of an East Kowloon Route linking up Ma On Shan with the Tseung Kwan O Mass Transit Railway (MTR) Extension. It is repeatedly stressed in the consultative document that given the low population of Ma On Shan before 2011, thus the projected low patronage, the proposed railway line is not expected to be financially viable. But whether the population is really too low to sustain the rail line is certainly an open question. There are at present close to 100 000 people living in the district. Do these people have to wait another 18 years before they will be able to enjoy the convenience of a mass transit railway system?

If the Government has to delay the development of the two above-mentioned railway lines due to constraints in the allocation of resources, why then does it not give private corporations a free hand to proceed with the railway developments so that the project could be completed ahead of time? Indeed, at this point in time, both Sun Hung Kai Properties Limited and Cheung Kong (Holdings) Limited have indicated their interest in the development of the rail line in New Territories East. The developers estimated that their development projects will be completed at around 1997, with train service running at a frequency of three minutes, if work is to start towards the end of this year.

The railway route proposed by Sun Hung Kai goes from Ma On Shan to Tai Wai and then links up with the Diamond Hill station of MTR system. The railway route proposed by Cheung Kong, on the other hand, goes from Ma On Shan via Tai Wai to Cheung Sha Wan where it will link up with the Sham Shui Po station of the Airport Railway. It is not my intention to comment now on the relative advantage of either proposed route but let me just say here that at least the two developers are convinced that their proposals are commercially viable. I cannot see why the Government should worry for them and maintain that the railway development will not be viable until the year 2011.

With regard to the Tseung Kwan O MTR Extension, it is not surprising that no consortium has indicated an interest to participate in its development. The reason is that the Government has always maintained that the line will be developed by the Mass Transit Railway Corporation (MTRC). I cannot see the reason why the Government has to insist that the lead has always to be taken by MTRC in terms of railway development. Other than MTRC, is there not any private corporation which will have the capability of building the Tseung Kwan O MTR Extension? The consultative document suggests that the Tseung Kwan O MTR Extension will not be completed until the year 2001. Though that projected completion year is certainly earlier than 2011, the residents of Tseung Kwan O will still have to live with the gloomy prospect that in the eight

years between now and 2001, they will continue to have to endure the inconvenience stemmed from traffic congestion. This is proof that in the planning of new town development the Government has failed to make comprehensive study and has adhered to all too inflexible policy and that residents of new towns have been made helpless victims consequently. The present situation is that whereas MTRC has been reluctant to build the Tseung Kwan O MTR Extension, it is just as reluctant to let private developers build it either. This is a no-win situation with one reluctant player being allowed to monopolize the show to the exclusion of other would-be eager contenders.

In this regard, Mr President, I would like to urge the Government to take public opinion into serious consideration, regarding the issue of railway development. What is more, I would also like to appeal to the Government to abandon its conservatism and show greater flexibility in its use of the strength of private capital. Even the building of a rail line for the Southern District of Hong Kong Island is not out of the question provided there is interest in the private sector in such a project and impetus is provided to expedite its development, so that the targets of the Government's transport policy can be met as soon as possible.

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

MRS MIRIAM LAU (in Cantonese): Mr President, the Western Corridor proposed in the Railway Development Study includes a port rail link, long-distance passenger and freight lines and suburban commuter service. The fact is that it is very important, and a matter of great urgency, that the Western Corridor should be built as a major artery to facilitate the flow of traffic, bearing in mind the sharp increase in Sino-Hong Kong freight transport in recent years, the steadily rising number of cross-border travellers, and not least, the enduring development of the new town, in the northwest New Territories. Notwithstanding the Government's determination to build Route 3 (Country Park Section) to relieve the congestion of the Tuen Mun Highway, it is anticipated that the population of the northwest New Territories will reach 900 000 by the year 2001. In this regard, on top of the building of a road network, it is also very important that a rail link with the urban districts should also be built for the region. As a matter of fact, it has already been suggested in the Second Comprehensive Transport Study Report that the Government should provide the residents of Tseung Kwan O and the northwest New Territories with a new rail link to the urban districts in order to tie in with the development which is going on locally and to attract more people to move in. What is more, it has also been suggested that construction of the two rail links should commence in the early part of the 1990s. Admittedly, the Railway Development Study accords priority to the development of the Western Corridor and the Tseung Kwan O MTR Extension. However, these projects will not be completed until the year 2001, which effectively is already a few years behind schedule. This delay will indirectly hold up the development of the northwest

New Territories and the new town development of Tseung Kwan O. It is for this reason that the Government should proceed with the projects expeditiously rather than cause any further delay to them.

The Western Corridor will provide at the same time three different kinds of services, namely, cross-border freight transport service, long-distance passenger and freight service, and suburban commuter service. It goes without saying that the best way to achieve cost-effectiveness is by combining freight service with passenger service. However, the Western Corridor railway is currently designed for only double-track operation. One is sceptical as to whether this rail line is able to cope with the three different kinds of services, which are expected to face increasing demand, all at the same time. If, however, the railway is to be upgraded to four-track operation, one is equally sceptical as to whether this will entail a significant increase in the building cost. Then one wonders whether it is possible to build at this point an alternative independent railway line for the suburban commuters in the northwest New Territories, and whether this will indeed be the more pragmatic way to cope with demand. All of these options should command the Government's consideration. Indeed, even if the Western Corridor railway is able to cope in terms of providing all of the proposed services, it is clear that in so far as the suburban commuters are concerned, the major beneficiaries of the plan in its present form will be the residents of Yuen Long and Tin Shui Wai. Residents of Tuen Mun will still have to take the Light Rail Transit (LRT) to Tin Shui Wai to switch to the northwest New Territories line. It is not only going to be quite costly, but also very troublesome and time consuming as well. The Government's position is that it will cost an extra \$6 billion to extend the northwest New Territories line to Tuen Mun and that it is therefore not worthwhile to do so. Furthermore, the extension of the new train service to Tuen Mun will be a heavy blow to the the business of LRT and will effectively put it out of business. The fact is that the high construction cost of the railway section from Tin Shui Wai to Tuen Mun is attributable to the need for the railway to be located underground as it approaches Tuen Mun Town Centre. If the extension is only built to reach the northern part of Tuen Mun, then at least the cost of the underground works will be saved and the total cost required will be significantly reduced. Such a scenario will not be the most satisfactory. Yet it can at least be said to have taken into account the interests of Tuen Mun residents up to a certain degree. The Government should actively consider this proposal. I tend to think that the extension of the northwest New Territories line into the LRT service area will not seriously affect the business of LRT. With the steady increase in the population of Tuen Mun, the residents have gradually accepted LRT as their daily transport. Even if an urban rail link is to become available, it will not reduce residents' demand for LRT service. On the contrary, if we were to veto the proposal to provide a more direct urban rail link for the residents of Tuen Mun in order to protect the interests of LRT, then it would not only be unfair to Tuen Mun residents, but also demonstrate that the Government is insensitive to the long-term development needs of the Tuen Mun district as a whole. From the perspective of Tuen Mun residents, the most convenient arrangement is certainly the provision of a direct rail link between

Tuen Mun and urban areas, or alternatively a link up with urban areas via the Airport Railway. Either way, the circuitous route, the extra mileage, which will be necessitated in terms of getting to Kowloon through Yuen Long before crossing over to Hong Kong, will become unnecessary. It is for this reason that I am convinced that the Government will eventually and expeditiously proceed with the plan to build the Tuen Mun to Yam O extension, under the kind of pressure which I have mentioned just now. This project is tentatively incorporated into the long-term railway development plan. However, with the completion of Container Terminal 10 on Lantau Island after 1997, the building of the second port rail link crossing to Lantau Island cannot be delayed any further. As a matter of fact, the building of a railway line from Tuen Mun to Yam O will become a matter of course to coincide with the building of a second port rail link. With the gradual completion of the rail network projects one after another, coupled with Route 3 and Tuen Mun Highway, the northwest New Territories will become highly accessible. It may very well become the most accessible region throughout the territory.

Mr President, the purpose of building a port rail link and the provision of long-distance passenger and freight lines is mainly to facilitate the development of Sino-Hong Kong passenger and freight transport service. In this regard, such a plan will have to tie in with the ever expansion of the rail network in China. It is unfortunate that the study only briefly touches upon the railway development in China and that it is silent on the specific link-up and complementary arrangements between railway developments in China and Hong Kong. It is stated in the report that some papers have already been submitted to the relevant Chinese government departments for their perusal. However, it is also obvious that China has not been properly consulted beforehand. I think that it is up to the Hong Kong Government to get in contact with the appropriate Chinese Governments as soon as possible so that the various recommendations made in the study will be properly discussed and assurance can be secured that these recommendations will be complemented by corresponding arrangements on the Chinese side. In this way the overall plan will achieve the most satisfactory results.

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

MR JIMMY MCGREGOR: Mr President, this again is rather a strange motion. The Government issues a public consultation document on recommendations contained in the Railway Development Study. The intention is to seek public comment on these recommendations and any other comment which organizations and individuals wish to provide. The motion urges the Government to take account of these views before deciding on how to proceed. I should have thought that the two things go hand in hand. Perhaps Mr LAU has the unkind thought that the Government will do what it wishes, advice and comment notwithstanding. Surely the Government would not think along these lines. Do not forget that it is not this Government but the SAR Government which will have the job of building the network. So the study is a bit theoretical

unless we assume that China will accept the recommendations and our endorsement of them.

The Coalition of Service Industries (CSI) has welcomed the publication of the Railway Development Study and has recognized the economic importance of the expansion of the rail network in Hong Kong and its connection with the Chinese rail system to provide rapid transport for goods and people moving in both directions. The Coalition believes that the most important proposals are those concerning the movement of freight by rail. The proposal to link Lo Wu to the Kwai Chung container port is strongly supported especially given the Chinese intentions to provide similar rail links to Shekou and the port of Yantian. The Government is urged to plan on the basis of bringing the Lo Wu/Kwai Chung line into use by the year 2000. No doubt planning decisions will have to be made well before then. This line will carry essential container traffic and maintain Hong Kong's importance as the hub of container shipping services for the southern China region.

The CSI has provided some details in its public statement. There is no need for me to repeat them here. It is sufficient to say that the CSI is in full support of the general recommendations as is the Hong Kong General Chamber of Commerce and the Hong Kong Democratic Foundation.

All these organizations recognize the need to liaise closely with the Chinese authorities in the further development of this important rail network. I would very much hope that China will see the advantage of planning co-ordination with the Hong Kong Government so that much can be done before the SAR Government is given the task of actually building the new lines.

Mr President, I support Mr LAU's thinking and the general philosophy behind his motion. I hope China will respond.

MR PETER WONG: Mr President, the Railway Development Study (RDS), hailed by many as a forward looking attempt to build a modern transport infrastructure catering to increasing China-Hong Kong passenger and cargo traffic, is accepted with reservations by local environmentalists. We are justifiably concerned about the low priority given to the environmental cost/benefit studies in the Scheme.

In shortlisting the candidate schemes using the eight principal criteria, emphasis was inevitably placed on the economic factor. The environmental assessment carried out was in fact a non-quantitative environmental review which neglected the total economic values of the proposed projects. No attempt was made to weigh up the economic disbenefit values.

A cursory look at the RDS Volume 3 shows that the Scheme will cause significant environmental disturbances in the rural areas, quite apart from the noise, construction and community severance impacts in densely populated

urban areas. The coastal link between Kam Tin and Tsuen Wan which crosses the Tai Lam Country Park will be particularly intrusive, although it may be avoided by tunnelling which involves much higher costs. The Kam Tin-Lo Wu railway line running adjacent to the Mai Po Marshes has severe environmental impact on the countryside conservation area. And routes in the urban corridors traversing water gathering grounds, and the elevated line from Aberdeen to Ap Lei Chau all have significant environmental ramifications. How the effects a railway has on Mai Po can be made acceptable is totally beyond me.

Mr President, I take issue with the cost/benefit analysis conducted for this study which was extremely narrow in focus. Resources allocation decisions should be made on the basis of social returns which should include deductions for pollution, costs of land losses, travel time of users and resource costs of transport operators. The study did not use these environmental evaluation criteria to select the Preferred Network Development Options, taking for granted that all candidate schemes could be made environmentally acceptable. Whilst an environmental impact assessment (EIA) will be done at the preliminary design stage on scheme-by-scheme basis, this Railway Development Study is the only opportunity to consider the overall costs and benefits in environmental terms. Once the routes and schemes are fixed, the EIA will merely be an implementation assessment. In this connection, I would like to ask whether a full cost/benefit analysis has been done to assess the need for the proposed port/rail interface at the Lantau Container Port.

The assumptions made by the study for the future public transport provision were based on the scale of existing road-based services. It is a reactive strategy that does not consider the overall benefits of a rail-based transport system against a road-based one. Most importantly, the principal objectives of rail links do not include the all-important need of environmental improvements, at a time when the pernicious effects of road traffic on Hong Kong's air quality is being increasingly felt.

As we look forward to a transport network designed to maintain Hong Kong's highly successful economy, let us also look at the railway development strategy in its full environmental dimensions. We need assurance from the Administration that we will have a railway system that is fast, efficient as well as environmentally friendly to carry us right into the 21st century.

Mr President, with these reservations, I support the motion.

PRESIDENT: I understand that Mr LEE Wing-tat and Dr Samuel WONG have other commitments. So I will call on them first.

MR LEE WING-TAT (in Cantonese): Mr President, the vast majority of the people of Hong Kong want to live at locations with good transportation services. Yet, to the many residents of the new towns, good transportation services are

just a dream. They consider themselves very lucky already if it happens that there is no traffic jam. Since the 1960s, in view of the shortage of land and housing in the urban areas, the Government has been systematically redistributing the population to suburban new towns. Overcrowding in the urban areas has thus been averted. The residents of the new towns have been like pioneers. They have contributed to the development of the suburban areas, of which the most conspicuous examples are Sha Tin and Tsuen Wan. However, the new towns provide a very limited number of jobs. Many of the residents have to commute to the urban areas to work. The Government's transportation planning is poor. As soon as the population began to grow in a new town, the problem of inadequate transportation services would arise. This happened to the residents of Tsuen Wan, Kwai Chung and Sha Tin in the early days. It is happening to the residents of Tuen Mun and Yuen Long now.

The United Democrats of Hong Kong (UDHK) think that the residents of the new towns, who are often plagued by traffic jams, owe this pain of theirs to the Government's failure to make proper plans for roads and transportation services while it concentrated itself on the redistribution of population. The residents of the new towns not only have to pay expensive transportation fare; they also waste an inestimable amount of time in traffic jams and slow-moving traffic. This is very unfair. The Government absolutely has the responsibility for remedying immediately the problem and preventing the same problem from arising in emerging new towns. The full solution is to build good mass transit systems connecting all new towns to the urban areas. The UDHK think that the primary goal of building railways is to satisfy the transportation needs of the public. Making money is the secondary goal. Besides, the Government should make a commitment of its own accord to railway construction.

Railways have many advantages. As off-road mass carriers, they are fast and cause no air pollution. The right thing to do is to encourage the public to increase the use of railways and decrease the use of motor vehicles. So we think that the railway development plan should be implemented as early as possible.

The Consultation Paper on railway development is clear in spelling out the feasibility and the completion dates of three main railway projects. They are the Western Corridor, the MTR branch line serving Tseung Kwan O and the Eastern Corridor. The proposed completion dates for the first two projects are 2001 and 2011 respectively. However, the Paper does not specify a completion date for the MTR branch line for Hong Kong Island West.

The UDHK take exception to the various projects as proposed. First of all, because of the serious inadequacy of transportation services for Tuen Mun and Yuen Long, and because the population there is continuing to expand, the Western Corridor should be completed as soon as possible, certainly not later than 2000. This will answer the residents' actual needs. Besides, container transportation between China and Hong Kong is about to double in volume. The Western Corridor will carry some of the container traffic. It will help greatly to reduce the pressure on the highways due to their use by container trucks.

Railways are the cheaper, faster and safer means of transportation compared with container trucks. The early completion of the Western Corridor will be good for Hong Kong both economically and in terms of solving commuters' problems. Tuen Mun has a population of over 400 000; yet there is no long-term plan to build a mass transit system connecting it to the urban areas. This does not make sense. The UDHK strongly urge the Government to extend the Western Corridor beyond what has been proposed. Its terminal should be located at Tuen Mun town centre instead of Tin Shui Wai as proposed. The Honourable Michael HO will be discussing this point in greater detail. In addition, we call for the early construction of the Tseung Kwan O MTR extension and the Ma On Shan-Diamond Hill section of the Eastern Corridor. The Honourable FUNG Chi-wood will be making a proposal on this.

Hong Kong Island West has long been plagued by narrow and congested roads. These roads will be under great pressure upon the completion of the Western Harbour Crossing. The Government must give consideration to the construction of an MTR branch line serving Hong Kong Island West. The Honourable YEUNG Sum of the UDHK will well on this point.

The Consultation Paper on railway development makes no direct mention of the airport railway which is in fact very important to Hong Kong's transportation situation as a whole. First of all, the passenger load at the MTR stops along Nathan Road has reached saturation point during rush hours. The airport railway will take some of the passenger load off this underground aorta, with beneficial results for the majority of Kowloon-side passengers. Secondly, the airport railway should be completed in time so that the Western Corridor, when completed, may be linked to it; otherwise, the Western Corridor's importance will be greatly diminished. When the time comes, the MTR Tsuen Wan Line will certainly be unable to cope with the additional passenger load coming from Tuen Mun and Yuen Long. So we urge the Sino-British Joint Liaison Group to bear the interests of the people of Hong Kong in mind and to reach an early agreement on the financial arrangements of the airport railway.

Mr President, we understand that the simultaneous undertaking of several railway projects needs a lot of investment. Great financial support will be needed. We hope that the Mass Transit Railway Corporation and the Kowloon-Canton Railway Corporation will be given the primary responsibility for implementing the railway development plan. They are public organizations and are more mindful of their social responsibilities when compared with those in the private sector. Besides, they have a lot more railway construction and operating experience. They will be equal to the task of building and operating the new railways, which will be connected to their existing systems. However, if they cannot afford on their own to put up the huge amount of capital required, the Government will have the responsibility to assist them by injecting capital, permitting them to undertake property development or offering loans on favourable terms. This will enable them to complete the new railways smoothly.

Also, to dispel China's suspicion that the Hong Kong Government is trying to exhaust Hong Kong's reserves or to incur an excessive debt under cover of railway construction, the Government has the responsibility to explain to China that Hong Kong really needs the railways and that any delay of the railway projects by either side will have a negative impact on people's livelihood and the overall economic situation of Hong Kong.

Mr President, the UDHK request that the Government, after consulting the public, immediately proceed with preparations for the projects, which will solve the problem of Hong Kong's inadequate transportation services. This is a matter of utmost urgency.

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

DR SAMUEL WONG (in Cantonese): Mr President, the Government is inviting the public to make comments on the recently completed consultation paper entitled Railway Development Study (RDS). However, the Paper provides very little information. This makes it difficult for the public to make meaningful and constructive comments. In fact, the public must be given a chance to understand fully the findings of the study, the recommendations and their possible impact, and the issues must be thought over carefully before a development strategy is to be formulated.

I have studied several important issues with members of the engineering profession. I hereby offer some comments for discussion.

After the Airport Core Programme projects are completed towards the end of the century, Hong Kong will have a sound infrastructure and will be able to maintain its position as the region's centre of communications and financial services. A railway development strategy will help Hong Kong to maintain its leading position. It will help to promote Hong Kong's economic growth and to improve the quality of life in Hong Kong. Regrettably, according to the recently completed RDS, while China will invest heavily in railway development with a view to meeting Guangdong Province's expected growth in demand for passenger traffic up to year 2005, the railway development in Hong Kong is too slow to meet even existing demand. Unless the Government invests heavily in passenger and freight transport services between China and Hong Kong, in railway tracks and in railway stations, Hong Kong will certainly fall short of future demand. Hong Kong obviously does not have a sound railway development strategy formulated in proper co-ordination with China. The recently completed three-volume RDS fails to provide a full discourse on China's railway development. Last week, the Chinese Ministry of Railways announced that train fares would be increased by 40% and that the resultant increase in earnings would be spent on renovating tattered railway networks and on improvements including the electrification of high-capacity trains on the Hong Kong run and the introduction of container freight services. Therefore, I

urge the Government to expand the scope of the RDS, paying special attention to the above-mentioned areas.

The railway development strategy must not be studied in isolation. Consideration must be given, for instance, to the possible repercussions that railway development will have for rival means of passenger and cargo transport, the possible impact of the recently completed Freight Transport Study and whether Hong Kong can afford all the planned projects. To put it in another way, what will be the consequences for Hong Kong if the failure to undertake a particular project results in lost opportunities, and which projects should be carried out on a priority basis? Definitely, the findings of the Freight Transportation Study must be carefully considered. We may recall how railway development competed with other modes of transport in Europe and North America during the past 25 years. Most long-distance freight transport, that is, freight transport over distances in excess of 1 000 km, have switched to trucks. This has happened because trucks provide convenient door-to-door service. For inter-city travels over distances of under 350 km, people prefer the express highways. I have learnt from an infrastructure tender invitation from the Guangdong Province that the construction of express highways and domestic airports is proceeding at a very fast pace in southern China. Regrettably, the RDS makes no mention of this or of the potential competition inherent therein. I like the idea of high-speed trains serving southern China, but the RDS gives no positive thought to this idea. Therefore, most of the decisions must be left to China. China is now building a semi-express railway between Guangzhou and Shenzhen. Hong Kong must make the necessary preparations if it wants to take advantage of this new Chinese project, in which the trains will eventually be upgraded to express trains. The most important preparation is the linking of the Lantau Line and the express Airport Railway to this semi-express railway between Guangzhou and Shenzhen. I think that there has to be a railway station where passengers can connect to the sub-regional passenger services and the China-Hong Kong railway. The Government can provide this facility at the new Sham Shui Po Station or at the West Kowloon Station. I urge the Government and the MTRC to make a study of the pros and cons of building multi-purpose train stations and providing connecting service to the sub-regional passenger services and the China-Hong Kong railway. I urge them to make a careful assessment right now. Action must be taken at once because the designing of the new West Kowloon Station has already begun. According to the RDS, any change in the design of the Sham Shui Po Station will necessitate zoning changes and major changes in the outline development plan. As planned infrastructure projects have been provided and development commitments have already been made at the West Kowloon Station, it would be difficult to make any changes. So the Government must act at once to enable the West Kowloon Station to accommodate the express train service between China and Hong Kong.

Citing economic factors, the RDS does not endorse a direct railway link between Tuen Mun and Tsuen Wan. The cited factors are hard to argue against, particularly because the Government has already proposed a long-term outer Western Corridor Railway project, which will link up Tin Shui Wai, Tuen Mun,

Yam O, Lantau Port, Green Island and Sheung Wan. For the short-term solution of Tuen Mun's problem of inadequate transportation services, the bus and ferry services in Tuen Mun should be improved at once. The Government should be prepared to subsidize these services if necessary. The Government should immediately turn over the construction and operation of Route No. 3 to private companies. This will enable construction work to begin soon for the interim solution of the problem of inadequate transportation services.

The MTR Extension to Tseung Kwan O should be handled on a priority basis and built soon. The development of this branch line will solve two problems, that is the new town will be easily accessible and more land will be made available for easing the very tight housing situation. After the branch line is completed, the land on top of the five MTR stations can be used immediately for housing development to accommodate 50 000 people. And the Tseung Kwan O new town can be developed soon to its full potential. It makes no sense in logic at all if the development of the new town is delayed by the absence of proper transportation services.

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

MR MOSES CHENG: Mr President, as Hong Kong has developed its infrastructure over the last few decades, government officials have, from time to time, projected a dilemma over the priorities between investment, development and growth. This recurrent theme is again rearing its head in the latest discussions over the Railway Development Study (RDS). It is a bit like trying to answer the age-old question of "Which came first — the chicken or the egg?"

Like this ambiguous query, some planning perspectives have called into question the degree to which new town and population growth should precede infrastructure investment and development, and vice versa. I believe that the most appropriate approach to planning new infrastructure, particularly the heavy rail additions recommended in the RDS, lies in the realization of the symbiotic relationship that exists — with growth spurring development, and development in turn serving as a catalyst to new growth.

If we examine the case of the "high priority" recommendation for the Tseung Kwan O extension, planned to connect the southeast New Territories, it is easy to illustrate both the demand and benefits. The latest administration projections for Tseung Kwan O new town alone indicate that the population will more than double in less than seven years to approximately 250 000. By the year 2011, the population is expected to more than triple to 360 000. These figures may be considered to be amongst the most reliable available, and are sufficient, in and of themselves, to warrant the proposed rail extension. But any hesitation to actually invest in the needed infrastructure should be overcome when we calculate the probable growth impact of such investment.

The Planning Department has formed their forecasts on land supply-based estimates that are aggregated to constitute the total population of a new town for a particular year. While these straightforward growth projections satisfy the rationale for the rail service, they do not necessarily fully account for the character of growth which is compounded when such a service is in operation. In other words, the added convenience, efficiency, and ease of transport to Tseung Kwan O, Sai Kung, Clearwater Bay, and other areas affected, will offer additional attraction to development and a significant new incentive for population growth.

Currently, this new town is served only by buses, which will be facing a comparable demand to have additional road capacity built in order to cope with imminent congestion. The inevitable dilemma over the necessity of a rail investment arises from the variable capacity ceiling of growth in that vicinity. While no one disputes that Tseung Kwan O will reach a population of 250 000 before too long, and while many planners suggest that the development capacity is likely to be near 450 000, questions remain about the pace and likelihood of development is between these two disparate figures. Applying the above logic of interrelated factors of growth, history in Hong Kong would suggest that we will be better off opting on the side of prudently planning our infrastructure to accommodate growth, rather than erring on the side of small projections that force interim, instead of long-term solutions.

Economically, the proposed Tseung Kwan O line performs well under financial analysis with a projected 16% rate of return in 2001, and 22% by 2011. Such impressive numbers bolster the Railway Development Study's recommendation of an "early implementation" for this particular line. Financial proformas also reveal solid rates of return for investors and a relatively low subsidy, which support the overall viability of the project. Assuming the median between the most conservative population projection and the approximate full capacity of this new town (at or around 350 000), the railway link should be seen as a necessary and easily justifiable infrastructure investment.

I have focused on this critical segment of the Eastern Corridor because I believe its demand and potential benefits are indicative of many of the proposals made in the "RDS". I would like to now briefly single out my support for the proposed Western Corridor, which is perhaps the project of highest priority because of its macroeconomic significance to Hong Kong's competitiveness and long term prospects for prosperity. I need not reiterate the data which supports the demand curve for this project, but it is necessary to understand that the demand is immediate and multi-faceted.

China's modernization of its rail facilities, particularly the Beijing to Kowloon line now under construction, and its rapid trend toward containerization necessitates co-ordinated planning of our rail infrastructure to retain our position as one of the country's most important trading ports.

A significant increase in freight capabilities and trafficking will not only provide an economic boost which heightens Hong Kong's importance to the mainland; it will alleviate needed capacity and offer greater comfort, now and in future years, to the many commuters and international passengers that continuously stream north and south through the territory. With approximately half of all China's visitors entering through Lo Wu by rail each year, it is reasonable and necessary to support the RDS recommendations to enhance trade, tourism, and even family ties.

On the one hand, the recommendations for both corridors make sense as economically viable and pragmatic investments in developing a stronger future for Hong Kong. On the other hand, if we irresponsibly fail to consider the importance of the RDS, it will mean more than stagnating or standing still; it will mean eroding our prominence as the chief hub of trade on the South China Sea. Nor must we trap ourselves in the dilemmas of debate over which comes first: development or growth. Each is inextricably linked to the dynamics of the other. Like "the chicken and the egg", the relationship between development and growth, or investment or prosperity, is cyclical and symbiotic, with one producing the other. To keep the natural cycles of Hong Kong turning for the benefit of all our people, I urge support for the expansion of rail infrastructure in the territory.

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

REV FUNG CHI-WOOD (in Cantonese): Mr President, the rapid expansion of the population of Hong Kong in the 1960s and the 1970s prompted the Government to shift some of the population to the new towns of the New Territories. Meanwhile, many residents of the new towns still have to commute to urban areas to work. This has resulted in the sharp demand for transport link between suburban areas and urban areas. It has effectively led to traffic congestion in Sha Tin in the 1980s. And at this point in time, traffic congestion becomes a perennial problem in Tuen Mun and Kwai Chung. As a matter of fact, the traffic problem in Tuen Mun has already deteriorated beyond the point of toleration. The new towns which are emerging in Ma On Shan, Tseung Kwan O and Tin Shui Wai are all experiencing rapid population growth. If no mass transit system is provided to these towns, it is expected that they will be faced with the same problem which has beset Sha Tin and Tuen Mun. It is for this reason that the Government should go ahead with the building of the relevant railway system as soon as possible in order not to repeat the same mistake again. The railway system will save the residents of these new towns enormous amount of time which they may have to spend on transport.

It is estimated that the population of Tseung Kwan O will reach 200 000 in a few years' time. When completely developed, Tseung Kwan O will be able to accommodate a population of over 400 000. In this regard, an extension of the Mass Transit Railway service to Tseung Kwan O is commercially viable. The United Democrats of Hong Kong (UDHK) are not convinced that the rail

link should be provided only after a population target is reached. Rather, the rail link should be provided in the first place to give impetus to the population intake. This will not only have the benefit of jacking up value of land and attracting more people to settle in the new town, but also just as importantly, end the new town residents' traffic nightmare. The newly completed Railway Development Study (RDS) also takes the view that the MTR link for Tseung Kwan O is commercially viable and the economic return involved is going to be substantial. In this connection, the United Democrats are convinced that the building of the Tseung Kwan O MTR link should not be delayed any further. It will be most conducive to the development of Tseung Kwan O as a whole if the link is completed before the year 2000.

Sha Tin will have a population of over 1 million as it moves into the 21st century. It is obviously not enough for Sha Tin to be serviced by just one mass transit system, to wit, the Kowloon-Canton Railway (KCR). Furthermore, the service of KCR has already reached capacity along its urban Kowloon section during peak hours. The UDHK take the view that the Eastern Corridor is a railway line with excellent potential. It can provide direct service for Ma On Shan, Sha Tin East and Sha Tin South. The combined population of these areas will be more than 300 000 by the year 2011. Indeed, there is potential for further development to extend from Ma On Shan to Sai Sha. In order to relieve the heavy transport demand in Sha Tin as a whole and to allow Sha Tin East and Ma On Shan to have the opportunity to achieve more comprehensive development, UDHK suggest that the construction timetable for the Eastern Corridor running from Ma On Shan to Diamond Hill via Tai Wai should be advanced. It would be best for the project to be completed in the year 2001. I am aware that to advance the timetable for the railway project is going to pose problems in terms of financing. It is for this reason that I would like to appeal to the Government to give serious consideration to the feasibility of private participation. For example, franchise for property developments atop stations may be granted to private developers in exchange for the construction of the railway section so that it will be completed at an early date.

In so far as the improvement of its existing service is concerned, KCRC will be spending billions of dollars over the next 10 years to upgrade its present facilities. Meanwhile, we tend to think that the most urgent improvement which has to be made is the increase of train frequency at peak hours. Also, the facilities of the Kowloon Tong station have to be upgraded so that commuters will be able to switch from one mass transit system to the other in a more efficient manner. The cross border facilities at Lo Wu station should also be improved at the same time. The insufficient access and exit points at Kowloon Tong station means that commuters have to take a longer time to switch to MTR. There is therefore an urgent need for the provision of additional access and exit points on the platform as well as additional elevator service. With the ever-increasing volume of both passenger and freight traffic between Hong Kong and China, it is expected that KCR will continue to play a very important role in terms of providing a cross border transport service before the completion of a second cross border railway.

It is true that the RDS has taken the environmental impact into consideration. However, it has confined itself to some crude assessment and suggestions. There is no way for us to get to know the extent of impact which the railway development will have on nearby residents. The Western Corridor in particular will cut through densely populated areas in Tsuen Wan before reaching its terminus. I would like to request that the Government conduct a more detailed environmental impact assessment before commencing work. This is in order to forestall unbearable nuisance to nearby residents when the rail line is under construction, as well as after it has become fully operational. I hope that the Government will take the initiative to conduct an early consultation with residents and relevant district boards which will be affected by the noise pollution. If there is a need for a noise barrier to be installed, then it must be installed when the construction of the new railway line is underway. KCRC's unedifying example should not be repeated, in which the railway operator has not installed a noise barrier until now.

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

MR FREDERICK FUNG (in Cantonese): Mr President, due to the time constraint, I will only focus on the railway network involving Tseung Kwan O and New Territories West in the consultation paper — Railway Development Study (RDS).

I would like to first of all talk about the Tseung Kwan O district. The Government has been developing Tseung Kwan O into a satellite town for quite some time now. It has now a population of over 150 000. However, according to the recommendations made in the RDS, Tseung Kwan O will not have a Mass Transit Railway (MTR) link until the year 2001, conditional on its reaching a certain population target. Both the Association for Democracy and People's Livelihood (ADPL) and I take the view that the provision of the MTR link after the year 2001 will inevitably mean that residents have to wait for a long time. Both ADPL and I take the view that it is up to the Government to bring forward the provision schedule expeditiously. The reason is that even if the population growth of Tseung Kwan O has not reached the target set by the Government at the time the MTR link is provided, the convenient transport link will nevertheless provide an impetus to the population intake and the accelerated development of Tseung Kwan O. In so far as the Mass Transit Railway Corporation (MTRC) is concerned, the project promises profitable business prospects. As to the residents who have been living in Tseung Kwan O for a number of years, this is going to be an early end to their transport plight.

Meanwhile, the railway development of New Territories West is characterized by a government design which is freight-transport-oriented. The result is that Tuen Mun, despite its population of 400 000, does not have a direct rail link with urban areas.

As a matter of fact, Mr Kevin O HYDE of the Kowloon-Canton Railway Corporation (KCRC) Board of Directors made a public statement last year that a relevant study had been completed by the corporation with the recommendation that a direct freight train line would be built linking up Shenzhen of China via Yuen Long with Tseun Wan and Container Terminal 8 in Kwai Chung and that passenger service would only be playing a secondary role. As a matter of fact, the recommendations made in respect of the Western Corridor in the consultation paper today is almost entirely based on the blueprint of KCRC. Basically, I would consider that there are two points made in the consultation paper regarding the railway development of the northwest New Territories which are worth examining in greater detail.

Firstly, there is a lack of breakthrough in terms of the transport links between China and Hong Kong, with too much emphasis placed on a unidirectional approach. Admittedly, the RDS stresses the need for the development of a second railway line to take the pressure off the heavy traffic demand on the border and relieve the present congestion at the Lo Wu border crossing which has already reached its saturation point. However, once on the other side of the border, traffic still tends to get bogged down on the Shenzhen area. Apparently, if the Shenzhen side is not able to adopt corresponding measures, then chances are that the Shenzhen municipality will become a bottleneck in the passenger and freight traffic. Besides, it appears that the RDS is exclusively focused on the transport system involving the northern and southern bound traffic from Hong Kong to China and vice versa, without proper assessment being made of the development in the western part of the Pearl River Delta and the close relations between the two places in terms of their transport needs. One clear message received by ADPL during its visits to Zhuhai in March and May this year is that the Zhuhai-Tuen Mun Bridge, or the Lingding Bridge, will be constructed very soon and that the project, if the green light is given, will reach Lan Kok Tsui, which is situated in the western part of Tuen Mun, in 1998. Meanwhile, it has been disclosed by the authorities of the Zhuhai municipality that by the time the bridge is completed, the daily vehicular volume will be about 40 000 vehicles, by the most conservative estimate. If this forecast is anything to go by, one may have some idea as to the enormous traffic demand on New Territories West, particularly Tuen Mun, by that time.

Meanwhile, with the completion of the Zhuhai-Tuen Mun Bridge, it is expected that most of the passenger and freight traffic which presently come from the Pearl River Delta via Shenzhen to Hong Kong will use instead the new facility instead of converging on Shenzhen. Failing to take such possible route change into consideration, the RDS is inevitably not comprehensive enough. This also betrays the lack of initiative and imagination. It has been disclosed by the Zhuhai authorities that the Hong Kong Government was verbally informed of the construction of the Zhuhai-Tuen Mun Bridge in mid-1992. Now that the Zhuhai municipal authorities are conducting a study of the Zhuhai-Tuen Mun Bridge project, I would wonder why the RDS fails to take into account that project as a possible development.

Secondly, it is very likely that the over-concentration of highway and rail development on the central and western part of New Territories will lead to congestion. The proposed developments with regard to rail links, Route 3, Tuen Mun Highway and Castle Peak Road invariably either converge on or otherwise pass through the new towns of Tsuen Wan, Kwai Chung and Tsing Yi. With the successive development of Container Terminals 8, 9, and 10, it is expected that enormous pressure will be exerted on the region whose transport network has to handle a very high volume of traffic, particularly of container vehicle traffic. Traffic congestion will get entirely out of hand in the event of mishap. It is for this reason that ADPL and I have the following recommendations to make in respect of the traffic condition in the northwest New Territories.

- (1) In the light of the near confirmation of the construction of the Zhuhai-Tuen Mun Bridge, the Hong Kong Government should swiftly conduct a comprehensive study of complementary traffic arrangements for New Territories West. Although it is mentioned in the RDS that, in the long run, a Yuen Long-Tuen Mun-Yam O railway line will be built to connect with Lantau Island, it is going to be quite circuitous and time consuming for the traffic to go from the International Airport on Lantau Island via the Zhuhai-Tuen Mun Bridge to the Pearl River Delta Region. It is for this reason that I would propose the extension of the airport rail line to Tap Shek Kok of Tuen Mun where it will split in two routes as follows.

The first route will go northeast to the exit point of the Zhuhai-Tuen Mun Bridge at Lan Kok Tsui. It may even extend to Zhuhai over the long term. This route will not only enable the International Airport at Lantau Island to directly link up with the two China-Hong Kong border points (Shenzhen and Zhuhai), it will also enable residents of Tuen Mun to reach urban areas through this railway network. Its most important function is to divert traffic flow and enable container vehicles bound for Container Terminals 8, 9 or 10 to bypass Tsuen Wan, Kwai Chung and Tsing Yi.

- (2) The relevant government departments should take a long-term view to examine the role which Hong Kong will play in the overall development of the Pearl River Delta region in the future. And it is in this light that a railway network which can better serve Hong Kong should be planned.

With these remarks, I support the motion.

MR MICHAEL HO (in Cantonese): Mr President, as a member of the New Territories West Branch of the United Democrats, I would like to take the

opportunity tonight to reflect some of the views which we at New Territories West share. It would seem that there has been a lot of good news this year in respect of the improvement of the transport link between New Territories West and the rest of Hong Kong. First of all, there has been the disclosure in the Budget speech of the plan to build Route 3 (Country Park Section). And only yesterday the Finance Committee approved the Tuen Mun Highway Extension Project. Meanwhile, the recommendation to build the Western Corridor has also been made in the public consultation paper, Railway Development Study (RDS). Unfortunately, all of these documents are just no more than documents; they have yet to bring about any real improvement to the traffic problem in the Tuen Mun district.

The New Territories West Branch of the United Democrats has conducted a signature campaign this month in Tuen Mun and Yuen Long. We have put forward two proposals.

- (1) We request that the terminal point of passenger transport service provided by the Western Corridor to link up the northwest New Territories with urban areas should extend from Tin Shui Wai, as suggested in the consultation paper, to Tuen Mun town centre.
- (2) Consideration should be given again to the building of a coastal rail between Tuen Mun and Tsuen Wan.

Although the signature campaign was conducted in a relatively short time, it drew a very enthusiastic response from over tens of thousands of residents. As a matter of fact, the signatures collected represent the discontent of residents with the traffic problem. They are also an appropriate reflection of the very strong wish for an improvement to the transport service on the part of the residents of New Territories West who have been beset with the long-standing traffic problem in their geographically isolated district.

The greatest discontent of the residents of Tuen Mun lies in the fact that the Government has virtually ignored their external transport needs. Although it is mentioned in the RDS that one of its principles is to ensure that transport needs should be efficiently met, it would appear that the external transport needs of Tuen Mun have not been taken care of at all. Both the proposed Route 3 (Country Park Section) recommended in the Comprehensive Transport Study and the proposed Western Corridor of the RDS will use Yuen Long as both the starting and finishing points of transport services for the whole of New Territories West. Looked at objectively, the roads and facilities will alleviate the present pressure on Tuen Mun Highway. But it is also true that the journey time between Tuen Mun and the urban districts will definitely not be shortened eventually and the development of Tuen Mun will not stand to benefit in any way. Rapid social development means that there is a need for us to have a highly efficient mass transit system because that is the only way a community can stay competitive. If we look into the future, we cannot see any further

development plan in respect of transport facilities for the residents of Tuen Mun. It is expected that the population of Tuen Mun will reach 500 000 as it moves into the 21st century. Tuen Mun has a higher population projection than Tsuen Wan and Tsing Yi. It is quite surprising that Tuen Mun does not actually have an efficient mass transit system although it is such a vast district which is virtually cut off from the urban districts. One is prone to ask quite legitimately whether Tuen Mun is dragging its feet in community development.

The Government suggests in the consultation paper that the residents of Tuen Mun can actually take LRT to Tin Shui Wai and then use the various train services of the Western Corridor to get to their destinations in various districts. This is most unfair to the residents of Tuen Mun. First of all, the Government understands very well that Tuen Mun residents have to use the train services to get to various districts. But it has seen fit to extend these train services only to Tin Shui Wai. The residents of Tuen Mun are therefore required to use LRT to make their train connection; they are made to switch trains quite unnecessarily. There are even cases where the commuter has actually to switch modes of transport in the course of an LRT journey. The commuter has to end up paying a few dollars more in transport fare. I am compelled to ask the Government why Tuen Mun residents in particular are made to waste more time on transport as well as dig deeper into their pocket for making that more circuitous journey. Why are Tuen Mun residents made to contribute to the coffers of the LRTC? Is this arrangement actually aimed at ensuring that LRTC will have enough revenue to take its fair share of the new road network business?

As a matter of fact, LRT is just a kind of "latter-day trams". It is as costly as it is inefficient and it has never ceased to be a cause of complaint by residents since its commissioning. There are certainly many people who cannot wait for this monster to disappear from the face of the earth. I can say quite categorically here that the building of LRT has been a mistake as well as being part and parcel of a thoroughly disastrous policy. It is for this reason that we should not commit any more resources to LRT project so that LRT will not continue to compete with the other modes of transport on the road. In this regard, the New Territories West Branch of the United Democrats strongly urges the Government to relocate the terminal point of the passenger transport line of the Western Corridor from Tin Shui Wai, as suggested in the present paper, to Tuen Mun town centre. According to the final report of the railway study, the relocation will shorten the journey time from Tuen Mun to Central by 30 minutes. The journey time will be 30 minutes less than the present alternative of taking a bus to get to Central via Tuen Mun Highway. The relocation will bring great benefits to the 500 000 residents of Tuen Mun in the 21st century.

We are very upset about the vetoing, in phase two of the railway study, of the proposal for a coastal railway line to be built between Tuen Mun and Tsuen Wan. Given the fact that Tuen Mun Highway has already reached saturation and Route 3 will reach saturation in the year 2011, we are hoping that

the authorities concerned will reconsider in the meantime the proposed coastal rail project between Tuen Mun and Tsuen Wan as soon as possible.

With these remarks, I support the motion.

DR YEUNG SUM (in Cantonese): Mr President, I think the first and foremost principle underlying railway development should be the satisfaction of the public's transport needs in a manner that reduces the burden on roads and mitigates traffic jams. Therefore, in planning to build a railway, one must not proceed from commercial considerations alone. One must not think solely in terms of the profit account. Nor must one use a railway project as a means of inducing new land development so that more money in the form of proceeds from land sales may go into the Treasury. One must not do these things while totally ignoring how the residents of developed areas are suffering from traffic congestion in the absence of mass transit systems.

In line with the above principle, I am especially concerned by the absence of mass transit systems for Hong Kong Island West and Hong Kong Island South. When the Hong Kong Island Line of MTR was being built during the 1980s, the project was limited to the section between Chai Wan and Sheung Wan. The residents of Hong Kong Island West were forgotten. Nor has the present Railway Development Study (RDS) published by the Transport Branch put the MTR's Sheung Wan-Kennedy Town extension back on the agenda or laid down a specific timetable for its construction. The residents of Hong Kong Island West, who have been waiting for good news for a long time, are once more disappointed. I think that the Kennedy Town extension should be built, no matter if one considers demographic factors, geographic factors or road conditions.

First of all, demographically, the Highways Department's 1989 Hong Kong Island West Traffic Study estimated that the population of Hong Kong Island West would have exceeded 200 000 by 1996. The residents of Pokfulam and Wah Fu Estate, too, would benefit indirectly from the extension, to which they would be able to connect. Therefore, the extension would serve more than 310 000 people. This does not yet include the increase in population due to the redevelopment of Hong Kong Island West, where slum buildings abound. Such redevelopment may be triggered by the completion of the Western Harbour Crossing in 1997.

Geographically, the northern side of Hong Kong Island has been developed on hillsides. Therefore, roads are generally narrow and sloping. Nor is there space left for broadening the existing roads or building new roads. Until MTR is extended to Hong Kong Island West, the residents there have to rely on connecting services of a surface transport type. This increases the traffic burden on the roads and worsens traffic jams. Also, for geographical reasons, much of the vehicular traffic from the populous Hong Kong Island South must proceed via the road network of Hong Kong Island West in order to

access other parts of Hong Kong. This adds the last straw to the traffic burden on the roads in Hong Kong Island West. Such a situation has serious consequences. The major roads in Hong Kong Island West are already over-burdened; this limits the development of Pokfulam, where population growth has to be controlled so as to lighten the traffic burden on the roads. The result is the waste of land resources.

Therefore, the development of a mass transit system for Hong Kong Island West cannot brook one moment's delay. Because surface space is limited, a surface railway will not solve the traffic problem. Instead, it will cause worse traffic jams. Only the construction of the Kennedy Town extension of MTR's Hong Kong Island Line is the plan that will provide the proper solution for a properly defined problem.

The Transport Branch and MTRC have been thinking that the project has to wait until the completion of the Green Island reclamation project, for then MTR's Kennedy Town extension can be built as part of MTR's Sheung Wan-Green Island line. Such thinking really disregards the existing needs of Hong Kong Island West. There are now vast tracts of newly reclaimed land in Hong Kong Island West. It extends from Sheung Wan to Kennedy Town and includes the Belcher Bay, where a reclamation project has begun this year. Actually, the Transport Branch can already study the laying of underground railway tubes in the reclaimed sites. The Kennedy Town section of MTR can be built first. In 10 years or so, as the Green Island reclamation project begins, the laying of underground railway tubes there can proceed simultaneously and this new extension of MTR can be connected to Kennedy Town. Only this is the practical approach.

Also forgotten are the residents of Hong Kong Island South. They have always had to depend on China Motor Bus Company and the housing estate service of Citybus Company for internal and external transport needs. Because of a dearth of competition, fares are high and the service is not satisfactory. I think that building a mass transit system for the populous Hong Kong Island South will not only satisfy the transport needs of that area but also introduce an element of competition that will result in improvements in public transport services there.

RDS as published by the Transport Branch, mentions a "medium capacity passenger transport railway" for Hong Kong Island South. It will run through the various housing estates in Hong Kong Island South and connect to MTR's Admiralty Station. This should be a feasible concept. The residents have a great need for such a train service. Regrettably, however, RDS lists the project only as a "long-term project" for future consideration. I think that the Transport Branch should consider dividing the medium capacity passenger transport railway for Hong Kong Island South into sections and building one section at a time. I mean that the section leading out of Hong Kong Island South should be built first. This will ease the pressure on the traffic bottlenecks — the

Aberdeen Tunnel and Pokfulam Road — in and out of Hong Kong Island South. It will also improve public transport services within the area.

In sum, the United Democrats of Hong Kong (UDHK) think that railway development should be studied on the basis of population needs. Railways should serve residents, help to improve traffic conditions and support economic development. Besides, the ordinary people, particularly the middle and low-income groups, have a greater need for mass transit systems. Therefore, effective railway development will further the interests of social equity and enable resources to be redistributed more rationally. The speeches made by Members from the UDHK a moment ago were all in line with such a principle and were all based on an overall consideration of Hong Kong's railway development needs.

With these remarks, I support the motion.

MR WONG WAI-YIN (in Cantonese): Mr President, the Transport Branch on 2 April published Railway Development Study (RDS), a public consultation paper. The paper proposes a number of railway projects including a Western Corridor Railway (WCR), an Eastern Corridor Railway and, for Hong Kong Island, a Medium Capacity Passenger Transport Railway. The paper also puts forth a number of long-term concepts that are not yet on the agenda, including mainly a Tin Shui Wai-Tuen Mun-urban areas railway and a railway between To Kwa Wan and Yau Tong.

Meeting Point feels that the announcement of the proposed railway projects has taken too long. In fact, three years and three months elapsed between the publication of White Paper on transport policy in January 1990 and the publication of the present consultation paper in April this year. RDS is no more than a further study of the same proposed projects that were already mentioned in The Second Comprehensive Transport Study. It should not have taken as long as 39 months. Meeting Point urges the Government to begin actual work on the various proposed projects expeditiously, so as to make sure that the inadequate existing railway system will be expanded substantively late this century and early next century, for easing the pressure on the transport services as the economy grows and living standards improve.

The consultation paper lists the Western Corridor suburban passenger transport railway, the long-distance passenger transport railway and the port railway as priority projects. Meeting Point welcomes this, which may be regarded as the Government's positive response to this Council's unanimous passage in November last year of my motion on the improvement of transport services in the northwest New Territories. However, Meeting Point is not happy with the proposed 2001 completion date or the proposed extension of the suburban passenger transport railway to only as far as Tin Shui Wai. The 2001 completion date means that the residents of New Territories West must wait another eight years before their internal and external transport knots will be

united. The extension of the suburban passenger transport railway to only as far as Tin Shui Wai means that the transport needs of the residents of Tuen Mun are totally disregarded. Therefore, Meeting Point suggests that WCR should be built simultaneously with Route 3 (Country Park Section) and completed before the proposed completion date; and that the suburban passenger transport railway should be extended with the relocation of its terminal from Tin Shui Wai to Tuen Mun. The passenger transport volume of the entire railway will thus be greatly increased. This will add to cost-effectiveness.

Meeting Point also has the following comments to make on the railway project between Tuen Mun and the urban areas, which is among the "long-term projects". We think that mass transit systems, particularly rail-based systems, are very important to economic development and to the quality of life. They provide the best solutions. Meeting Point thinks that railway development should achieve three objectives:

- (1) It should support the new airport and the westward shift of the sea port and bring a circular railway system to completion.
- (2) It should bring a second China-Hong Kong railway system to completion with due regard for the rapidly rising demand for passenger and freight transportation services between China and Hong Kong.
- (3) It should help to solve the problem of traffic jams in all areas; in particular, it should cope with the needs of population growth and industrial and commercial development in remote new towns. These needs include the need for "a second alternative" that can be used in an emergency.

In view of the above, Meeting Point thinks that there is a compelling case for a railway between Tuen Mun and the urban areas. The reasons for thinking so are:

- (1) Tuen Mun has a large population. The number of Tuen Mun residents using local and external transport services is rising sharply.
- (2) Tuen Mun Road and Castle Peak Road are already being used to capacity. The situation will become worse in the coming years.
- (3) The absence of a railway will hinder further industrial and commercial development in Tuen Mun.
- (4) The westward shift of the sea port means, among other things, the construction of a river trade terminal at Tuen Mun, which will lead to a sharp increase in local traffic.

For these four reasons, one can see that a railway leading out of Tuen Mun is required not merely for passenger transport as stated by the Transport Branch. It is required for both passenger transport and freight transport. Even if the railway is merely to have a passenger transport function, this will be an important function, for a sharply rising number of goods vehicles are using the roads.

Another thing is that the Tin Shui Wai-Tuen Mun-Yam O-urban areas railway project mentioned in the consultation paper is similar to one of the two alternatives suggested by Meeting Point. Meeting Point therefore finds such a railway project acceptable.

However, concerning timing, Meeting Point thinks that, based on the above analysis, a railway between Tuen Mun and urban areas should not be a matter of long-term planning, a matter not as yet put on any specific agenda. The project should be made a part of the WCR project and given the same priority as the railway project between Yuen Long and Tsuen Wan. A timetable for its completion should be set.

Some people note that the circular Tuen Mun-urban areas-Yuen Long-Tuen Mun railway as proposed by Meeting Point will have three sections: the Yuen Long-urban areas section, the Tuen Mun-urban areas section and the Tuen Mun-Yuen Long section. They therefore think that, considering financing needs and profitability, it may not be feasible to build all three sections simultaneously.

To this, Meeting Point has a three-point response:

- (1) In considering a transport facility, one must not consider its cost-effectiveness in isolation. Consideration should also be given to the facility as part of a city's infrastructure, to its effects on economic development and the quality of life. To say that the "unprofitability" of the project justifies disregarding the needs of the 1 million future population of New Territories West is to see the trees but not the forest.
- (2) If the problem is really one of investment and profitability, then the two railway companies (KCRC and MTRC) are quite capable of making the financing arrangements. This is amply shown by their past performance and by their ability to arrange financing for current development projects. Also, the availability of financing for a project depends on the project's expected profitability. The circular railway will be highly profitable.
- (3) Based on available information, if the three sections of the circular railway system are built simultaneously, then, in year 2000:

- (i) For the Yuen Long-urban areas section: the passenger volume will be 350 000, and the profit rate will be between 10% and 15%.
- (ii) For the Yuen Long-Tuen Mun section: the passenger volume will be 190 000, and the profit rate will be between 10% and 15%.
- (iii) For the Tuen Mun-urban areas section (via So Kwun Wat and Yam O): the passenger volume will be 140 000, and the profit rate will be between 5% and 10%.

In 2010, the passenger volumes of the three sections will rise to 400 000, 260 000 and 200 000 respectively. It is therefore clear that the circular railway system as a whole will be rather profitable. As for the increases in passenger volume, handling these additional passengers will be beyond the capability of the existing highways and any one of the three sections of the railway.

The buzzer sounded a continuous beep.

PRESIDENT: You have to stop, Mr WONG.

MR WONG WAI-YIN (in Cantonese): Mr President, with these remarks, I support the motion.

DR TANG SIU-TONG (in Cantonese): Mr President, the motion before us today can actually be expanded to read: the authorities concerned should, before the formulation of their policy, take the views expressed by members of the public into full consideration. I believe that Honourable Members as well as the public as a whole would find agreeable the proposition of public consultation before the taking of a policy decision. Indeed, I think even the Government would voice support to such a proposition publicly. However, whether the Government would actually match its public stance with real action is another matter. That is likely to be something which is rather difficult to predict. A friend of mine has described the way the Government handles public opinion in the following terms. He said, and I quote, "Public opinion is just like a lump of dough which may be fashioned into any shape you like — you can have a spherical or flat piece of dough." And the Hong Kong Government, he added, is just like a baker, who can transform lump after lump of dough into all sorts of cake. When the public wish to have a spherical piece of dough with which to make a cake, the baker will invariably flatten the dough into his desired shape and then say to the public, "This piece of cake is made of flour provided by you so you should have no complaint about it." The truth is that the dough has by then turned into a piece of cake, or as the Chinese saying would have it, the rice has already been cooked — the public will have to eat it, like it or not.

Traffic congestion in New Territories West has been a perennial problem which has come up on the agenda of this Council on countless occasions. Indeed, the minutes containing Members' remarks on the issue could add up to more pages than one would find in a voluminous telephone directory. Representations have been made by one group after another of New Territories West residents by various means, including signature campaigns, petitions and residents' rallies. They have been demanding the construction of a railway network which would connect Yuen Long via Tuen Mun with urban areas. Yet the Government has turned a deaf ear and completely ignored the pleas of the residents. The unanswered pleas of the residents are just like a lump of dough which has been arbitrarily distorted by the baker. The consultative document — Railway Development Study (RDS) — published by the Government in early April puts it in very clear terms that it presented a summary of recommendations which members of the public were welcome to comment on and that the Hong Kong Government would quite properly consider all of the views expressed before deciding on the next course of action. However, when the public had barely time to digest that lofty claim, government officials began reiterating the point on various subsequent occasions that, in order to ensure cost-effectiveness, the proposed railway line for the northwest New Territories will not route through Tuen Mun. The Government's move has betrayed its claim that the public will be duly consulted is after all cosmetic at best. The Government will not actually make any change to its original plan. As a legislator returned by direct election in New Territories West, I find the lack of sincerity on the part of the Government in this consultation exercise very regrettable.

Admittedly, the railway in the northwest New Territories proposed in the RDS has long-term economic benefits in terms of linking the northwest New Territories with urban areas. However, its failure to link up Tuen Mun with the rail line represents a neglect of the transport needs of over 400 000 residents living in Tuen Mun. According to the proposed plan, residents of Tuen Mun have to travel by Light Rail Transit (LRT) all the way to Tin Shui Wai to change trains there. This would mean that Tuen Mun residents have to spend more time on transport and to spend more money as well. What is more, the capacity of LRT has already reached saturation during peak hours. It is expected that the pressure on LRT will increase still further with the successive population intake by Tin Shui Wai and other newly completed housing estates. One is quite justifiably worried whether LRT will be able to cope with the increased passenger demand. Indeed, any mishap will result in the paralysis of the LRT system, and the northwest railway as well. I went with a dozen district board members to petition the Governor three months ago. The points which I have made just now were contained in our petition letter, which was jointly signed by all petitioners. We also proposed that the northwest railway should extend from Tin Shui Wai to Tuen Mun. That idea was again put forward by myself at a motion debate on land and waterborne transport policy in this Council on 5 May this year. Although the motion was unanimously endorsed by this Council, the Government has yet to respond positively to it. I hope that the

Government will be able to seriously think about doing something real good to the 900 000 residents who will be living in New Territories West.

Former Secretary for Transport Mr Michael LEUNG was worried that the extension of the northwest railway to Tuen Mun would drive the Kowloon Canton Railway Corporation (KCRC) out of business. While I have no intention to investigate the credibility of his remarks, I am nevertheless incensed by the fact that the Government has seen fit to sacrifice the transport needs of hundreds of thousands of residents for the sake of protecting the interests of a public corporation. Mr President, what sort of a policy is that which enriches KCRC at the expense of residents? What sort of a government is that which allows this to happen? As a matter of fact, the extension of the railway to Tuen Mun will not significantly affect the revenue of LRT, which will continue to be a significant mode of transport for residents travelling between the major housing estates within the district.

Recently, the Tuen Mun District Board has come up with, and endorsed, the following four proposals as its position:

Firstly, the Government should build a mass transit system to link Tuen Mun up with urban areas.

Secondly, the Government should build the rail section connecting Tin Shui Wai and Tuen Mun in the first phase of the project instead of leaving the issue for further discussion and decision until the year 2001.

Thirdly, the Government should give a specific date regarding the completion of the transport link between Tuen Mun and the Airport Railway.

Fourthly, the Government should review the RDS so that the external transport development of Tuen Mun will deal with the additional pressure exerted by the Zhuhai-Tuen Mun Bridge, if the project gets the green light.

I hope that the Government will seriously consider the views which I have expressed above, and accord a high priority to the construction of the northwest railway in the New Territories and an extension to Tuen Mun as well. The Government should likewise pay particular attention to the convergence of, and the link-up with, China's railway development and other transport links.

Quite apart from the strong demand of New Territories West residents for railway service, residents of Sai Kung, Tseung Kwan O and Hong Kong Island West have an equally strong, and equally legitimate, demand for the relevant MTR extensions to meet their transport needs. It can be seen that, in comparison, Tseung Kwan O residents are relatively more fortunate in the sense that the MTR extension to Tseung Kwan O has initially been planned for the year 2001. It is indeed disappointing that there is no mention in the RDS of the

MTR extension to the northwestern part of Hong Kong Island at all, despite the fact that resident there have been campaigning for it for more than 10 years.

Mr President, I understand that priorities have to be set in terms of railway development and that in matters of priority there are bound to be differences in opinion between the Government and members of the public. I would like to urge the Government to be more responsive, to listen more to people's views and to look at the real situation with an open mind. I would like to urge the Government not to make its policies on the whim of the bureaucrats working away in their office so that development will not go ahead contrary to the wishes and the real needs of residents.

Mr President, with these remarks, I support the motion. The views which I expressed just now also represent the thinking of Mr LAU Wong-fat on this issue.

MISS CHRISTINE LOH: Mr President, due to unfortunate miscommunication between myself and Mr LAU Wah-sum, we were unable to amend the motion in time to specifically include the importance of the environment. I feel that, had the motion been amended to include the environment specifically, it would send a stronger message to the Administration.

The only environmental reference in the Railway Development Study public consultation document is that "as off-road mass carriers, railways reduce pressure on the road network, stimulate land development, and cause no air pollution." This rather casual aside belies the urgent need to review our transport policy for the sake of our community health.

The Administration's stated policy is "to achieve and maintain an acceptable level of air quality to safeguard health and well-being of the community." But at the same time, official projections tell us that our air quality could deteriorate by 50% by the end of the decade if no significant changes are made.

There are approximately 434 000 motor vehicles on our roads at present. The Transport Department estimates that there will be 600 000 vehicles by the year 2001. Motor vehicle emissions account for the bulk of the nitrogen dioxide in the air we breathe, and vehicles powered by diesel contribute most of the particulates.

Although the Environmental Protection Department is looking at various ways to control air pollution, air quality is expected to still deteriorate by 30% even if all the various measures could be carried out to the full. This is not something which the community can accept — 30% deterioration is still far too much.

In view of these dire official statistics, it is unclear to me whether the policy-making levels of government are willing and able to take a co-ordinated view of the relationships between transport, pollution and public health. If the Administration is pooling expertise at the Secretariat level, I would expect to see the environmental aspect of rail transport more directly addressed in the Study.

During the examination of the Draft Estimates of Expenditure for the current Budget, the then Commissioner for Transport said that "resources permitting, priority will be given to the development of railways, which are more environmentally friendly, in our future transport system."

This is the key to reducing air pollution. After all, the bulk of our vehicle increases are good vehicles shuttling between Hong Kong and South China. If neither the Study nor the Second Review of the 1989 White Paper on the Environment (expected in November) are to discuss how to find the necessary resources — and we are talking about substantial funding for the development of a rail system — then the efforts of the Environmental Protection Department to reduce air pollution will only cure part of the problem. Our air quality will continue to deteriorate at a level which endangers our health.

In looking at rail development, we now know more about the environment and should be able to take an integrated approach to development. We must also consider noise pollution and land development. The Study sees a better rail system will stimulate land development. All well and good if that means rehabilitating wastelands. But we must protect rigorously our few remaining areas of unspoiled countryside and any further encroachment.

Mr President, with these thoughts, I nevertheless support the motion.

SECRETARY FOR TRANSPORT: Mr President, I am grateful to Honourable Members for their wide ranging comments and their thoughts on priorities for future railway construction. As Honourable Members are aware, we are at present consulting the community. It is particularly helpful to have your views at this time, before we begin firming up our railway strategy.

Background

Railways account for more than a quarter of travel within the territory and over 90% of cross border passenger trips. They are a vital part of the territory's transport network and essential in sustaining economic, social and land development.

The White Paper on Transport Policy recognized the important role of railways in our transport infrastructure. As off-road mass carriers, railways reduce pressure on the road network, stimulate land development, and cause no air pollution. They are a reliable, comfortable and high speed transport mode.

However, they are also very expensive to build and run, less flexible in their operation than bus services and financially viable only if they serve densely populated areas.

Against this background, the White Paper noted that a Railway Development Study would need to reassess railway projects recommended by the Second Comprehensive Transport Study and to determine their priority, alignment and timing, taking account of the decision to build the Airport Railway. The Study was commissioned in December 1991, with the aim of ensuring three things:

First, that our railway system will be able to satisfy the transport needs of the community, taking into account our growing intercourse with China, a subject on which we have exchanged views with the rail and planning authorities in Shenzhen and Guangdong;

Secondly, the increasing demand for cross border travel; and

Thirdly, the need for large numbers of people to commute from the new towns to the urban areas.

Overview of the study recommendations

In broad terms, the Study proposes two strategic railway corridors — a new Western Corridor through the northwest New Territories (NWNT) and an enhanced Eastern Corridor using the existing KCR main line as the backbone.

The Western Corridor would be a new railway from Lo Wu via Kam Tin to the urban areas. It has been proposed that it should accommodate three services — a freight rail line from the border to the Kwai Chung container port, a long-distance service to China and a commuter service from Tin Shui Wai and Yuen Long to the urban area. Usage by three train services will enhance the viability of the line. The Western Corridor is accorded a high priority in the Study and is recommended for implementation by 2001.

The Eastern Corridor comprises three schemes which will strengthen and expand the rail system in the eastern part of the territory. These are:

Firstly, improvements to the existing KCR line, notably at Kowloon Tong Station;

Secondly, an MTR extension from Lam Tin to Tseung Kwan O; and

Thirdly, a new East Kowloon Route which may eventually link Ma On Shan with Kowloon.

Of the Eastern Corridor schemes, the highest priority is accorded to improvements to the existing KCR line and the Tseung Kwan O MTR Extension, both of which are recommended for implementation by 2001.

The Study has also recommended as a lower priority the provision of an intermediate capacity system linking Admiralty and the southern part of Hong Kong Island, and, in due course, a new east-west railway on the future Central and Wan Chai reclamation, from Central to Tin Hau. In the longer term beyond 2011, the Study suggests consideration be given to an outer western rail corridor, linking western Hong Kong Island, Green Island, Lantau, Tuen Mun and Tin Shui Wai. This will include a rail link to Lantau container port.

Public consultation

The Study was completed in March this year. Since the findings are of great public interest, a public consultation exercise was started in April. Its closing date is 31 July. A wide variety of views have so far been received from district boards, commercial and professional organizations and individual members of the public. I wish to make it clear that we welcome comment on the proposals. We do not have a closed mind regarding the findings contained in the consultation document, and I regard the views expressed by Honourable Members today as being particularly valuable.

Response to Members' points

It might be helpful if I could now make a number of preliminary replies to the more important points raised in this debate. I must emphasize the use of the word "preliminary". As I mentioned earlier, the consultation exercise will not end until 31 July. The various views, comments and interests expressed will need to be carefully sifted and evaluated, before we can firm up a final strategy and the relative priorities of various projects. Finally, the strategy will need to be further discussed with the rail and planning authorities in China given Hong Kong's growing intercourse with China and agreed with the Chinese side of the Joint Liaison Group, since most, if not all, the expenditure will fall to be met after 1997. But within this constraint I can at present make the following comments.

Western Corridor

In expressing their views on the Western Corridor, some Members have commented that the proposed railway does not provide direct access to Tuen Mun. Our consultants recommended an alignment via Yuen Long because this will accommodate three rail services, that is, passenger and freight lines to China and a commuter service to the NWNT. This will make the unit cost of each of the services cheaper. The consultants believed that the needs of Tuen Mun residents could be met by upgrading the Light Rail Transport (LRT)

so that it would provide an adequate feeder service from Tuen Mun to Tin Shui Wai and Yuen Long, where users could transfer to the Western Corridor.

Extension of the proposed Western Corridor from Yuen Long to Tuen Mun Town Centre was estimated by the consultants to cost about \$6 billion. The Study recommended, therefore, that it should probably be implemented at a later stage. One reason for the high cost of the extension is that the section within Tuen Mun town would have to be located underground, on operational and environmental grounds.

Having said this, I wish to emphasize, again, that we do not have a closed mind on the question of extending the proposed rail system to Tuen Mun and it will be considered further, before the strategy is finalized.

I have noted with interest some Members' suggestion of a Tuen Mun extension from Tin Shui Wai to Tuen Mun North, instead of the town centre, so as to remove the need for the costly underground section of the railway. This proposal will be considered seriously.

Alternatives to the preferred Western Corridor alignment

Some Honourable Members have suggested alternatives to the recommended Western Corridor alignment.

Tsuen Wan to Tuen Mun Coastal Route

One of the alternatives is the Tsuen Wan to Tuen Mun Coastal Route. The Study found that because of the difficult terrain this would be extremely expensive to build, costing about \$12 billion. The alignment could only be used for a commuter service and would not be a suitable route for cross-border passenger and freight services. The constrained alignment along the coast would also mean that future upgrading and expansion would be difficult and expensive.

Proposed Zhuhai Bridge

One Member asked about the possibility of linking the Western Corridor to the proposed Zhuhai Bridge. The Zhuhai Bridge proposal came to light fairly recently and it is difficult to comment on it before we are formally consulted by the Chinese authorities. The Railway Development Study obviously could not have taken account of this proposal. If and when plans are received, they will certainly be looked at by the Hong Kong Government in the context of the whole transport network for the NWNT, including our railway proposals.

Port rail link

Mr LAU Wah-sum has asked about the capacity of the road system in the Kwai Chung area and its ability to cope with traffic using the proposed container rail terminal, if this was located in the backup area of CT8. I would repeat again that our proposals are at the conceptual stage. Certainly when we begin detailed discussion on implementation, road capacity will be very carefully considered. One advantage of the CT8 site would be that container vehicles could have exclusive use of a system of internal roads between the rail terminal and the container berths, without interfering with normal traffic.

Needless to say, the freight rail link with China would enhance Hong Kong's role as a port and generally reduce pressure on the road system from cross-border traffic.

Tseung Kwan O MTR Extension

Some Members have said that the Government has delayed the construction of the MTR extension to Tseung Kwan O. This is not the case. In the past we have said that the rail line would be desirable on transport grounds when the new town population reached 270 000 people. The Railway Development Study has now said that the Tseung Kwan O MTR Extension will be viable when the new town population reaches 340 000, but that it should be in place when the population reaches 250 000 people. According to the latest development programmes, the new town will have a population of 250 000 by the year 2001 and 360 000 in the year 2011. The Railway Development Study has thus confirmed our earlier statement with a more refined population threshold.

*East Kowloon Route**Timing*

Honourable Members have questioned the rationale for recommending that the East Kowloon Route be implemented only by the year 2011. This rail line is not as financially robust as the high priority projects. The reasons are:

Firstly, the rail line will be very expensive to build since a major section of the alignment has to be underground;

Secondly, in part it runs parallel to the existing MTR and KCR lines, and thus will be competing for patronage with these existing services rather than creating new railway patronage;

Thirdly, since the existing KCR has reserve capacity for some years to come, it would be more economical first to exploit this reserve, for example through improvement to the Kowloon Tong MTR/KCR Interchange, before embarking on new rail projects in this area; and

Fourthly, according to present land use assumptions, development of the South East Kowloon Reclamation will offer relatively low patronage for the proposed railway.

The proposed East Kowloon Route is dependent on the scale and intensity of development on the reclamation, which is now under study. We will be in a better position to judge the performance of this proposed route on completion of this study later in the year.

South Hong Kong Island line

The South Hong Kong Island line is considered to be a low priority compared with the more essential projects such as the West Kowloon Corridor and the Tseung Kwan O MTR Extension. At a construction cost of nearly \$6 billion, the project would need substantial subsidy before it could be made financially viable. The land implications would need to be assessed very carefully, particularly if it seems likely private sector requirements for property development rights to help fund the railway would exceed the land necessary to build the line and its associated stations and depots.

Proposed MTR extension to Kennedy Town

An MTR extension from Sheung Wan to Kennedy Town would attract little patronage, and therefore the study has recommended that the implementation of this line should be timed to coincide with the Green Island reclamation. Essentially the extension will not be viable until Green Island reclamation is developed. We should not lose sight of the fact that the road system in Western District will in any case be improved with the construction of the Western Harbour Crossing.

Private sector proposals

Mr President, I would now like to turn to two general subjects raised by Honourable Members. First, private sector initiatives to develop railway systems are welcomed and such proposals will be very carefully considered on their merits by the Government. Provided that the proposals meet our transport objectives, and provided further that these proposals would serve the interests of both the community and the investor, we would be willing to consider private sector participation as a means of facilitating the creation of essential rail links.

Some private sector proposals have been received in recent months. In our consideration of these proposals, we must be prudent about the land development implications and whether the proposals are in line with our transport planning, environmental, and other requirements.

Environmental aspects

Secondly, Honourable Members have noted the need to ensure that railway proposals meet our environmental standards. Environmental impact has in fact been taken into account throughout the Study evaluation process. Preliminary environmental reviews have been carried out for the rail projects to ensure that they would not present insurmountable environmental difficulties. Before implementation of individual projects, full environmental impact assessments would be carried out to ascertain the problems involved and to devise suitable mitigation measures.

The way ahead

As to the way ahead, Mr President, as I mentioned earlier, the public consultation exercise will not end until 31 July. The various views, comments and interests expressed will need to be carefully analysed, before we firm up a final strategy with indications of relative priorities between projects. This will then be put to the Executive Council for advice, after which we intend to publish a statement of our railway development strategy, for consultation with the Transport Panel of this Council and with the Chinese side of the Joint Liaison Group.

Once again I am grateful to Honourable Members for giving this important subject such a thorough airing in this Chamber today. The motion will have the support of the *ex officio* Members.

PRESIDENT: Mr LAU, do you wish to reply? You have 8 minutes 10 seconds.

MR LAU WAH-SUM (in Cantonese): I would like to thank Members for their active participation in this motion debate. It is also hoped that the discussion in this Council will arouse the public's interest to devote more time to the study of the Railway Development Study and to put forward more views. I trust that having heard the abundance of complicated proposals made by other Members, the Secretary for Transport will tend to accept my proposal, a proposal I put forth a few years ago and that is that Hong Kong needs a railway board to co-ordinate the job. The two railway companies should be merged and placed under the jurisdiction of the railway board. At present, the two railway companies develop independently of each other, demonstrating no co-ordination whatsoever. The Light Rail Transit is a by-product of such inco-ordination.

Furthermore, I would like to bring up a few points and hope that the Secretary would give them due attention:

Firstly, rail development in Hong Kong must be in line with rail development in China. The issue regarding the connection with the Guangzhou-Shenzhen express rail and the bridge in question as mentioned by Mr TAM Yiu-chung and several other Members should deserve the Government's attention;

Secondly, I hope that the Government will not plot the development of railway on the basis of population threshold. As pointed out by many Members, the extension of rail links *per se* will induce population growth. It is therefore unnecessary to wait until the population reached a certain threshold before a rail extension is provided;

Thirdly, there are many ways by which the private sector may participate in rail development. Take for an example: the Lam Tin to Quarry Bay Extension is actually a private investment project, which is leased, upon completion, to the Mass Transit Railway Corporation. I trust that many MTR passengers are not aware that this extension is a private development project. It is evident, therefore, that private developers may participate in the development of some sections, not necessarily an entire rail line.

Fourthly, on the East Kowloon MTR Route, I very much agree with the Secretary for Transport in saying that it is very costly and not easy to get it off the ground, as it were. In view of this, I propose that the Ma On Shan Extension be developed separately. Now the project is put on ice until the construction of the East Kowloon Route is underway so that the former can link up with the latter. It is not necessary to do so because up to the present, I am not yet sure whether the East Kowloon Route will be constructed or not. The cost of that route is really prohibitively high and difficult to build.

Finally, I would like to raise the point that all Members do not find the two target years acceptable, as laid down in the Study, that is 2001 and 2011 respectively. It is hoped that they can be advanced by five years at the least. As for those works which need to be carried out immediately, it is hoped that the Government will come to a quick decision. We cannot wait until 2001 to have the rail links. They should be built as soon as possible.

Finally, I would like to urge again the Government to seriously consider the setting up of a railway board to oversee this rather complicated issue. With 1997 drawing near, we must co-ordinate with the Guangdong authorities or indeed the Chinese authorities in rail development. A railway board is a significant requisite.

I would like to express my gratitude to Members once again for their active participation in this debate. Thank you, Mr President.

Question on the motion put and agreed to.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW moved the following motion:

"That in relation to the Waterworks (Amendment) Regulation 1993 published as Legal Notice No. 195 of 1993 and laid on the table of the Legislative Council on 9 June 1993, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance for amending subsidiary legislation be extended under section 34(4) of that Ordinance until 21 July 1993."

MRS SELINA CHOW: Mr President, I move this motion which seeks to extend the time for considering the Waterworks (Amendment) Regulation 1993 published as Legal Notice No. 195 of 1993 to 21 July 1993.

This piece of subsidiary legislation was laid on the table of this Council on 9 June 1993. The normal expiry date for amendment by the Legislative Council is 7 July 1993, that is today, unless it is extended by resolution to 21 July 1993. In order to allow more time to fully consider the rationale and justification for some hefty increases as proposed in the subsidiary legislation, it is necessary to extend the expiry date for amendment.

I will be moving five other motions for extension of time in respect of subsidiary legislation on fee increases for the same reason.

Mr President, I beg to move.

Question on the motion proposed.

MR LAU CHIN-SHEK (in Cantonese): Mr President, as I said the day before at the meeting of the Economic Services and Public Utilities Panel, while the Administration is currently conducting an overall review of the charging and rate of return policies of public utilities, it is not appropriate to continue using the return rate of 7% of the average net fixed assets value as the basis for water charges. In fact, there has been in the past few years a surplus of \$500 million from the operation of water supply services. There is absolutely no urgency in increasing water charges.

Furthermore, the Administration's argument that if there is no increase in water charges this year, the operation of our water supply services will incur a deficit is open to doubt. According to the information submitted to this Council by the Administration, the proposal of increasing water charges this year will only bring an additional revenue of some \$340 million to the Administration. As I said just now, the annual surplus from the operation of water supply services in the past few years has all exceeded \$500 million. So there is no reason to substantiate the claim that a deficit will emerge if there is no increase in water charges. After the present motion moved by Mrs Selina CHOW is carried, I think we should set up a committee to examine the proposal concerning increase in water charges. Also, I hope that the Administration can by then give an explanation in response to my query above.

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

Question on the motion put and agreed to.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW moved the following motion:

"That in relation to the Immigration (Amendment) Regulation 1993 published as Legal Notice No. 202 of 1993 and laid on the table of the Legislative Council on 9 June 1993, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance for amending subsidiary legislation be extended under section 34(4) of that Ordinance until 21 July 1993."

MRS SELINA CHOW: Mr President, I move this motion standing in my name on the Order Paper which seeks to extend the time for considering the Immigration (Amendment) Regulation 1993 published as Legal Notice No. 202 of 1993 to 21 July 1993.

As I mentioned before, this is one of the motions for extension of time, the reason for which I have already given.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW moved the following motion:

"That in relation to the Marriage Reform (Fees) (Amendment) Regulation 1993 published as Legal Notice No. 203 of 1993, and laid on the table of the Legislative Council on 9 June 1993, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance for amending subsidiary legislation be extended under section 34(4) of that Ordinance until 21 July 1993."

MRS SELINA CHOW: Mr President, I move this motion standing in my name on the Order Paper which seeks to extend the time for considering the Marriage Reform (Fees) (Amendment) Regulation 1993 published as Legal Notice No. 203 of 1993 to 21 July 1993 for the reason I have just given.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW moved the following motion:

"That in relation to the Births Registration (Special Registers) Ordinance (Amendment of Fifth Schedule) Order 1993 published as Legal Notice No. 207 of 1993, and laid on the table of the Legislative Council on 9 June 1993, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance for amending subsidiary legislation be extended under section 34(4) of that Ordinance until 21 July 1993."

MRS SELINA CHOW: Mr President, I move this motion standing in my name on the Order Paper which seeks to extend the time for considering the Births Registration (Special Registers) Ordinance (Amendment of Fifth Schedule) Order 1993 published as Legal Notice No. 207 of 1993 to 21 July 1993 for the same reason that I have just given.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW moved the following motion:

"That in relation to the Deaths Registration (Special Registers) Ordinance (Amendment of Fourth Schedule) Order 1993 published as Legal Notice No. 208 of 1993 and laid on the table of the Legislative Council on 9 June 1993, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance for amending subsidiary legislation be extended under section 34(4) of that Ordinance until 21 July 1993."

MRS SELINA CHOW: Mr President, I move this motion standing in my name on the Order Paper which seeks to extend the time for considering the Deaths Registration (Special Registers) Ordinance (Amendment of Fourth Schedule) Order 1993 published as Legal Notice No. 208 of 1993 to 21 July 1993 for the reason I have given.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW moved the following motion:

"That in relation to the Marriage Ordinance (Amendment of Second Schedule) Order 1993 published as Legal Notice No. 210 of 1993 and laid on the table of the Legislative Council on 9 June 1993, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance for amending subsidiary legislation be extended under section 34(4) of that Ordinance until 21 July 1993."

MRS SELINA CHOW: Mr President, I move this motion standing in my name on the Order Paper which seeks to extend the time for considering the Marriage Ordinance (Amendment of Second Schedule) Order 1993 published as Legal Notice No. 210 of 1993 to 21 July 1993 for the reason I have just given.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

PRESIDENT: The next item on the Order Paper is a motion to be moved by Mr Ronald ARCULLI to amend the Declaration of Number of Proposed Districts and Specification of District Names Order 1993 laid on the table of this Council on 9 June 1993. Since Members have taken a decision to extend the time for considering this subsidiary legislation, I will not call Mr ARCULLI to move his motion.

Adjournment and next sitting

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 14 July 1993.

Adjourned accordingly at nine minutes to Ten o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Land Drainage Bill, Securities and Futures Commission (Amendment) Bill 1993 and the Merchant Shipping (Limitation of Shipowners Liability) 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 Constitutional Affairs to Miss Christine LOH's supplementary question to Question 4**

Of the four treaties mentioned in the main answer, reports due in 1994 under the following three are expected to be the last submissions on Hong Kong to be made by the British Government to the United Nations:

- (a) the International Covenant on Civil and Political Rights;
- (b) the International Covenant on Economic, Social and Cultural Rights; and
- (c) the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

However, one further report is expected to be made in April 1996 under the International Convention on the Elimination of All Forms of Racial Discrimination.

Annex II**Written answer by the Secretary for Security to Mr Howard YOUNG's supplementary question to Question 5**

The present strength of immigration staff at the airport is 618.

