

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 12 January 1994

The Council met at half-past Two o'clock

PRESENT

THE PRESIDENT'S DEPUTY
THE HONOURABLE MRS ELSIE TU, C.B.E.

THE CHIEF SECRETARY
THE HONOURABLE MRS ANSON CHAN, C.B.E., J.P.

THE FINANCIAL SECRETARY
THE HONOURABLE SIR NATHANIEL WILLIAM HAMISH MACLEOD, K.B.E., J.P.

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

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

THE HONOURABLE 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.

DR THE HONOURABLE DAVID LI KWOK-PO, O.B.E., LL.D., 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 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 PETER WONG HONG-YUEN, O.B.E., J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE VINCENT CHENG HOI-CHUEN, O.B.E., J.P.

THE HONOURABLE MOSES CHENG MO-CHI

THE HONOURABLE MARVIN CHEUNG KIN-TUNG, O.B.E., 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.

THE HONOURABLE ALFRED TSO SHIU-WAI

ABSENT

THE PRESIDENT

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

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

IN ATTENDANCE

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

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

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 HAIDER HATIM TYEBJEE BARMA, I.S.O., J.P.
SECRETARY FOR TRANSPORT

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

MR STUART WREFORD HARBINSON, J.P.
SECRETARY FOR THE CIVIL SERVICE

MR LAM WOON-KWONG, J.P.
SECRETARY FOR EDUCATION AND MANPOWER

MR TAM WING-PONG
SECRETARY FOR FINANCIAL SERVICES

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

Papers

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Antibiotics (Amendment) Regulation 1993.....	480/93
Allowances to Jurors (Amendment) Order 1993.....	481/93
Smoking (Public Health) (Notices) (Amendment) (No. 2) Order 1992 (Amendment) (No. 2) Order 1993	482/93
Smoking (Public Health) (Notices) (Amendment) (No. 2) Order 1992 (L.N. 413 of 1992) (Commencement) (No. 2) Notice 1993	483/93
Solicitors' Practice (Amendment) (No. 2) Rules 1993.....	484/93
Hawker (Permitted Place) (Cessation) Declaration 1993	485/93
Education (Overseas Tertiary Institutions) (Exemption) Order	487/93
Continuing Legal Education (Amendment) (No. 2) Rules 1993.....	488/93
Building Management (Fees) (Amendment) Regulation 1993	490/93
Port Control (Public Water-Front) (No. 3) Order 1993	491/93
Prisons (Hostel) (Amendment) Order 1993.....	492/93
Prisons (Amendment) (No. 2) Order 1993	493/93
Public Health and Municipal Services (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 8) Order 1993	494/93

Food Business (Regional Council) (Amendment) (No. 2) Bylaw 1993	495/93
Banking (Specification of Class of Exempted Charges) Notice	496/93
Banking (Amendment) Ordinance 1993 (94 of 1993) (Commencement) Notice 1993	497/93
Hawker (Permitted Place) Declaration 1993	498/93
Specification of Public Office	499/93
Boilers and Pressure Vessels (Amendment) Regulation 1994	1/94
Film Censorship (Amendment) Regulation 1994	2/94
Insurance Companies (Authorization and Annual Fees) (Amendment) Regulation 1994	3/94
Employees Retraining Ordinance (Amendment of Schedule 2) Notice 1994	4/94

Sessional Papers 1993-94

- No. 47 — Report on the Administration of the
Fire Services Welfare Fund
for the Year Ended 31 March 1992
- No. 48 — Hong Kong Council on Smoking and Health
Annual Report 1992-93
- No. 49 — The Government Minute in Response to the
Report of the Public Accounts Committee
Dated October 1993

Miscellaneous

Report of the Boundary and Election Commission

PRESIDENT'S DEPUTY: The President sends his apologies. He is indisposed this afternoon. We will start with an address.

Address**The Government Minute in Response to the Report of the Public Accounts Committee Dated October 1993**

CHIEF SECRETARY: Madam deputy, I refer to the remarks made by the Public Accounts Committee Chairman in his speech in this Chamber on 13 October 1993. I wish to report that the recommendation made by the PAC in its report 20A, that is, that important survey data should always be retained in some retrievable form for subsequent verification, is fully accepted by the Administration. The Chairman has suggested that in seeking funding approval, the Administration tends to fail to provide all the necessary details for Finance Committee to make its decision. This apparently stems from the PAC's view that when Finance Committee's approval for the compensation package for the Kowloon Walled City was sought, the Administration had not told Finance Committee that the cash compensation for absentee owners of multiple flats would be calculated at the same rate as that for their first flats. The Administration has since given its reasons for not drawing attention to this measure. Such reasons are set out in the PAC's report. I will only add that in seeking funding from Finance Committee the Administration's policy is to put forward all relevant facts. There is no intention whatsoever to withhold information deliberately. The Administration has noted the PAC's concern and has drawn it to the attention of heads of departments.

Oral answers to questions**Tax loan advertisements**

1. MR LAU WAH-SUM asked: *Regarding the tax loan packages recently advertised in newspapers by major banks in Hong Kong, will the Government inform this Council of:*

- (a) the existing legislation or measures to monitor the contents of this kind of advertisements; and*
- (b) what the Government will do to safeguard public interests where the contents of advertisements are found to be incomplete and inaccurate?*

SECRETARY FOR FINANCIAL SERVICES: Madam deputy,

- (a) There is no specific legislation or measure targetted at monitoring advertisements on tax loans. However, section 95 of the Banking Ordinance provides that where the Monetary Authority is of the opinion that any advertisement issued in connexion with the business of an authorized institution makes a statement or any representation

which is false, misleading or deceptive, he may, by notice in writing served on the institution, require the institution to withdraw or, as the circumstances require, remove, and cease issuing such advertisements and an authorized institution served with such a notice shall, accordingly, comply with that notice. The provision may apply to advertisements on tax loans inasmuch as it applies to other bank products and services.

- (b) There is no single piece of legislation devoted to the regulation of contents of advertisements but there are schemes of control governing advertising of specific products or services. For instance, there are statutory provisions regarding advertising of certain categories of financial instruments for the purpose of protecting investors; advertising in the electronic media is also subject to standards prescribed by statutory codes of practice which include a general requirement that the advertisements should be honest and truthful.

Advertisement is used by advertisers to draw public attention to the favourable aspects of the goods or services rendered in order to promote sale. It is therefore not possible to expect completely precise or objective information in an advertisement. Consumers must safeguard their own interest by exercising good care before taking a decision to procure the goods or service on offer and not relying solely on the wordings or descriptions in the advertisements.

In this regard, consumer education is an important element to help safeguarding the interests of consumers. The Consumer Council has been doing a very useful job here. On the question of tax loans, for instance, the Council has in January 1989 and again in February 1991 published articles in its publication *CHOICE* analysing the matter to the public. I understand that a future article on the subject will be published in the next issue of *CHOICE*.

In any event, should members of the public feel aggrieved by an advertisement, he may bring the matter up to the authorities concerned for possible action.

MR LAU WAH-SUM (in Cantonese): *Madam deputy, in order to ensure that the contents of such advertisements will not mislead the public, can the Administration request banks to specify in their loan advertisements the methods of calculating interest both on a monthly and on an annual basis?*

SECRETARY FOR FINANCIAL SERVICES: Madam deputy, there is more than one way of expressing the interest rate for tax loans and there is no objection whatsoever as to why the bank should not be publishing one rate

rather than the other. We have already conveyed this concern to the Hong Kong Association of Banks (HKAB) and asked them to urge banks to provide as much information about tax loans as possible.

MRS SELINA CHOW (in Cantonese): *Madam deputy, will the Administration inform this Council whether or not the government departments or the Consumer Council have kept a close eye on this kind of advertisements to ascertain that their contents are up to acceptable standards?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam deputy, the Consumer Council seldom or in fact has not received complaints about "tax loan packages". There is no requirement for tax loan advertisements to be examined before they are published. As to whether the contents of these advertisements are misleading, or whether they have violated the law, the Consumer Council, as I have said, did explain this in detail in the past two issues of its publication. Individual complaints, if any, will be referred to individual committees or the Hong Kong Monetary Authority for action.

MR PETER WONG: *Madam deputy, it is not so much a matter of providing a so-called full range of information to the public but a necessity to ensure consistency of the information. Will the Government request all the banks to adopt voluntarily a common definition of interest in relation to these tax loans so that they all compete on a level playing field and the public is not thereby misled?*

SECRETARY FOR FINANCIAL SERVICES: Madam deputy, at present banks are free to operate their business in their own way. In fact banks are self-regulating businesses and unless there is overriding reason in the public interest for us to require banks to do something, we would like to leave it to the banks to run their own business. As I said earlier on, an advertisement being an advertisement, it really is there to draw public attention to the favourable aspects of facilities or services on offer by a bank. But it is also up to the client or the consumer to ask questions before he enters into any contractual relation with the bank in regard to a bank loan. So it would not be realistic to expect banks to put all the information into an advertisement, which would be tantamount to getting them to print the whole contractual document out in the newspaper, when it will no longer be an advertisement. So to enable clients to protect their own interests, it is imperative that they have the right to ask questions and this right is there, guaranteed by HKAB. And banks are also encouraged to provide as much information as possible upon enquiry.

PRESIDENT'S DEPUTY: Is this a follow-up, Mr WONG?

MR PETER WONG: *Yes, Madam deputy. My point was not to provide so much information but to make sure that the banks provide consistent and common information so that all advertisements are talking about the same thing.*

PRESIDENT'S DEPUTY: Can you answer that, Secretary?

SECRETARY FOR FINANCIAL SERVICES: Madam deputy, I can only refer this to HKAB to see whether there is a technical problem in adopting this suggestion.

MR FREDERICK FUNG (in Cantonese): *Madam deputy, I have a follow-up question to raise. Will the Administration advise the Consumer Council to step up publicity on this so that complainants will come forward? In fact, I have raised the issue with the Consumer Council and learnt that even if they receive such complaints, they do not have the authority to handle them. Will the Administration give the Consumer Council more power in this respect?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam deputy, the Consumer Council has been keeping an eye on the matter. As I said in a previous answer, the Consumer Council did on two occasions, and will do so again in the near future, publish a detailed review on this. As to the question of authority, should anyone find such advertisements have violated the law, he can lodge a complaint with the Monetary Authority who may take action under the Banking Ordinance against any bank found to have published advertisements which are deceptive and against public interest. In this regard, the Administration can look into it to see if the granting of such power to the Consumer Council is justified and necessary.

DR PHILIP WONG (in Cantonese): *Madam deputy, in paragraph (a) of his reply, the Secretary made no mention about what action the Administration would take against a bank found to have issued deceptive advertisement and whether it would be penalized.*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam deputy, as far as this is concerned, the Monetary Authority may exercise its power to take punitive action against any bank found to have violated the Banking Ordinance. The heaviest penalty will be the revocation of the bank's licence.

MR LAU WAH-SUM (in Cantonese): *Madam deputy, has the Monetary Authority ever required a bank to withdraw such advertisements under section 95 of the Banking Ordinance?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam deputy, the Authority has never, as far as I know, taken such action under the Ordinance for it has received no complaint of this nature.

DR CONRAD LAM (in Cantonese): *Madam deputy, has the Secretary or his branch found any such advertisements in newspapers which may mislead the public? If yes, could he advise us who they are?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam deputy, having been drawn to the attention to the problem, we did take a close look at some of these advertisements in the press. We do not think the contents of these advertisements have anything that intend to mislead the public.

Question No. 2 withdrawn

Island Eastern Corridor traffic

3. MRS MIRIAM LAU asked (in Cantonese): *As the traffic flow of the Eastern Harbour Crossing during peak hours has reached saturation, will the Government inform this Council:*

- (a) *whether due attention has been given to the problem; and*
- (b) *what measures will be taken to improve the traffic congestion?*

SECRETARY FOR TRANSPORT: Madam deputy, Eastern Harbour Crossing traffic has increased at a very rapid rate. After the first full year of its operation, the daily average number of vehicles using this tunnel stood at 38 000. Now, four years later after the tunnel opening, the daily average figure is 87 000. Since the Island Eastern Corridor is the main artery leading to and from the Hong Kong entrance of the tunnel, traffic on this road has, of course, correspondingly increased.

The Transport Department continuously monitors traffic volumes on all major roads. There is indeed congestion along the Island Eastern Corridor caused by Eastern Harbour Crossing traffic during both the morning rush, between 8-10 am, and the evening peak from 6-8 pm. This, in turn has caused some disruption to traffic bound for Tai Koo Shing and further eastwards towards Chai Wan.

The measures taken to address this problem have been to try to segregate traffic queuing for the tunnel from through traffic. In June last year, the road markings on the Island Eastern Corridor eastbound were modified to provide an

additional lane for traffic entering the tunnel. Last week, gantry signs and road markings were further modified to reduce the obstruction caused to eastbound through traffic caused by vehicles queuing to enter the tunnel. A tidal flow arrangement has also been tried out in the tunnel by providing an additional lane for Kowloon bound traffic during the evening rush. Whilst this eased pressure on the Island Eastern Corridor, the experiment did not prove too successful since it resulted in long queues in Kwun Tong for Hong Kong bound traffic.

The Transport Department will continue to monitor the traffic situation along the Island Eastern Corridor closely and will, in co-ordination with the New Hong Kong Tunnel Company and the police, take whatever additional measures are practical to enhance traffic flow through the Eastern Harbour Crossing and along the Island Eastern Corridor.

MRS MIRIAM LAU (in Cantonese): *Madam deputy, since the introduction of new traffic arrangements for the Eastern Harbour Crossing on 3 January, congestion on the Island Eastern Corridor seems to have improved. If however the number of vehicles using the Eastern Harbour Crossing continues to increase and queues on the Island Eastern Corridor for entering the tunnel extend to the flyover, then the new measures will fail and traffic congestion will occur again. Has the Administration started to look at the longer-term solution to traffic congestion on the Island Eastern Corridor caused by Eastern Harbour Crossing traffic, such as widening part of the Island Eastern Corridor, or providing an additional lane so that there is through traffic without having to share the lane with tunnel traffic?*

SECRETARY FOR TRANSPORT: Madam deputy, since the lanes were remarked earlier this week, as Mrs LAU has said, there has been some improvement but the long-term solution really lies in the Western Harbour Crossing which is scheduled to become operational a few years from now. The point is that traffic has built up over the past few years. And at present, unless practical constraints are introduced to ban certain classes of vehicles from certain roads at certain times of the day, I am afraid that during rush hours there will be congestion.

Coming back to the Island Eastern Corridor, as I said, the Transport Department will continue to monitor the situation. There are other schemes which are being considered and that is to ban traffic from North Point via Man Hong Street sliproad from using the Eastern Harbour Crossing and perhaps to introduce traffic signals at the merging point of Man Hong Street sliproad with the Island Eastern Corridor. A long-term possible solution may also be to construct a flyover to separate the straight ahead moving traffic to Chai Wan from that entering the Eastern Harbour Crossing. But the long-term solution I am afraid will have to await the Western Harbour Crossing.

MR VINCENT CHENG: *Madam deputy, I think my question has been answered because I was thinking of asking what sort of additional measures the Secretary is going to take to reduce the traffic there. Thank you.*

MR RONALD ARCULLI: *Madam deputy, would the Secretary be good enough to confirm that, in view of what he has said, increase of tunnel tolls will not be one of the measures that the Government is contemplating?*

SECRETARY FOR TRANSPORT: Madam deputy, I am afraid I can give no such assurance. With regard to applications for increase of tunnel tolls, the initiative rests with the tunnel companies. And if and when they apply obviously the Government will have to consider their applications. But at that point in time, certainly traffic volumes will be taken into account.

MR EDWARD HO (in Cantonese): *Madam deputy, the Central to Jordan Road vehicular ferry service will cease operation by the end of this month. Does the Administration have an estimate on the number of vehicles that will be diverted to the Eastern Harbour Crossing after the termination of service and hence adding to the congestion of the Eastern Harbour Crossing? Will the Administration take appropriate measures to cope with the sudden increase in the number of vehicles using the Eastern Harbour Crossing?*

SECRETARY FOR TRANSPORT: Madam deputy, our assessment is that the number of vehicles using the vehicular ferry from Jordan Road to Central is about 5 000 a day. In terms of total traffic, this number should not add too much to the congestion on the Island Eastern Corridor or in either of the two cross harbour tunnels. And the North Point to Kowloon City vehicular ferry service will continue to operate and that provides an alternative means.

MR NGAI SHIU-KIT (in Cantonese): *Madam deputy, can the Administration confirm whether at certain times of the day, the traffic volumes of the Eastern Harbour Crossing and the Cross Harbour Tunnel are similar in size, and that when traffic builds up in one of the tunnels, the other does not have traffic congestion? If so, what arrangement or new facilities will be introduced to direct motorists to choose the less congested tunnel?*

SECRETARY FOR TRANSPORT: Madam deputy, I am afraid that both tunnels are pretty congested during rush hours. The figures as I mentioned just now are 87 000 for the Eastern Harbour Crossing and 123 000 for the Cross Harbour Tunnel. In terms of hourly traffic throughput during the rush hours, the Eastern Harbour Crossing can cope with 3 600 vehicles per hour, whereas

for the Cross Harbour Tunnel the figure is slightly lower, at 3 400. The reason for this is that more buses and heavy vehicles use the Cross Harbour Tunnel.

MR MOSES CHENG (in Cantonese): *Madam deputy, according to the Transport Department, traffic congestion in the Eastern Harbour Crossing, to a certain extent, is due to under utilization of the exact fare system. We also know that the Eastern Harbour Crossing has not introduced autotoll. Does the Administration have any measures to encourage motorists to use the exact fare system or will it in the near future request the management company of the Eastern Harbour Crossing to introduce autotoll so as to enhance traffic flow?*

SECRETARY FOR TRANSPORT: Madam deputy, the installation of autotoll is the initiative of the management companies of both the tunnels. The Government has not imposed any requirement for either company to introduce autotoll. Personally, I believe that autotoll does alleviate congestion to a certain degree. But having said that, the total volume of cars through both tunnels will remain much the same. And so although autotoll may facilitate and save a few minutes for those who use this system, the total volume of traffic will remain much the same.

MR FRED LI (in Cantonese): *Madam deputy, I have raised a similar question several months ago. My concern is traffic congestion in the Kwun Tong area while Mrs LAU's concern is that of the Island Eastern Corridor. But both places are having the same problem. It can be seen that traffic volume has increased from over 20 000 at the beginning to over 80 000 now. The vehicular ferry facilities adjacent to the Kwun Tong Ferry Pier have been laid idle since its construction and were criticized by the Public Accounts Committee as a big waste. Will the Administration consider putting these facilities back to use as soon as possible so as to ease the traffic in Kwun Tong and the vehicular traffic across the harbour and at the same time not to let these new facilities stand idle?*

SECRETARY FOR TRANSPORT: Madam deputy, the problem is that as far as the vehicular ferry services from Central are concerned, both piers will be affected by reclamation works towards the end of this month and during the second half of June. One of the problems in providing for alternative vehicular ferry services is the difficulty in finding a site as a holding area for waiting vehicles. And another problem is that a vehicular ferry trip from Central to Kwun Tong will take far too long, much longer than it takes to queue up for entering the tunnels. So whilst I will certainly be prepared to ask the Transport Department to reconsider the proposal as suggested by Mr LI, personally I do not think it is a very optimistic or practical solution.

MR JAMES TIEN: *Madam deputy, it is obvious that the Island Eastern Corridor's traffic congestion is caused by the increase in the daily average number of vehicles using the Eastern Harbour Crossing, from 38 000 to 87 000. The other tunnel, as the Secretary said, is also very congested. One of the reasons obviously is that the tunnel toll of \$10 has not been increased for over 10 years. Just from the point of view of catching up with inflation, will the Government please inform this Council whether consideration will be given to increasing the tunnel toll to reduce traffic jams in both tunnels and indeed in the territory as a whole?*

SECRETARY FOR TRANSPORT: Madam deputy, I think, as I said earlier, the initiative for applications for increase in tunnel tolls rests with the two companies concerned. I think other Members in this Council may find it difficult to support a government move to seek increase in tunnel tolls.

DR CONRAD LAM (in Cantonese): *Madam deputy, in his reply to Mrs Miriam LAU's supplementary earlier, the Secretary mentioned that certain classes of vehicles would be banned from certain roads at certain times of the day. Would the Secretary inform this Council what specific measures are being considered and whether the public will be consulted before the introduction of these measures?*

SECRETARY FOR TRANSPORT: Madam deputy, traffic constraint is obviously a subject to which I am giving priority. And I have convened a small "Think Tank" within the Transport Branch and I am also seeking the views of other government departments. I hope to have some ideas on which to consult the Transport Panel of this Council within the next two or three months.

MRS SELINA CHOW (in Cantonese): *Madam deputy, the Secretary said in answer to Mr Moses CHENG's supplementary that the installation of autotoll was the initiative of the tunnel companies and that the Administration could not impose any requirement for the introduction of autotoll. Nevertheless, he did believe that this method could alleviate traffic congestion. Though traffic throughput would remain much the same, autotoll has the advantage of saving time for those who use the system and so facilitating traffic flow along the Island Eastern Corridor. In this connection, I would like to ask the Secretary whether the Administration would take the initiative and write to the management company of the Eastern Harbour Crossing, requesting it to give full consideration to the introduction of autotoll.*

SECRETARY FOR TRANSPORT: Madam deputy, the Government is in fact in dialogue with both tunnel companies and the Transport Department in particular is in constant touch with them regarding the practicality of autotoll. One of the

problems of course is not the installation of autotoll itself but the shortage of approach and egress roads. And I think the throughput and exit points must also be borne in mind. Another difficulty is that as the installation of autotoll is not mandatory, we must also make sure that others who do not use the autotoll are not unduly delayed.

Immigration facilities at Kai Tai and Lo Wu

4. MR MOSES CHENG asked (in Cantonese): *Will the Administration provide this Council with a detailed comparison of the immigration facilities (for example, size of waiting hall and the number of counters) and the manning scale in relation to the passenger flow at Kai Tak and Lo Wu; and indicate what short-term and medium-term plans are in hand to improve the congestion at these immigration points?*

SECRETARY FOR SECURITY: Madam deputy, there are almost twice as many counters at Kai Tak as there are at Lo Wu — 166 compared to 88. The waiting halls at Kai Tak are slightly bigger than the waiting halls at Lo Wu — 4 600 sq m compared to 4 400 sq m. There are approximately twice as many travellers going through Lo Wu every day as through Kai Tak.

The reason for this is that almost all of the travellers passing through Lo Wu are Hong Kong residents and need much less time for clearance than overseas visitors who are the majority of passengers at Kai Tak. Therefore, less space and fewer facilities are required at Lo Wu.

The manning scales are based on the overall target that 92% of the people clearing immigration should normally queue for no longer than half an hour.

In order to cope with increasing demand 70 additional immigration posts will be provided at Lo Wu later this year, bringing the total counter staff to over 300. This will enable better use to be made of the existing facilities. In addition, an Immigration Task Force, with 46 staff, will also be created this year to deal with special investigations, and to reinforce control points, including Lo Wu and Kai Tak during busy periods.

A major extension is being added to the existing terminal at Lo Wu and it is scheduled to come into operation in 1995. This will provide an additional 72 counters for which 70 extra posts will be provided.

New procedures are being introduced at both Lo Wu and Kai Tak. In September this year, optical readers will be installed to speed up immigration clearance of Hong Kong identity card holders and, in September 1995, this will be extended to visitors holding machine-readable passports.

MR MOSES CHENG (in Cantonese): *Madam deputy, we all know that the number of passengers going through Kai Tak and Lo Wu in normal days can differ greatly from that at major holidays and festivals. Can the Secretary inform this Council the average waiting times of travellers in normal days and at major holidays and festivals and whether the target of the Administration to improve passenger flow can be achieved?*

SECRETARY FOR SECURITY: Madam deputy, I think what I can say is that during normal periods passengers are cleared within the target of 30 minutes and it is, as Mr CHENG points out, during particularly busy periods of the day, during some periods of weekends and also at major holidays and festivals that it is difficult sometimes to meet the targets. But overall at Lo Wu some 90% of passengers are cleared within the target of 30 minutes. It is our hope that both through streamlining and improvement of immigration clearance procedures and by the provision of additional resources we will be able to improve on this 90% in the coming years.

MR HENRY TANG: *Madam deputy, the Secretary says that since 92% of the people clear immigration within half an hour, it is obviously acceptable. Why does he think that it is reasonable that we should ask the travellers to queue for half an hour?*

SECRETARY FOR SECURITY: Madam deputy, that is a maximum time, it is not an average time. There are inevitably going to be, at any immigration control point, periods when there is bound to be much greater congestion than at other periods, much greater congestion than normal. One need only, for example, think of the Lunar New Year where so many people travel that it would not be practicable to provide facilities to clear all those people within the same space of time that one could clear people on a normal weekday. Thirty minutes as a maximum has for a long time been our target and we believe that that is a reasonable target in terms of normal international practice and international comparisons.

MR EDWARD HO: *Madam deputy, my question is quite similar to that of Mr Henry TANG, which is that there would be many travellers through Lo Wu who actually are daily commuters on business trips. Would the Government feel that half an hour is acceptable for that kind of situation as they are quite different from international travellers?*

SECRETARY FOR SECURITY: Madam deputy, at present there is a particularly busy period in both directions during the pre-work time of the morning and certainly some people will have to wait for 30 minutes during that period. As I said, we do hope that both from improving the clearance

procedures and by provision of additional resources we can make some improvement. And certainly looking further to the future, it is hoped that for regular travellers travelling on Hong Kong identity cards, we can have a much easier system to enable them to go through immigration at Lo Wu. But it will take some time before the technology for this is introduced and in operation.

MR NGAI SHIU-KIT (in Cantonese): *Madam deputy, referring to the long-term and short-term plans in this respect, will the Secretary inform this Council if the Administration has discussed or needs to discuss the matter with China with a view to taking co-ordinated actions to effectively clear travellers at Lo Wu? If not, how long had discussions been terminated? If they had been terminated, when was the last discussion held?*

SECRETARY FOR SECURITY: Madam deputy, there is very regular consultation and co-operation between the immigration staff in Hong Kong and their counterparts in China. Obviously there needs to be co-operation and co-ordination, particularly on opening hours of the various border control points and this is done on a very regular basis. And I do not believe that there has been any problem as a result of lack of co-operation either recently or in the recent past.

MRS PEGGY LAM (in Cantonese): *Madam deputy, since clearance at Lo Wu is far quicker for identity card holders than passport holders, can the Administration inform this Council whether consideration will be given to separating the queues for these two groups of people so that identity card holders do not have to take 30 minutes to clear through customs?*

SECRETARY FOR SECURITY: Madam deputy, I think we need to remember that at Lo Wu some 95% of passengers going through that control point are Hong Kong residents, the great majority of them travelling on ID cards. There are already separate counters at Lo Wu for residents and for non-residents. But given the overwhelming preponderance of residents travelling on ID cards, there is little more that can be done in the way of segregation.

DR TANG SIU-TONG (in Cantonese): *Madam deputy, it is mentioned in the third paragraph of the Administration's reply that the overall target is 92% of the people clearing immigration should normally queue for no longer than half an hour. May I ask why it is 92% and not 100%?*

SECRETARY FOR SECURITY: Madam deputy, as I think I explained in answer to an earlier supplementary, there are bound to be, during the course of the year, some periods when both the airport and Lo Wu are going to be

extremely busy, far busier in terms of the volumes of traffic than on a normal day. And it would not be practicable, cost effective or realistic to think that we can provide facilities to cope with these surges in demand in the same way as we can cope with normal daily passenger flow. So there are bound to be some periods when waiting time will be longer than normal times.

REV FUNG CHI-WOOD (in Cantonese): *Madam deputy, there have been many complaints in the past about long waiting time at Lo Wu and there has been a rapid increase in the number of people going through this control point in the past few years. Can the Secretary inform this Council when the Administration last increased manpower at Lo Wu? Why does it have to take so long to increase manpower until this year? Will consideration be given to having a review at least every two years to ascertain that there are sufficient staff?*

SECRETARY FOR SECURITY: Madam deputy, I think perhaps I could say, to start with, that there have not in fact been all that many complaints, nor do I think the number of complaints is on the increase in any significant way. In the past six months there were something like 17 complaints at Kai Tak and about the same number at Lo Wu, which, given the volume of traffic, is not a very large number. I do, however, accept the point that the increase in staff at Lo Wu and at Kai Tak has not really kept pace with the increase in traffic. It has, nevertheless, been possible to prevent a deterioration in standards and in clearance times through a number of measures which the Immigration Department has taken to speed up the clearance procedures at control points. That is by an increase in the productivity of the immigration staff at these control points. And I think that is greatly to the Immigration Department's credit, but this is, I agree, something that we shall need to monitor carefully and make sure that resources do keep pace with demand.

MR WONG WAI-YIN (in Cantonese): *Madam deputy, it is mentioned in the fourth paragraph of the Secretary's reply that 70 additional immigration posts will be provided later this year. What does he mean by "later"? And to what extent can waiting time be reduced after these 70 posts have been created?*

SECRETARY FOR SECURITY: Madam deputy, the increase in staff will take effect from 1 April this year. I do not think I could say definitely now what improvement will be achieved by these additional 70 staff but it is a very significant increase in terms of counter staff. And I would expect to see an improvement both in the average waiting time to go through the control point and in the percentage of passengers that are cleared within the target time of 30 minutes.

MR PETER WONG: *Madam deputy, the Secretary, in the last paragraph of his reply, mentioned that optical readers will be installed. As far as I can see the ID cards are not capable of being read optically at the moment. Does this mean that we will be issued with new identity cards between now and September, so that the new optical readers, which presumably work on the bar code basis, will be able to read the ID cards?*

PRESIDENT'S DEPUTY: Secretary for Security, are you able to answer that question?

SECRETARY FOR SECURITY: Madam deputy, yes, I am able to. I think that the ID cards are capable of being read by machine readers.

MRS SELINA CHOW (in Cantonese): *Madam deputy, the 92% mentioned by the Secretary is in fact misleading as 92% is only a target. The information we have got reveals that actually on public holidays and weekends, two-thirds of the travellers have to wait for over half an hour and one-third of them even have to wait for more than an hour. Will the Secretary provide the figures in writing to explain how the waiting times of over an hour and half an hour can be reduced following the increase of 70 staff on 1 April this year as mentioned by the Secretary? And when staff is further increased in 1995, what will be the target in terms of reducing waiting time for the large number of travellers?*

PRESIDENT'S DEPUTY: Secretary, maybe you can answer some of those questions.

SECRETARY FOR SECURITY: Madam deputy, yes, 92% is a target. It is not the achievement. At Lo Wu we fall slightly short of the target at present. 90% of passengers going through Lo Wu are cleared within the target of 30 minutes, so 10% fall short of that target. At Kai Tak, 95% of passengers are cleared within the target time of 30 minutes, so we exceed the target at Kai Tak. It is certainly our intention that the additional staff that we will provide at Lo Wu from 1 April this year will be able to improve, I hope significantly, the performance at Lo Wu as well. It is the case that there are particular times, and this particularly applies at the major holidays, when a substantial percentage of people will have to wait for more than half an hour.

Interbank money market volatility

5. MR ROGER LUK asked: *Will the Administration advise this Council what measures are being taken to prevent the recurrence of undue volatility of the interbank money market and pressure on Hong Kong Interbank Offered*

Rated (HIBOR) arising from the massive over-subscription of new share issues as in the case of 7 December 1993?

SECRETARY FOR FINANCIAL SERVICES: Madam deputy, the tightness of the interbank market on 7 December 1993 was caused by a major Initial Public Offering which was closed for subscription on that day. The application monies in that particular instance amounted to \$100 billion. Recycling of such monies did not go well and caused a rise in the overnight Hong Kong Interbank Offer Rate. It was affected by the constraints of prudent interbank credit limits which, on the earlier advice of the Hong Kong Monetary Authority, had to be observed. Moreover, there was the uncertainty faced by the receiving bank in estimating the amount involved in application cheques which had not yet been counted. In the end, substantial funds had to be channelled through the Liquidity Adjustment Facility operated by the Hong Kong Monetary Authority.

It is noteworthy, however, that the volatility in the interbank money market in this instance had in fact been much milder when compared with over-subscriptions in certain new issues in the mid-1980s as a result of monetary reform measures put in place in recent years.

In order to improve the recycling of application monies in the interbank market in future, the Hong Kong Monetary Authority has written to the Hong Kong Association of Banks (HKAB) in December 1993 suggesting that:

- (a) banks should pre-arrange the necessary credit lines with the receiving bank and/or other banks before extending credit to their customers for new share subscription;
- (b) the deadline for submitting applications should be advanced from noon to 10 am to give the receiving bank more time to process and count the application cheques; and
- (c) the banks should encourage the use of electronic payments, instead of paper-based cheques, which would facilitate large value fund transfers and risk management.

These measures, if adopted, should improve the efficiency of the recycling process.

On the other hand, it must be admitted that to a large extent the problem has been caused by the very substantial over-subscription for the Initial Public Offering, resulting in the massive accumulation of monies in the receiving bank. The Administration has asked the Stock Exchange of Hong Kong and the Securities and Futures Commission to examine possible ways to reduce the impact brought about by such over-subscriptions.

The Stock Exchange of Hong Kong has in the past few months implemented a number of measures aimed primarily at enabling investors to more accurately assess the pricing of and demand for an issue at the Initial Public Offering Stage, including requiring details of the spread of applications and for price earning ratios to be calculated on a fully diluted basis. In addition, listing rule changes requiring the issuer to reject any application for more than 100% of the securities on offer and to reject multiple applications are under consideration for implementation very soon.

The Stock Exchange and the Securities and Futures Commission are continuing to examine ways of improving the efficiency of the Initial Public Offering process.

In the meantime, the Hong Kong Monetary Authority will continue to monitor the operation of the money market and take appropriate action whenever necessary.

MR ROGER LUK: *Madam deputy, given the inherent problems of the existing arrangements for initial public offerings in regard to monetary stability as indicated in the Secretary's answer, is the Administration seriously considering other arrangements, particularly competitive tendering as in the case of Exchange Fund bills, as a long-term solution?*

SECRETARY FOR FINANCIAL SERVICES: Madam deputy, there are many ways for initial public offers. In fact the present system is only one of several. There are other methods under consideration that could be used by issuers. For example, there is one called the "book building system" which is quite commonly used in the United States. But the point is that we cannot impose the method of subscription on issuers. On the other hand, the Stock Exchange is now trying to encourage issuers to consider using other methods which would not create the same problem as does the one in use, that is to say, the problem of over-accumulation of funds and over-subscription.

MR MARVIN CHEUNG: *Madam deputy, will the Administration advise this Council, pending a major revision of the method of listing, what role, if any, the Government, the Securities and Futures Commission (SFC) or the Hong Kong Monetary Authority will play in devising changes to the present method of listing to solve this problem, and whether the Stock Exchange will be required to implement these solutions?*

SECRETARY FOR FINANCIAL SERVICES: Madam deputy, first of all, the role of the Hong Kong Monetary Authority is to facilitate the operation of the money market; so in terms of the method of public offer it is largely the responsibility of the Stock Exchange of Hong Kong (SEHK). In this regard, the

SFC and the SEHK, in August 1993, issued a consultation document setting out all the findings and recommendations by a joint working party on the securities market implications on the level of over-subscription in recent initial public offerings. And if Members would like to see it, I can circulate a copy of this document containing all the recommendations. In fact some of the recommendations, for example, amendments to the Listing Rules requiring the publishing of details of the spread of application, and amendments to the Listing Rules requiring the price earning ratio to be calculated on a fully diluted basis have been implemented. And the SFC and the SEHK will continue to monitor the situation, and the Financial Services Branch will also take an interest in the way the situation develops.

MR ERIC LI: *Madam deputy, is the particular incident caused by any artificial manipulation, particularly on the part of the receiving bank who had apparently sat on the funds for hours? And if so, in what way was the interbank market manipulated, and will the proposals given in the Government's reply be effective in preventing similar manipulation in future?*

SECRETARY FOR FINANCIAL SERVICES: Madam deputy, Mr Eric LI's comment sounds very much like the comment made by the chairman of HKAB and reported in yesterday's papers about the role played by the receiving bank. Actually, the Hong Kong Monetary Authority has made a number of recommendations in this regard. The question is whether it is the receiving bank which is deliberately sitting on the money; this is for HKAB to find out. On the other hand, there is one practical problem we have discovered which is that the bank simply does not have the time to count all the monies in the books. That is why the Hong Kong Monetary Authority considers that one of the recommendations, that is, to advance the closing time for subscription to 10 am, is definitely going to have some effect in helping to ease the situation.

DR DAVID LI: *Madam deputy, since history has shown now and in the past that the basic problem is caused by the pricing of the new issue, will the Administration begin a dialogue with the Hong Kong Stock Exchange and the merchant banks with a view to introducing more realistic pricing for initial public offerings?*

SECRETARY FOR FINANCIAL SERVICES: Madam deputy, pricing has always been a complicated matter. The price of a stock reflects the equilibrium of supply and demand and also the market sentiment at that particular time, occasionally with relatively little reference to the underlying asset backing or price earning ratio. The conclusion that over-subscription reflects a pricing problem may not hold water in all circumstances. For example, the flotation of a high profit growth enterprise may attract substantial interest among the investing public even if the share price is fixed at a relatively high level. And,

furthermore, because there is only a very small margin to be drawn between over-pricing and under-pricing an issue in Hong Kong, it is understandable that new issues are generally priced at a discount to compensate for greater market risk and to ensure that the offering will be fully subscribed, if not over-subscribed. We believe that the pricing of shares ought to be left to the issuer who will have regard to market conditions. But on the other hand, the Stock Exchange and the SFC of course would have to make sure that there is no unbecoming behaviour involved in the pricing of a stock.

MR VINCENT CHENG: *Madam deputy, maybe I should first declare interest as a director of the Securities and Futures Commission. My question is: Was this particular incident the result of some problem in the system itself or was it the result of mismanagement by one bank, because there have been quite a large number of new issues and I can recall that there has never been so much volatility in each of those public offers?*

PRESIDENT'S DEPUTY: Secretary for Financial Services, can you answer that question?

SECRETARY FOR FINANCIAL SERVICES: Madam deputy, I do not think I should discuss the details of an individual case. Yet, we do recognize that new issues occasionally will cause tightness in the money market and this is indeed a problem that the Monetary Authority and authorities concerned should address.

MR CHIM PUI-CHUNG (in Cantonese): *Madam deputy, given that banks can safely provide credit facilities to clients applying for new issues, many banks provide subscribers of new issues with different levels of credit, that is offering different size of funds for new share subscriptions. What is the existing statutory credit limit in terms of different size of funds that banks can lend to their clients for subscription purposes? Why does the authority concerned not amend the relevant laws or take a temporary measure to limit the applications to not more than 100% of the new shares on offer so as to cool down the fervour of new issue subscriptions?*

SECRETARY FOR FINANCIAL SERVICES: Madam deputy, the Hong Kong Monetary Authority has advised banks to limit their exposure to borrowers whenever there is a new issue to be put onto the market. This cautionary note has already been communicated to HKAB. In answer to an earlier question, I already said that we believe that, for new issues, we must leave it to market demand and supply; we cannot artificially limit demand by imposing an upper limit for application. On the other hand, as I also mentioned earlier on, a listing rule to restrict the issuer from accepting applications for more than 100% of the shares on offer is being considered. So, that would be some sort of limit.

DR HUANG CHEN-YA (in Cantonese): *Madam deputy, my question has already been asked by Mr CHIM Pui-chung, so I would like to raise another one. As the Administration has advised banks to lend only up to 90% of the amount necessary for new issue subscription, then has it monitored whether banks have abided by these guidelines?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): *Madam deputy, the answer is yes.*

MR JAMES TIEN: *Madam deputy, on improving the recycling of application money in the interbank market in future, the Secretary has replied to the effect that the Hong Kong Monetary Authority has written to HKAB in December making some suggestions. And I think these suggestions are very sound. However, all these suggestions boil down to one thing, and that is to allow the banks to hold on to the application money for a fewer number of days, which is contrary to their profit-oriented sentiment. And the Secretary also said that these measures, if adopted, should improve the efficiency of the recycling process. May I ask the Secretary when he expects a reply from the HKAB, and if their reply indicates a reluctance to accept the suggestions, what else can the Hong Kong Monetary Authority do?*

SECRETARY FOR FINANCIAL SERVICES: *Madam deputy, we are waiting for a formal reply from HKAB. And, apart from waiting for a reply, the Monetary Authority is actually in discussion with officers of HKAB and there is no reason for us to assume a completely negative reply at this stage.*

Localization in public utilities

6. DR SAMUEL WONG asked: *Will the Government inform this Council:*

- (a) *when the licence of the Hong Kong Telephone Co Limited Cable and Wireless Hong Kong Limited was renewed in 1981, whether conditions were imposed on the licensee that preference should be given to local candidates in the recruitment/appointment of candidates to fill all the vacancies within its establishment and that overseas candidates would only be appointed when no suitable local candidate was available or likely to become available in the foreseeable future; and*
- (b) *whether similar conditions were imposed on other public utility companies such as the China Light and Power Company Limited and the Hong Kong Electric Company Limited subsequently when their licences were renewed?*

SECRETARY FOR ECONOMIC SERVICES: Madam deputy, I believe Dr WONG is referring to general condition 18(4) of the 1981 licence granted to Cable and Wireless (Hong Kong) Limited, for external telecoms circuits and services. This condition provides that "when filling any grade within its establishment the Licensee will give preference to the recruitment and appointment of locally engaged staff PROVIDED THAT such staff are considered suitable and have the necessary qualifications and in particular the Licensee will employ an expatriate officer only if no suitable local candidate is available or is likely to become available in the reasonably near future".

There were good historical reasons for the inclusion of such a clause in the licence: at the time when it was issued — 1981 — the then Cable and Wireless (Hong Kong) Limited, was heavily dependent on its United Kingdom parent company for secondment of not only technical but also managerial staff. The Government then believed that the company should play its full part in developing a local skills base in telecommunications which was and still is a strategically important service sector of great significance to Hong Kong's development as a business and trading centre.

Since 1982, the number of expatriate staff employed by the company has declined from 40% of managerial level staff to under 10%. The original aim of the licence condition, namely to reduce Cable and Wireless's dependence on overseas secondees, has now been achieved. With the company's change in status in 1987 to become a member of the Hong Kong Telecom group it has, in any case, acquired a more local character.

As regards the second part of the question, the China Light and Power Company and Hong Kong Electric Company do not operate under any licence from the Government. They have voluntarily entered into Scheme of Control Agreements with the Government. In common with the vast majority of our utilities, the two companies are locally based and locally owned and the requirement for a provision similar to that in the Cable and Wireless licence does not arise. Consistent with our overall policy of not interfering in the way in which private companies run their businesses, the current Scheme of Control Agreements with the companies, which entered into force on 1 October 1993 and 1 January 1994 respectively, contain no conditions similar to the one in the 1981 licence for Cable and Wireless (Hong Kong) Limited.

DR SAMUEL WONG: *Madam deputy, in the recent replacement of the said company's Number Two — I think it was the Deputy Chief Executive — has the general condition 18(4) of the 1981 licence been strictly adhered to? If not, why not?*

SECRETARY FOR ECONOMIC SERVICES: Madam deputy, I do not think it would be appropriate for me to comment on individual appointments or replacements. But let us look at the facts. Within the company there are only

seven expatriate staff in a managerial team of 104. So the situation really has improved a lot and it would not really be appropriate for the Government to look at just one individual case because the situation actually changes all the time. Expatriates come and go and they are at times replaced by locals.

MR JIMMY MCGREGOR: *Madam deputy, will the Secretary confirm that the Government has no intention of introducing any new requirement for localization of staff employed by private sector companies, whether or not they enjoy some form of monopoly in the provision of public services, and that all such companies will be permitted to employ people as they wish and in accordance with the dictates of the market?*

SECRETARY FOR ECONOMIC SERVICES: *Madam deputy, in general terms, I so confirm.*

Written answers to questions

LDC urban renewal role review

7. MR JAMES TO asked (in Chinese): *Since a motion on "Redevelopment of Private Buildings" was passed by this Council in July 1992, the Government has repeatedly indicated that the review of the Land Development Corporation's role in the urban renewal process would be completed soon. Will the Government inform this Council:*

- (a) whether the review has been completed; if so, when the result will be published; if not, why not; and*
- (b) whether it will continue to review the process through which private developers carry out redevelopment; if so, what the time schedule will be; if not, why not?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: *Madam deputy,*

- (a) The review of the Land Development Corporation's role in the urban renewal process has been largely completed. However, its conclusions are now being re-examined in the context of a wider overall review of urban renewal and redevelopment issues connected with the implementation of Metroplan. Results of the LDC review will therefore be presented with those of the wider review as soon as possible.*

- (b) The overall review referred to under (a) covers the role of all the various implementation agents involved, including private developers. It is a highly complex subject with major implications in terms of economic and social impact, land, planning and housing policies and resources. It is difficult to set a firm date for the completion of the review at this stage therefore; but it will take another six months at least.

Working group on services for autistic persons

8. MR HUI YIN-FAT asked (in Chinese): *Since the setting up of the Working Group on Services for Autistic Persons in October 1991, no reports have so far been published in relation to the work of the Working Group. In this regard, will the Government inform this Council of the following:*

- (a) *whether the Working Group encountered any difficulties during its course of work over the past two years;*
- (b) *when the Working Group will complete its work and submit a report;*
- (c) *how the report will be released to the public; and*
- (d) *how the Government will give effect to the proposals in the report and what the time-table for implementation is?*

SECRETARY FOR HEALTH AND WELFARE: Madam deputy, my answer *seriatim* is as follows.

As regards parts (a) and (b) of the question, the main difficulty was to identify issues for discussion and work out a realistic timeframe at the outset. It was originally estimated that the Working Group would only need to convene four meetings to finish deliberations and to come up with a report in mid-1992. As it turned out, the Working Group met on 10 occasions, from January 1992 to September 1993. The Working Group has already completed its deliberations and submitted a report last month for consideration.

As regards parts (c) and (d) of the question, the Rehabilitation Development Co-ordinating Committee (RDCC) will be consulted on the report. Subject to RDCC's advice, copies of which may be made available, on request, to concerned non-governmental organizations, parents and rehabilitation personnel and appropriate priorities given to facilitate implementation of the recommendations accepted therein.

Employment of disabled persons in the Civil Service

9. MR SZETO WAH asked (in Chinese): *Regarding the employment of the disabled and physically handicapped persons in the Civil Service, will the Government inform this Council:*

- (a) of the current policy regarding the employment of such persons;*
- (b) of the total number of such persons being employed in the Civil Service with a detailed breakdown of the Departments in which they are employed and of the ranks they hold;*
- (c) of the overall percentage of such persons currently being employed in the Civil Service as compared to that in the private sector; and*
- (d) whether the employment rate of such persons is satisfactory and whether the present policy will be reviewed?*

SECRETARY FOR THE CIVIL SERVICE: Madam deputy,

- (a) It is the Government's policy to place disabled persons (including physically handicapped persons) in appropriate jobs wherever possible. This is consistent with the general policy to integrate disabled persons into the community through vocational rehabilitation and eventual gainful employment in the private as well as the public sectors.

Disabled persons applying for jobs in the Civil Service have to meet the entry requirements applicable to all other applicants. However, if they are found suitable for employment, they are given an appropriate degree of preference. In addition, a disabled person who is able to carry out only certain duties of a particular rank may be recommended for employment even though he may not, on account of his disability, be able to perform all the duties of that rank.

In some recruitment exercises, additional criteria may be imposed to shortlist qualified candidates for selection interviews. These criteria would not apply to disabled candidates so that all disabled candidates who possess the basic entry qualifications for the posts are given the chance to attend the interviews.

- (b) There are 3 778 disabled persons employed in the Civil Service. The major departments employing disabled persons are Urban Services, Regional Services, Electrical and Mechanical Services, Hospital Services, Housing, the Royal Hong Kong Police Force, Agriculture and Fisheries, Correctional Services, Water Supplies,

Social Welfare and Education. A detailed breakdown of disabled persons employed in each department is at Appendix I.

Over one-third of disabled officers are on Model Scale 1 Pay Scale (monthly salary from \$6,635 to \$7,620). Another 9.2% are in more senior positions drawing a maximum salary at Master Pay Scale Point 26 or above or equivalent (monthly salary \$22,890 or above). Detailed breakdowns are in Appendix II.

- (c) Disabled persons account for 2.07% of the entire Civil Service. As there are no available statistics on the overall percentage of disabled persons currently employed in the private sector, no comparison can be drawn.
- (d) The number of disabled persons employed in the Civil Service has been increasing steadily, growing from 1 432 in 1983 to 3 778 in 1993. The existing policy therefore seems generally appropriate. The Administration will continue its efforts to encourage employment of disabled persons in the Civil Service.

Appendix I

	<i>No. of disabled persons employed</i>
Agriculture and Fisheries Department	187
Architectural Services Department	24
Audit Department	2
Census and Statistics Department	17
City and New Territories Administration	35
Civil Aid Services	4
Civil Aviation Department	7
Civil Engineering Department	36
Civil Service Training Centre	3
Correctional Services Department	169
Customs and Excise Department	9

	<i>No. of disabled persons employed</i>
Department of Health	86
Drainage Services Department	92
Education Department	104
Electrical and Mechanical services Department	296
Environmental Protection Department	17
Fire Services Department	34
Government Flying Service	5
Government House	1
Government Land Transport Agency	2
Government Secretariat	32
Government Supplies Department	27
Highways Department	26
Hospital Services Department	282
Housing Department	263
Immigration Department	44
Industry Department	8
Information Services Department	5
Information Technology Services Department	12
Inland Revenue Department	68
Intellectual Property Department	5
Judiciary	17
Labour Department	24

	<i>No. of disabled persons employed</i>
Land Registry	23
Lands Department	43
Legal Department	10
Legal Aid Department	7
Marine Department	46
Office of Members of the Legislative Council	1
Planning Department	9
Planning, Environment and Lands Branch	2
Police Complaints Committee	1
Post Office	93
Printing Department	10
Radio Television Hong Kong	7
Rating and Valuation Department	12
Recreation and Culture Branch	4
Regional Services Department	297
Royal Hong Kong Police Force	196
Royal Observatory	10
Social Welfare Department	109
Student Financial Assistance Agency	1
Technical Education and Industry Training Department	9
Television and Entertainment Licensing Authority	1
Territory Development Department	4

	<i>No. of disabled persons employed</i>
Trade Department	10
Transport Department	38
Treasury	13
University and Polytechnic Grants Committee	1
Urban Services Department	760
Water Supplies Department	118
Total:	3 778

Appendix II

Disabled Persons Serving in the Civil Service as at 1 April 1993
(by Salary Groups)

<i>Salary Group</i>	<i>Total</i>
Directorate Pay Scale and Directorate (Legal) Pay Scale	3
Judicial Officers	1
Salary Scale	-
	23
Master Pay Scale	114
	153
	1 808

<i>Salary Group</i>		<i>Total</i>
	Max. Salary between PPS 55-59	1
	Max. Salary between PPS 48-54	-
Police Pay Scale	Max. Salary between PPS 42-47	2
	Max. Salary between PPS 28-41	10
	Max. Salary between PPS 1-27	104
	Max. Salary between GDS(O) 1-4	-
	Max. Salary between GDS(O) 32-38	1
General Disciplined Services Pay	Max. Salary between GDS(O) 21-31 Scale	18
	Max. Salary between GDS(O) 12-20	21
	Max. Salary between GDS(O) 1-11	4
	Rank and File	121
Model Scale I		1 368
Training Pay Scale		26
	Total:	3 778 (851)

Note: Figure in bracket indicates colourblind or with defective colour perception

For "Judicial Officers Salary Scale", the pay points assigned by Treasury for payroll purposes are adopted for the classification of salary group.

Triad societies

10. MRS PEGGY LAM asked (in Chinese): *Will the Government inform this Council of:*

- (a) *the number of triad societies in Hong Kong and their active membership; and*
- (b) *the number of persons prosecuted under triad related legislation in the past three years; the proportion of conviction and the average term of imprisonment imposed?*

SECRETARY FOR SECURITY: Madam deputy,

- (a) The Commissioner of Police estimates that there are currently 57 active triad societies in Hong Kong. As the nature of triad societies is secretive and their membership varies from time to time, it is not possible to estimate with any accuracy the total number of triad members in Hong Kong.
- (b) The number of persons charged with offences under triad related legislation in 1991 was 328; in 1992 it was 430; and in the first six months of 1993, it was 201. The proportion of convictions was 42% in 1991; 39% in 1992; and 50% in 1993. For those given custodial sentences, the average term of imprisonment was six months in 1991; five months in 1992 and nine months in 1993.

Commissioner for Administrative Complaints

11. MISS CHRISTINE LOH asked: *Will the Government inform this Council:*

- (a) *of the criteria for selecting a replacement for the present Commissioner for Administrative Complaints; and*
- (b) *since the Commissioner can only be removed from office by the Governor with the approval by resolution of this Council, whether the Government is prepared to agree that appointment to the post will be subject to this Council's resolution?*

CHIEF SECRETARY: Madam deputy, in considering the candidate for appointment as the next Commissioner for Administrative Complaints, the Government had regard to the following factors: the person must be of high personal integrity and well respected in the community, he should know the operations of the Government well and yet be detached from the Administration, he should preferably be bilingual, and should be under the age of 65 at the time of appointment as each term of appointment is for five years.

The provision that the Commissioner can only be removed from office by the Governor with the approval by resolution of the Legislative Council is to ensure that the Commissioner is not removed during his contract without a good cause. Such consideration obviously does not apply in regard to appointment to the post.

Preliminary Working Committee for the SAR Preparatory Committee

12. DR PHILIP WONG asked (in Chinese): *Will the Government inform this Council:*

- (a) *whether any instruction has been issued to restrict police officers from having contacts with Preliminary Working Committee (PWC) members of the Special Administrative Region Preparatory Committee, if so, the rationale for this, and*
- (b) *if PWC members seek assistance from the police when they encounter harassment, in what way will the police deal with their cases?*

SECRETARY FOR SECURITY: Madam deputy,

- (a) We have well-established official channels to discuss and resolve transitional issues, and we want to see these mechanisms working effectively. These channels have been set up under formal international agreements and understandings reached between present and future sovereign powers. PWC are a group of individuals appointed by the Chinese Government. If they want information, the Administration will deal with their requests in the same way as we respond to similar requests from any other groups in the community. Guidance to this effect has been given to all government departments, including the police.
- (b) The police will treat PWC members like any other member of the public, should they seek assistance.

Pirated compact discs

13. MR ALLEN LEE asked: *In view of the rampant smuggling activities relating to pirated compact discs (CDs) in recent months, will the Government inform this Council:*

- (a) of the magnitude of the problem;*
- (b) of the number of raids and prosecution actions taken against CD piracy in 1993;*
- (c) of the average penalties imposed on the offenders on conviction by courts; and*
- (d) whether consideration will be given to increasing the penalty provided under the relevant Ordinances as a further deterrent to offenders?*

SECRETARY FOR TRADE AND INDUSTRY: Madam deputy,

- (a) The smuggling of pirated compact discs into Hong Kong is a relatively recent phenomenon. Such smuggling activities have intensified since early 1993. Pirated CDs are smuggled into Hong Kong by vehicular traffic and by couriers, and are mostly sold by street vendors. As the sources of supply are outside Hong Kong, the Customs and Excise Department's efforts to combat the problem have focussed on interception at the border and detection of storage and sales outlets within the territory. These tasks have proved difficult because of the large volume of cross border traffic and the high mobility of hawkers.

The total number of pirated CDs seized and persons arrested for dealing with pirated CDs by the Customs and Excise Department in 1993 were 93 927 and 350 respectively, as compared with 10 117 and 32 in 1992. These statistics illustrate the magnitude of the problem.

- (b) The Customs and Excise Department conducted 315 raids related to CD piracy in 1993, including five major territory-wide operations to attack the hawking of pirated CDs. These raids achieved good results.

According to statistics provided by the International Federation of the Phonographic Industry, the sale of legitimate CDs rebounded by 90% in the third quarter of 1993 compared to a 40% drop in the second quarter. Prosecution actions in 60 of these cases have been concluded. The remaining cases are pending investigation or prosecution.

- (c) In 1993 the average fine imposed by the courts on each copy of pirated CD was \$65.72. In one case which involved 468 pirated CDs, the penalty was 56 hours of community service. In another case which involved 112 pirated CDs, the convicted person was put on probation for 12 months. No custodial sentence has been imposed. The penalties are on the low side when compared with the statutory maxima of \$1,000 per pirated copy and one-year imprisonment stipulated in the Copyright Ordinance.
- (d) The maximum penalties stipulated in the Copyright Ordinance will be reviewed in the context of the forthcoming comprehensive review of copyright law arising from the Law Reform Commission's recent recommendations.

Untreated sewage discharge

14. MR ALBERT CHAN asked (in Chinese): *In view of the pollution caused by over 290 million cubic metres of untreated sewage being discharged into the harbour every year will the Government inform this Council:*

- (a) *of the existing number of cases of unauthorized or wrong connection of foul sewers to the stormwater drains;*
- (b) *of the number of prosecutions initiated against such offenders over the past two years; and*
- (c) *what actions will be taken to eliminate unauthorized connection of the foul sewers?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Madam deputy,

- (a) There are estimated to be about 8 000 unauthorized connections to the stormwater drainage system. Most of them are in the recently established Eastern and Western Buffer Water Control Zones (WCZs) and in the Victoria WCZ which will be established between 1994 and 1997.

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- (b) Under section 9 of the Water Pollution Control Ordinance, except for licensed discharges, a person commits an offence if he discharges any matter into a communal sewer that is not vested in and maintained by the Government as a sewer for the carriage of foul water in a WCZ. In the past two years, 29 prosecutions have been initiated under the Ordinance.
- (c) Various measures are in hand to eliminate unauthorized connections. The focus of these measures is the territory-wide programme of Sewerage Masterplans. The main measures are as follows:
- (i) As regards planning, priority has been given in the Sewerage Masterplan programme to those areas where industrial discharges to the stormwater drains lead directly into the harbour. Under the Masterplans the extent, capacity and physical state of the existing sewerage system, including the number of unauthorized connections, are investigated before measures to meet the existing and future demand for new sewerage are proposed. While it is impossible at present to rectify all unauthorized connections in these areas immediately, reconnections are made where physically possible. The Masterplans also identify "first aid measures" that can provide short-term improvement to pollution blackspots.
 - (ii) As regards construction, detailed design or physical work on sewerage improvements has started in East Kowloon, Hong Kong Island South, North West Kowloon, Tsuen Wan/Kwai Tsing, Chai Wan/Shau Kei Wan, Yuen Long/Kam Tin, Tolo Harbour, Port Shelter and Tuen Mun. Work in the remaining areas will be implemented according to the recommendations of the Sewerage Masterplans in phases.
 - (iii) As regards control, apart from enforcement under the Water Pollution Control Ordinance, some district boards have set up Industrial Building Management Co-ordinating Committees (IBMCCs) which identify industrial buildings causing severe pollution problems and take action where they can. As far as unauthorized connections are concerned, the IBMCCs advise factory owners on the extent of the pollution caused by their discharges and how these may be corrected. Where necessary, the Buildings Department carries out the reconnection work and recovers the costs from the factory owners. Some 700 connections have been dealt with in this way since 1986.

Visa for Taiwanese visitors

15. MR CHEUNG MAN-KWONG asked (in Chinese): *Given the growing economic and cultural contacts between Hong Kong and Taiwan, will the Government inform this Council:*

- (a) *whether any applications for entry into Hong Kong by Taiwanese public servants had been turned down in the past five years; if so, please list out respectively the number of rejected applicants, their reasons for applying to visit Hong Kong, and the grounds on which their applications were turned down; and*
- (b) *whether the Hong Kong Government will conduct any review and take measures to relax the exit and entry requirements on Taiwanese residents, so as to promote exchanges between the two places?*

SECRETARY FOR SECURITY: Madam deputy,

- (a) We have maintained separate immigration statistics on Taiwanese public servants only since July 1990. Since then, seven applications have been refused, all in 1990; there were none in 1991, 1992 nor 1993.

It is not our policy to provide details of individual cases. However, among the factors which are taken into account when considering visa applications are: (a) whether the applicant is a *bona fide* visitor; (b) whether there is an adverse record against the applicant (for example, whether he or she is the subject of a deportation order); (c) whether there is doubt about the authenticity of the documents produced; and (d) whether the applicant has failed to submit the required information.

- (b) At present, Taiwanese visitors can enter Hong Kong on Multiple Visit Permits valid for two years. The processing time for first applicants normally takes no more than seven working days, while applications for renewal can be completed normally within two working days. The scheme has been well received by Taiwanese visitors and is more liberal than that offered to Hong Kong residents by the Taiwan authorities. We shall continue to keep these policies and procedures under review.

Appointment/promotion vetting procedures

16. MR MARTIN BARROW asked: *Will the Government inform this Council as to the extent of its vetting procedures for new appointments to the Civil*

Service, promotion within the service and appointments of members of the public to the statutory bodies in terms of the following:

- (a) the number of working days for the process to be completed;*
- (b) whether the vetting procedures are subject to performance pledges, if not, the reason;*
- (c) the number of people vetted in 1992-93 in each category;*
- (d) the number of people rejected after vetting under each category; and*
- (e) the number of staff engaged full-time on vetting matters?*

SECRETARY FOR SECURITY: Madam deputy,

- (a) The procedures differ for the various categories. For civil servants on first appointment, checks are made against police and ICAC records. For civil servants who require regular access to classified information, and for the appointment of members of the public to certain statutory bodies, additional police record checks are carried out. For civil servants appointed or promoted into a limited number of senior posts requiring a high degree of trust, interviews of the officers concerned, their referees and their supervising officers are carried out, in addition to the record checks described above. It is not possible to indicate the number of working days for the process to be completed as procedures and circumstances differ. However, most checks are completed within four to six weeks.
- (b) The checking procedures are not subject to performance pledges, as it is not possible to put a time limit on them. We need to ensure that checks are properly and accurately carried out.
- (c) Statistics are not broken down by category, but a total of some 20 000 checks were carried out in 1993.
- (d) Statistics are not held on the number of persons rejected in the various categories.
- (e) There are 10 staff in the police and six in ICAC employed full time in the checking process. But other staff in various departments carry out some of this work as part of their normal duties.

Nursing homes for elderly patients

17. DR LEONG CHE-HUNG asked: *In view of the Government's plan to develop a network of nursing homes for elderly patients and to have seven such nursing homes in operation by 1997, will the Government inform this Council:*

- (a) of the criteria for admission to these homes, in comparison with those for care and attention homes and infirmaries;*
- (b) of the estimated annual recurrent cost for supporting a resident in these homes, in comparison with those of care and attention homes and infirmaries;*
- (c) of the manpower requirements for the planned homes, and the means to ensure sufficient staff for their operation on time amidst the prevailing shortage of nurses and forthcoming competition from private residential care homes for staff; and*
- (d) which department will be responsible for running these nursing homes and how will effective co-operation be ensured, including the transferring of elderly persons and reducing their waiting time for appropriate services, among the various types of public and private residential care homes under different authorities?*

SECRETARY FOR HEALTH AND WELFARE: Madam deputy, the answer to the four-part question is as follows. *Seriatim,*

- (a) Nursing homes are non-hospital based residential nursing care facilities. They are designed specifically to cater for elderly persons who, because of their health condition, cannot be adequately cared for at care-and-attention homes but who, on the other hand, do not require the intensive medical and nursing care provided at infirmaries.
- (b) Subject to fine-tuning, the annual recurrent cost for supporting a resident in the nursing homes is estimated to be in the order of \$107,000 per annum. This compares with \$62,086 at a care and attention home and \$246,760 at an infirmary.
- (c) Each nursing home will be staffed by a multi-disciplinary team comprising doctors, nurses, supplementary medical professionals, personal care workers, social workers and other ancillary staff. Actual provision and staff complement will be determined in the light of the functional needs and operational requirements of the individual home.

Where appropriate, staff will be recruited and trained in advance of the coming into operation of the nursing homes, to ensure sufficient staffing and smooth operation.

- (d) It is envisaged that the majority of nursing homes will be run by non-governmental and charitable organizations. The recurrent operating costs will be funded by Government through the Department of Health. The Director of Health will liaise closely with operators to co-ordinate the provision of services and to facilitate effective co-operation and interface with other service providers in both the public and the private sectors.

Legionnaire's Disease

18. DR LAM KUI-CHUN asked: *Legionnaire's Disease is associated with air-conditioners, piping and construction sites which are common all over Hong Kong. According to a study conducted recently by the University of Hong Kong, 80% of local central air-conditioners and their piping have been found to contain legionella. Will the Government inform this Council:*

- (a) *how prevalent is Legionnaire's Disease in Hong Kong; and*
- (b) *what measures are in place to protect workers working in and residents living near demolition and construction sites from contracting this disease?*

SECRETARY FOR WORKS: Madam deputy,

- (a) Legionnaires' Disease is not a notifiable disease in Hong Kong. However, voluntary reportings are received from medical practitioners. Up to date three cases of Legionnaires' Disease have been confirmed and all have recovered.

With the enactment of the Bill to amend the Quarantine and Prevention of Disease Ordinance, Legionnaires' Disease will become statutorily notifiable around late January/early February 1994. This will enable the Department of Health to better monitor the occurrence of this disease in Hong Kong.

The widespread existence of Legionella bacteria in local air conditioning systems is not unusual. The bacteria causing Legionnaires' Disease, like other kinds of bacteria, are widespread in natural water sources, and have been found in rivers, lakes, streams, mud and soils as well as man-made systems.

Infection from Legionnaires' Disease is caused by inhalation of airborne droplets or particles in fine mist containing the bacteria Legionella, normally present in building fresh water systems. Without the fine mist to transport the bacteria, infection is unlikely.

- (b) On demolition sites, normally all water services of the air conditioning system have been disconnected and drained before demolition work commence, hence the fine mist to transport the bacteria does not exist.

On construction sites, it is unlikely that new air conditioning installations would at that stage be filled with water. Even if they are filled with water, the building water systems are new and clean, and the proliferation of Legionella is most unlikely. Also, local fresh water supply is well chlorinated for bacteria control and it is difficult for Legionella to survive.

Hence, we believe that Legionella are not present in demolition or construction sites in large numbers and these sites do not pose the hazard of Legionnaire's Disease to workers working in or residents dwelling near them. In fact, none of the three cases reported to the Department of Health were known to have contracted the infection from demolition or construction sites.

It should be noted that for all air conditioning systems designed by the Architectural Services Department since January 1990, design precautions have been taken to eliminate possible sources of this disease. Fresh water, which is more prone to the risk of Legionnaires Disease than salt water, is not used in new air-conditioning systems in government projects. The Administration issued a leaflet entitled "Understanding Legionnaires Disease and its Prevention" to the public in late 1993. This was also sent by the Hong Kong Institution of Engineers to its members, amongst whom are those in building service related disciplines associated with the air-conditioning of local buildings.

Old age pension scheme

19. MR ERIC LI asked (in Chinese): *The Government unexpectedly put forward a new proposal to introduce a compulsory old age pension scheme and hinted that it would conduct another consultation exercise. Will the Government inform this Council:*

- (a) *of the details, including whether there is a clear-cut timetable, of the consultation exercise;*

- (b) *when the Executive Council can make a final decision on this scheme;*
- (c) *when drafting of the relevant legislation will begin and when it will be introduced to the Legislative Council;*
- (d) *of the channels through which the Chinese Government will be consulted and how relevant discussions will be followed up;*
- (e) *how the Government will consider whether to adopt the views of the Chinese Government and the people of Hong Kong; and*
- (f) *whether funds can be made available before 30 June 1997 to implement this scheme?*

SECRETARY FOR EDUCATION AND MANPOWER: Madam deputy, to tackle the growing problem of financial security for old age, the Government is prepared to implement a mandatory, contributory Old Age Pension Scheme subject to:

- (a) the outcome of a feasibility study advising on the financial and technical aspects of such a scheme;
- (b) endorsement by the community of proposals resulting from the feasibility study; and
- (c) consultation with the Chinese Government.

(a) *Details of the consultation exercise*

Members of the public are now invited to send their views on both the principle of the scheme as well as on various aspects of its operation to the Education and Manpower Branch. Meanwhile, we shall proceed with the consultancy study expeditiously. We intend to publish a consultation document by the summer, and on the basis of public views and the outcome of consultation with China, make a decision before the end of this year.

(b) *Submission to the Executive Council*

The Government intends to make a decision on this scheme before the end of 1994.

(c) *Drafting of relevant legislation*

Should a decision be made to proceed with the implementation of the Old Age Pension Scheme, then drafting of the necessary legislation should commence soon afterwards. It is too early to say with certainty how long such

legislative drafting would take, or when the resultant legislation would be introduced to the Legislative Council.

(d) *Consultation with the Chinese Government*

The Government will consult the Chinese side through the Joint Liaison Group.

(e) *Adopting the views of the Chinese Government and the people of Hong Kong*

The proposed old age pension scheme is an important issue to Hong Kong residents. The Government aims to come up with a proposal which is acceptable to the community for further discussion with the Chinese Government.

(f) *Availability of funds*

Should the scheme be endorsed, and subject to approval from the Finance Committee of the Legislative Council, the Government intends to make available funds for the purpose as soon as the Scheme is implemented.

Aberdeen Sports Ground improvement

20. MR TIMOTHY HA asked (in Chinese): *The athletic tracks at the Hong Kong Stadium are closed during the redevelopment of the Stadium. A number of schools which previously held their sports days at the Stadium have therefore to switch the venue of their athletic meets to the Aberdeen Sports Ground. Despite the Government's promise to improve the facilities of the Aberdeen Sports Grounds, the venue is still far from adequate at present, for example, the spectators' stands are without covers; there are insufficient toilets and changing rooms; the athletic tracks go short of lanes; the field is uneven; and there are no properly marked parking spaces in the parking area for vehicles and so on. Will the Government inform this Council:*

(a) *whether the Government has any plan to upgrade the facilities of the Aberdeen Sports Ground; if so, when the plan will be implemented; and*

(b) *what facilities are to be improved under that plan?*

SECRETARY FOR RECREATION AND CULTURE: Madam deputy, to compensate for the loss of the athletic track at the Hong Kong Stadium and to cater for the resultant increased usage of the Aberdeen Sports Ground, the following improvements have been made to the latter venue in October 1992:

- (a) the seating capacity of the sports ground has been increased from 800 to 9 300 with the erection of two additional spectator stands; and
- (b) more toilet and changing facilities were also provided underneath the new spectator stands. There are now 13 toilets, 35 urinals and 20 showers for male, 26 toilets and 17 showers for female and two toilet-cum-shower rooms for the disabled.

Further improvements will be made to the sports ground during the forthcoming maintenance closure period from March to August 1994. These include:

- (a) a permanent cover to be constructed for the spectator stand on the western side of the sports ground for about 4 700 seats; and
- (b) re-surfacing the running track and re-adjusting the level of the grass in-field.

However, owing to site constraints, it is not possible to increase the present six-lane running track to an eight-lane one. For the same reason, no parking space can be provided for the public. The existing parking facilities are intended for service use only.

A new sports ground, primarily intended for school athletic meets, is being planned at Siu Sai Wan. This new venue will include a 400-metre eight-lane all weather synthetic track and a fully covered spectator stand of 12 000 seats. There will be parking space for both coaches and public use. Construction would start in September 1994 and it is estimated to be completed in July 1996.

Motions

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

The purpose of the resolution is to increase the levels of maximum fines in the penalty provisions of the Factories and Industrial Undertakings Regulation to bring them in line with those in the Factories and Industrial Undertakings (Amendment) Ordinance 1993 passed by this Council on 24 November 1993.

Members will recall that we have increased the levels of maximum fines under the Factories and Industrial Undertakings (Amendment) Ordinance according to the seriousness of the offences. "Minor offences" refer to technical breaches of statutory procedural requirements. "Serious offences" involve relatively serious breaches of safety regulations, but normally not causing serious body harm. "Very serious offences" are those which may cause imminent risk of fatality or very serious body injury.

The resolution put before this Council today seeks to adjust the levels of maximum fines to \$10,000, \$50,000 and \$200,000, with or without imprisonment, for minor, serious and very serious offences respectively.

Madam deputy, I beg to move.

Question on the motion proposed.

MR LAU CHIN-SHEK (in Cantonese): Madam deputy, I would like to speak on the motion and call on the Administration to increase the levels of maximum fines in the penalty provisions of the 23 Regulations under the Factories and Industrial Undertakings Ordinance. This will increase the deterrent effect on people neglecting industrial safety, so it is worth supporting. Originally, I do not intend to speak on the motion. However, the spate of industrial accidents that occurred in the past two days prompt me to seize this opportunity to press the Administration to take more effective measures to improve the safety of workers engaging in various trades.

The arson case at the Shek Kip Mei Branch of the Hong Kong Bank has stunned the public. Four people have been killed, and eight people are in critical condition. We have also learnt that one victim has changed from poor to fair condition. These 13 people, all bank employees, were either injured or killed during their course of work. Although this tragedy was caused by man, the lack of fire fighting equipment and effective fire escapes is the major reason for such heavy casualties. Thus it can be seen that we should not just focus our efforts on the safety in workplaces like factories, construction sites and restaurants, the working environment of other trades is at stake too. Basically, all workplaces are potentially hazardous and the situation is worrying.

For years, the labour sector has been repeatedly urging the Administration to extend the scope of the Factories and Industrial Undertakings Ordinance to cover all trades and industries in the territory. Regrettably, our request has been turned down by the Administration on grounds of insufficient

resources and manpower. I sincerely hope that the Administration would not drag its feet this time and widen the scope of the Ordinance as soon as possible by drawing up safety regulations for all trades including white-collar professions, with a view to protecting the safety of all workers in Hong Kong.

Apart from the Hong Kong Bank incident, four construction workers also lost their lives in industrial accidents recently. One worker was killed after being hit on the head by a falling object. Another worker died when he stepped into a lift shaft inadvertently. These two construction site accidents are the results of inadequate safety in the working environment. Although there are provisions in the Factories and Industrial Undertakings Ordinance which monitor the safety of construction sites, due to insufficient inspection staff on the part of the Labour Department, the number of prosecutions is relatively low. Even if there is legislative control over the safety of work sites, the legislation has not achieved its desired results. For example, there were nearly 80 000 occupational incidents in 1992, yet the number of prosecution brought against the offenders for breach of the safety regulations was less than 3 000. The figure is surprisingly low. Hence, while pressing the Administration for an increase in the level of fines, I also urge the authority concerned to step up its enforcement efforts by deploying more staff to inspect the factories and construction sites. If it is found out that there is a breach of the safety regulations, prosecution action should be taken in real earnest. Besides, the Administration should announce from time to time the list of companies with unsatisfactory safety records in order to alert the workers and members of the public.

Madam deputy, life is precious, I hope that the Administration would implement the above proposals as soon as possible.

PRESIDENT'S DEPUTY: Secretary for Education and Manpower, do you wish to reply?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam deputy, the Administration agrees to the Honourable LAU Chin-shek's view that we must look after the safety of workers and ensure further that they be given the safest protective measures at their places of work.

As regards safety at construction sites, the Labour Department has this year increased its staff on the Factory Inspectorate, focusing specifically on construction site safety in its brief. At the same time, we expect to introduce a series of amendment bills into this Council in the next few months, with a view to improving further industrial safety.

I can confirm that we would consider Mr LAU's proposal that the ambit of the Factories and Industrial Undertakings Ordinance be expanded to cover non-factory undertakings. However, I must point out that, generally, the

current accident rate in factories, construction sites in particular, is far higher than the other non-factory undertakings. Therefore, in view of priorities and resource allocation, factories and construction sites will remain key areas of enforcement in the foreseeable future. Nevertheless, we are willing to consider Mr LAU's proposal.

Question on the motion put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Confined Spaces) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion, explaining the resolution on the Factories and Industrial Undertakings (Amendment) Regulation, apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Blasting by Abrasives) Special (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Woodworking Machinery) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Electrolytic Chromium Process) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Construction Sites (Safety) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion. Besides, this Regulation also imposes an offence on those competent persons who issue a false certificate to the owner of the lifting appliance or lifting gear or who fail to issue a certificate within a reasonable time.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Cargo and Container Handling) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the motion, explaining the resolution on the Factories and Industrial Undertakings (Amendment) Regulation, apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Abrasive Wheels) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Work in Compressed Air) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Spraying of Flammable Liquids) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Goods Lifts) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Dry Batteries) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Guarding and Operation of Machinery) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Cartridge-Operated Fixing Tools) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Protection of Eyes) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Noise at Work) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Fire Precautions in Notifiable Workplaces) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Electricity) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Asbestos) Special (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Carcinogenic Substances) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That the Factories and Industrial Undertakings (Dangerous Substances) (Amendment) Regulation 1994, made by the Commissioner for Labour on 13 December 1993, be approved."

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

My remarks on the previous motion apply equally to this motion.

Madam deputy, I beg to move.

Question on the motion proposed, put and agreed to.

TRAFFIC ACCIDENT VICTIMS (ASSISTANCE FUND) ORDINANCE

THE SECRETARY FOR HEALTH AND WELFARE moved the following motion:

"That, with effect from 15 January 1994, the Schedule to the Traffic Accident Victims (Assistance Fund) Ordinance be amended as follows -

(a) in Part I, by repealing the column headed "Annual Levy" and substituting -

"Annual Levy in respect of a levy paid in 1994	Annual Levy in respect of a levy paid after 1994
\$78	\$126
\$78	\$126
\$78	\$126
\$78	\$126
\$78	\$126";

(b) in Part II, by repealing the column headed "Annual Levy" and substituting -

"Annual Levy in respect of a levy paid in 1994	Annual Levy in respect of a levy paid after 1994
\$26	\$42
\$26	\$42
\$26	\$42
\$26	\$42". "

She said: Madam deputy, I rise to move the motion standing in my name in the Order Paper. Its purpose is to seek the Council's approval for increasing the levies on vehicle and driving licences in order to allow disbursements to be

made to traffic accident victims who need assistance under the Traffic Accident Victims Assistance Fund Ordinance.

The Traffic Accident Victims Assistance (TAVA) Scheme, was set up under the Ordinance and has been in operation for some 15 years. It provides speedy financial assistance to traffic accident victims regardless of financial means of the applicant or fault in causing the accident. The Ordinance provides for the establishment of the TAVA Fund to finance the Scheme.

The four sources of finance comprise levies on vehicle licences and driving licences, refunds from those applicants who received compensation from other parties in respect of the accident; contribution from general revenue and proceeds derived from investments of the Fund.

When the TAVA Scheme was set up in 1979, it was considered that as the presence of vehicles gave rise to traffic accidents in the first place, vehicle owners and their drivers should bear the brunt of the cost of the Scheme through levies on vehicle and driving licences. However, it was accepted that pedestrians were responsible in some cases and, given the welfare elements of the Scheme, that is to say, the provision of emergency relief, a contribution from general revenue reflecting broadly the percentage of traffic accidents caused by pedestrians' negligence was also considered appropriate. Thus on the basis that pedestrians' negligence had then caused about one-third of all traffic accidents, the contribution was then set at one-third of the cost of the Scheme. Since then, due to the public education on road safety and in particular to the excellent work of the Road Safety Council, the percentage of traffic accidents caused by pedestrians' negligence had shown a sharp decrease. The latest statistics show that only one-fifth of all traffic accidents are now caused by pedestrians. Accordingly, in October 1992 the contribution from general revenue was revised downwards to one-fifth of the cost of the Scheme.

Honourable Members will appreciate that, since the last revision of the levies three years ago, the rates of payments under the TAVA Scheme had been increased by some 35%. This is because the rates are increased in line with inflation. Furthermore, there has been a consistent and substantial increase in payments, for example, the projected payments in 1993-94 represent some 65% increase over the payments in 1991-92. In order to meet our commitments under the law, I submitted a notice to move a motion in March last year to increase the levies. However, in deference to Members' request I withdrew the motion to allow a little time to consider how we could increase the refund rate and decrease the administrative cost. I am happy to report that the Director of Social Welfare who is the administrator of the Fund will be able to achieve an annual staff cost savings of about \$1 million. We have also examined ways and means to improve the refund rate. It has been suggested that the victim's right to claim damages should be subrogated to the Government. However, whether the victim of a traffic accident pursues his claim through the courts of law is, and must be, entirely a matter for the individual. Furthermore subrogation is not considered feasible because of the high administrative costs involved and the

practical difficulties in obtaining potential candidates' or claimant's co-operation. Instead we are vigorously encouraging the TAVA beneficiaries to pursue their claims through the courts and have advised them of the services provided by the Legal Aid Department, the Motor Insurance Bureau and the Law Society.

Madam deputy, the TAVA Scheme is a good scheme; it aims to provide immediate assistance to victims be they pedestrians or motorists. The revision of levies is to ensure that the Fund is solvent to meet the purposes for which the Fund was set up. Whilst we congratulate the increasingly better behaviour of pedestrians, we are sorry to say that there are still victims of traffic accidents. If this were an ideal world with no traffic accidents, there would be no need to have the TAVA Scheme. On the other hand, if there were no money in the Fund, there would be *de facto* no Scheme at all. The fact is that traffic accidents do happen and we do need to help the victims. Honourable Members, it is my public duty to seek funds under the law to enable the administrator to make speedy disbursements to claimants under the Scheme. I therefore propose that the annual levy on vehicle licences should be increased by \$30 in the first year from \$48 to \$78 with effect from 15 January 1994 and then from \$78 to \$126 with effect from 1 January 1995.

Similarly, I also propose that the annual levy on driving licences should be raised by \$10 in the first year from \$16 to \$26 and then from \$26 to \$42 from the same effective dates respectively.

The law allows advance renewal of driving and vehicle licences four months before their expiry date. To minimize operational difficulties, the revised rates will not apply to advance licence renewals made before the respective effective dates.

Madam deputy, I beg to move.

Question on the motion proposed.

PRESIDENT'S DEPUTY: Mrs Miriam LAU has given notice to move an amendment to the motion. Her amendment has been printed in the Order Paper and circulated to Members. I propose to call on her to speak and to move her amendment now so that Members may debate the motion and the amendment together.

MRS MIRIAM LAU moved the following amendment to the Secretary for Health and Welfare's motion:

"To delete "\$78" and "\$126" wherever they appear in paragraph (a) and substitute by "\$66" and "\$87" respectively; and to delete "\$26" and "\$42"

wherever they appear in paragraph (b) and substitute by "\$22" and "\$29" respectively."

MRS MIRIAM LAU (in Cantonese): Madam deputy, I move that the Secretary for Health and Welfare's motion be amended as set out in the Order Paper.

Having examined in detail the arguments put forth by the Administration in tabling the original motion, the subcommittee appointed by the House Committee and of which I am the chairperson came to a conclusion. Although Members of the subcommittee were not unanimous, the great majority were of the opinion that the Administration did not have sufficient reason to move a motion under the Traffic Accident Victims (Assistance Fund) Ordinance to increase the levies on vehicle owners and driving licence holders by 120% in two years' time. They considered such a rate of increase too high and unfair to car owners and driving licence holders.

The subcommittee has four reasons for moving the amendment. Firstly, the Administration should not lower the rate of contribution from general revenue to the Traffic Accident Victims Assistance Fund from October 1992 onward without conducting an overall review of the Traffic Accident Victims Assistance (TAVA) Scheme and prior consultation with this Council. This Fund was set up in accordance with section 3 of the Traffic Accident Victims (Assistance Fund) Ordinance mainly for the purpose of making disbursements approved by the Legislative Council under the TAVA Scheme as set out in section 4(a) of the Ordinance. According to section 3(2) of the Ordinance, the Fund has four sources of finance — (1) levies on vehicle and driving licences, (2) refunds from applicants who have received compensation from other parties in relation to the same traffic accidents, (3) contribution from the general revenue and (4) proceeds derived from investments of the Fund. Although there is no specific provision in the Ordinance, the then Secretary for Environmental Affairs did say during the Second Reading debate of the Bill that the intention of the Bill was that two-thirds of the Fund's finance should come from levies on the two licences and the remaining one-third from the general revenue. The Administration laid down such a rate of contribution because it accepted that the TAVA Scheme was a measure of social welfare and the whole community should help in contributing towards the Fund. Another reason for laying down such a rate was that pedestrians' negligence accounted roughly for one-third of the total number of traffic accidents. Even though the number of traffic accidents caused by pedestrians' negligence varied in the ensuing period, the Administration has maintained such a rate of contribution for 14 years until October 1992 when it suddenly slashed its contribution from one-third to one-fifth, on the pretext that the Administration's contribution should reflect only the pedestrians' share of responsibility in traffic accidents, thus causing the income of the Fund to drop by as much as 15%. Subsequently, the Administration swiftly moved a motion in March 1993 to increase the levies on the two licences. Such a practice was very unfair to vehicle owners and drivers. At that time, the subcommittee set up by this Council opposed this practice and requested the Administration to consider other measures for increasing income

and decreasing expenditure. However, after nine months and not having fully considered all the proposals forwarded by Members, the Administration again proposed to increase the levies on the reason of capital shortage of the Fund, and the proposed amount of increase has been raised significantly from the 50% in March 1993 to the current 120%. Also, the Administration has failed to come up with any specific proposals for increasing the Fund's finance. The subcommittee found that the Administration's practice was inappropriate.

Secondly, the Administration's method of determining the cause of traffic accidents is not so accurate to the effect that vehicle owners and drivers may possibly be required to shoulder an unreasonable proportion of responsibility. The Administration has said that such a method has been used for many years and there is no reason for changing it, but since we are required to accept the proportion of fault between pedestrians and drivers as the basis for determining the rate of contribution, then such a basis must be scientifically sound in order to be acceptable to the public. The Administration's attitude of leaving a mistake uncorrected and trying to make the best of it is really debatable.

Thirdly, the Administration has not been active in finding ways to improve the amount of refunds by applicants and increase other sources of finance. Currently, the amount of refunds by applicants only accounts for around 10% of total disbursements. Members of the subcommittee believe that if the authority concerned can encourage and assist more applicants and beneficiaries to claim compensation from those who caused the accidents or the insurance companies, simplify the relevant procedures or directly require the insurance companies to undertake part of the contribution, then the finance of the Fund can be improved, thus relieving the pressure for increasing levies on the licences. But the Administration has not done so.

Fourthly, the amount of disbursements in recent years has increased significantly. It is estimated that the amount paid out in 1993-94 will increase by 65% over that of 1991-92. Members of the subcommittee worry that if the increase should continue at such a rate, it would not be long before the levies on the licences would have to be increased again. So the subcommittee is asking the authority concerned to review the Scheme as soon as possible.

Given that the Fund may be exhausted in the beginning of this year, the subcommittee agrees that the levies on the licences be increased appropriately. For the four reasons described above, the subcommittee has also agreed to amend the Secretary's motion in order to reduce the rate of increase in the levies. In calculating the rate, the subcommittee agreed that the income from levies should only account for two-thirds of the total expenditure of the TAVA Scheme and the remaining one-third should be undertaken by the Administration. In other words, the subcommittee hopes that the Administration can increase its contribution to the former one-third level. Calculating in this method, the income of the Fund will be sufficient to pay for expenditure of the Scheme until the end of 1995, thus providing ample time for the Administration to review the Scheme and examine other ways of improving

the finance of the Fund. The subcommittee has also requested the Transport Panel of this Council to keep this issue in view and to urge the authority concerned to complete the relevant review as soon as possible.

I hope that the authority concerned will understand the worries of the subcommittee and discharge its duty as soon as possible by actively examining the proposals of the subcommittee and proposing to this Council in due course the allocation of fund to the TAVA Fund, rather than making repeated intimidations that should the Administration's proposal before us now not be approved, disbursements to traffic accident victims would have to be discontinued once the Fund is exhausted, hoping that pressure could be exerted on this Council by so doing.

With these remarks, Madam deputy, I move the amendment.

Question on Mrs Miriam LAU's amendment proposed.

MR HUI YIN-FAT (in Cantonese): Madam deputy, the Traffic Accident Victims Assistance (TAVA) Fund is run by the Government as a non-means test emergency relief to traffic accident victims or their families regardless of responsibility in causing accidents. It is in essence a form of social welfare provided by the Government to citizens. In theory, the Government should even meet the expenditure on compensation in full. However, I agree to requiring vehicle owners and driving licence holders to contribute two-thirds of the fund's revenue by way of levies, in order not to increase pressure on public purse. This arrangement could serve to educate the public as well. But the rate of contribution by the three parties towards the expenditure should not be determined by the degree of responsibility in causing traffic accidents.

The Government proposes to reduce its contribution towards the fund from one-third to one-fifth on the grounds that there are signs of a declining number of traffic accidents caused by pedestrians' negligence during the last several years. I cannot agree to this proposal. Certainly it is because of the difficulty in applying a unified set of standards to the examination of the causes of complicated traffic accidents. But more importantly, the proposal runs counter to the spirit of making disbursements from the fund to traffic accident victims. In this connection, I cannot agree to the Government's policy change and proposed increase, in levies although the levies on car owners and drivers are not at all high.

Some people think that the Government had once, to ensure funds for welfare services not to be affected, resorted to cutting its contribution towards the TAVA Fund in order to tie in with the central government's policy directive then of requiring all departments to cut expenditure by one percentage point; and now that the fund is short of revenue, the Government should return a favour. But I think this notion is totally absurd and unfounded. The Government's financial commitments to welfare services and to the fund are

fundamentally different in nature. The Government is responsible for providing the public with the necessary social welfare services even if there is not such a fund. The expenditure and revenue of the fund should not be linked up with the recurrent expenditure of welfare services under any circumstances.

Available information indicated that the Government's commitment to TAVA Fund in 1992-93 was budgeted at \$20 million. But the estimate was revised to \$17 million in July the same year when the Executive Council agreed to revise the Government's rate of contribution to the fund. However, the fund's administrative costs of the same year was as much as \$11 million, far higher than those committed by the Government to other funds. In view of this, why did the Government not first of all examine the possibility of cutting the administrative costs before trying to reduce its commitment to the fund? Incidentally, it is questionable as to whether or not the Government should meet the administrative costs of the fund in full although it is responsible for its management.

Madam deputy, judging from the way the fund makes disbursements to traffic accident victims or their families, this is a provision of basic assistance on the part of the Government to citizens, in particular those who are financially unable to cope with traffic accidents. Therefore, the Government can hardly shirk its financial commitment to the fund. Nor can it reduce its contribution on one excuse or another for it is government responsibility to provide people with welfare protection. This episode reflected that the Government has underestimated the strong response from the public and Members of this Council. It is difficult for the Government to win the public support for its position, especially more so when there are huge surpluses in the public coffers. On basis of the above reasons, I fully support the subcommittee's proposal to the House Committee of this Council and the amendments moved by the Honourable Miriam LAU.

MR ANDREW WONG (in Cantonese): Madam deputy, I am speaking to oppose Mrs Miriam LAU's amendment. I support the original motion of the Secretary for Health and Welfare. I am one of the members of the subcommittee charged with the duty to study the motion, and I should like to thank Mrs LAU, the chairperson of the subcommittee, for having pointed out that the views of the subcommittee are not unanimous. I am the only one on the subcommittee who holds dissenting views. May I try to convince all Honourable Members to change their minds and turn around to support the original motion moved by the Secretary for Health and Welfare.

Madam deputy, let us take a look at the magnitude of the rate proposed by the motion to increase the levies of the Traffic Accident Victims (Assistance Fund) Ordinance. At present, the annual levies are 48 "bucks" per vehicle owner and 16 "bucks" per driver. I say "bucks" instead of "dollars" because "bucks" is a more appropriate and vivid term which also reflects the minuteness of the amounts involved. The motion seeks to increase the annual levies twice in

two years: In 1994, each vehicle owner and driver are to pay 78 "bucks" and 26 "bucks" respectively. In 1995, they are to pay 126 "dollars" (I use the term "dollars" because the levy exceeds \$100) and 42 "bucks" respectively. We must not be misled and frightened by the percentage of increase. Let me leave the intermediate 1994 levies aside. Even if the levies were raised immediately to the 1995 level, and the annual levy on each vehicle owner were raised from \$48 to \$126, the increase would be \$78 per year only. Likewise, if the annual levy on each driver were raised from 16 "bucks" to 42 "bucks," the increase would be 26 "bucks" only. Based on the 1995 levy level, the monthly levy on each vehicle owner would be 13 "bucks" whereas the monthly levy on each driver would be \$3.50. Would a fair and reasonable man consider the increases to be big or small?

Madam deputy, I do not want to be verbose. I just want to compare the levies with the costs of keeping and driving vehicles. The monthly rental of a parking space in a public housing estate is about \$1,000. The hourly parking charge is about \$8. It costs about \$40 to mend a flat tyre. Towing charge is about \$400. The fine for each count of illegal parking (per ticket) is \$200. Filling up the fuel tank of a light or medium vehicle costs about \$300, let alone other costs. Madam deputy, the TAVA levy on each vehicle owner will be \$13 per month in 1995 (only \$6.5 per month in 1994) whereas the levy on each driver will be \$3.5 per month in 1995 (only \$2.2 per month in 1994). What do these amounts matter?

Madam deputy, I know that the argument of other Members on the subcommittee is that it is not a matter of magnitude but matters of principle and the original intention. Let us look at the matter of principle first. The subcommittee's view is that under the present system, the proportion of traffic accidents caused by vehicle owners/drivers and pedestrians is not accurately worked out and is loaded against vehicle owners/drivers. Moreover, the Government has not actively encouraged traffic accident victims to sue drivers at fault for compensation to contribute to the TAVA Fund. I consider that the TAVA scheme should be a simple one. To apportion blame meticulously and to encourage by all means or even to force accident victims to sue for compensation would only complicate the scheme, making the already high administrative cost soar even higher, and is therefore not worth the candle. Another consideration is that, legally speaking, discussion of matters of principle should not be undertaken by a subcommittee charged with the duty to study the motion on levy increase, but should be left to the relevant policy-making committees of the Council to follow up. It is not justifiable to reject the motion or to cut the levy increase simply on the ground of a matter of principle. Therefore, it can be said that this is an arbitrary approach which reflects the struggle between the Government and the Legislative Council.

Madam deputy, I concede that the original intention of the Traffic Accident Victims (Assistance Fund) Ordinance is questionable. I had raised such a question myself at meetings of the subcommittee because when the ordinance was enacted in 1979, the proportion from the levies on vehicle

owners/drivers and the contribution from general revenue was two to one, that is one-third of the cost of the TAVA Scheme was borne by the general revenue (the taxpayers). At the time when the Secretary for Planning, Environment and Lands moved the Second Reading of the Bill, he also spelt out the two to one contribution, and that the one-third contribution from general revenue was for welfare commitment. It is really not too difficult to resolve the doubts. Firstly, if we think carefully, we will appreciate that the term "welfare" was rather vague at the time. All arguments about the meanings of welfare, safeguards and services arose only during the 1980s (specifically, after 1985), after elected elements were introduced into the Legislative Council. There is not yet any conclusive definition for this term. Secondly, if we look at paragraphs 116 and 117, two of the paragraphs about this scheme in the 1987 report of the Director of Audit, we will appreciate that the one-third contribution from general revenue for the so-called welfare commitment was in fact worked out roughly on the basis of the percentage of accidents attributable to pedestrian carelessness in traffic accidents. Paragraph 116 has spelt out the original intention of the Executive Council. Paragraph 117 has indicated that the Finance Committee approved the appropriation of funds on this ground. The speech of the Secretary for Planning, Environment and Lands on the Second Reading of the Bill should be interpreted as such. It appears to me that the Administration had misinterpreted the original intention of the Ordinance when it responded to the 1987 proposal of the Director of Audit to cut the contribution from general revenue. Even if the interpretation was correct, we would also be caught in a dilemma. Now that accidents attributable to pedestrian carelessness have dropped to one-fifth, if one-third of the cost is to be contributed from general revenue, the extra fund will have to be met by general revenue meant solely for welfare programmes. If this extra cost is to be borne by the Administration, the expenditure on other welfare programmes will have to be cut. May I ask my Honourable Members which item of welfare expenditure would you be willing to cut? Moreover, why should taxpayers in general bear the cost arising from the faults of drivers and vehicle owners?

Madam deputy, we have twice set up a subcommittee to study the present motion. The two subcommittees held six meetings from the end of February 1993 to now. The majority conclusion, that is Mrs LAU's amendment motion, is to reduce and lower the rate of increase of the TAVA levies. Even if the 1995 levy level is to be adopted, the annual levies on each vehicle owner and driver will only be \$126 and \$42 respectively. Think about the respective annual levies of \$75 and \$25 in 1979 on each vehicle owner and driver. Is an increase of less than 100% over a period of 14 years really so unacceptable?

I call on all Honourable Colleagues to pay less attention to the trivial, and pay more heed to important things by rejecting Mrs LAU's amendment motion.

DR LEONG CHE-HUNG (in Cantonese): Madam deputy, first of all, I take exception to Mr Andrew WONG's points. Firstly, it is not a matter of the magnitude of increase but a matter of principle. Secondly, Mr WONG said that,

if we were to inject more money to the TAVA Fund, we would have to cut back on other welfare spending. I cannot agree with this point either.

Madam deputy, the number of minor and major traffic accidents that happen in Hong Kong every year amounts to 15 000, resulting in more than 20 000 casualties. Regardless of who is to blame, these sudden accidents cause temporary or even long-term traumas and financial difficulties to the victims and their families. That is why the Government set up the TAVA Fund 15 years ago to provide speedy financial assistance to accident victims and their families regardless of faults in causing the accidents or the financial means of the families. This is a correct approach.

Precisely for the same reason, we cannot allow the TAVA Fund to become insolvent, resulting in a sudden lack of funds for those in urgent needs. Regrettably, in order to prevent this crisis, the Government proposes to seek funds from all vehicle owners and holders of driving licence, and impose a drastic increase on the levies on them in the next two years. The Government's motion is to increase the levies by 60% a year in each of the next two years. Based on the present levy level, a levy of \$100 at present will go up to \$256 two years later, representing a sharp increase of 156% in comparison with the present levy. Apart from this, the Government does not examine ways and means to open up new sources of finance and cut down expenditure. This, I think, is unfair. Perhaps I should declare interests here. I am a vehicle owner and a holder of driving licence. Today's debate concerns my personal interest. Still, I will be very glad to contribute to the TAVA Fund, however, on the condition that the scheme should be fair, reasonable and not one which smacks of a "blatant robbery." Therefore, I cannot support the Government's motion. Mrs Miriam LAU's amendment motion to reduce the annual increase to about 30% is acceptable. However, increasing the TAVA levies on vehicle owners and motorists alone can never solve the problem of deficit.

Madam deputy, I support Mrs LAU's amendment motion but I also urge the Government to examine comprehensively, as soon as possible, other ways and means to open up new sources of finance and cut down expenditure so as to root out the problem of deficit.

Perhaps let me talk about ways to cut down expenditure first. I believe that nobody will deliberately cause a traffic accident to inflict self-injury in order to claim the limited amount of financial assistance. Therefore, the disbursements to be made to applicants cannot be cut. However, there is plenty of room for cutting down administrative cost. In 1991-92, about \$60 million were disbursed from the Fund to traffic accident victims to meet their urgent needs. However, the administrative cost for this was as high as \$9.5 million. In other words, for every hundred dollars of disbursement, there was a corresponding administrative cost of about 15%, that is \$15. The ratio is on the increase every year. In 1987, administrative cost only represented 13% of the disbursements. Therefore, the Government has to conduct a review to find out if the rate of increase of administrative cost is reasonable. The Government

must also try to further simplify the application and approval procedure, so that the Fund can benefit more needy people rather than keeping more administrative staff.

As regards the opening up of new sources of finance, honourable colleagues of this Council made a series of suggestions to the Government last year. Regrettably, the relevant departments have not yet worked out any specific measures in response to these suggestions. The matter dragged on again and again. Now, the Government comes back to us for a sharp increase of the TAVA levies on vehicle owners and motorists.

The point is: Are there no other solutions or is the Administration unwilling to open up new sources of finance?

So far, there are four sources of finance for the Fund. The Secretary for Health and Welfare and Mrs LAU have already mentioned about them a moment ago. I am not going to repeat. I just want to highlight one of the sources, namely, refunds to the Fund from applicants who received compensation.

Since the inception of the Fund, government contribution accounted for one-third of the total cost of the Scheme. However, in October 1992, the Executive Council approved the reduction of annual government contribution to one-fifth of the total cost of the Scheme on the ground that the proportion of pedestrian-caused traffic accidents had fallen.

I think such a revision has caused severe "internal damage" to the Scheme because it is not a simple technical revision but a radical change of policy, and has deviated from the Government's original objective of setting up the Fund.

At first, when the Government decided to contribute one-third of the cost of the Scheme, one of the considerations was that pedestrian negligence had then caused about one-third of all traffic accidents. Another more important consideration was that the Government at the time did consider the TAVA Scheme as a welfare programme. That is why the Government devoted public money to such a heavy commitment, that is the welfare element mentioned by the Secretary for Health and Welfare a moment ago. Therefore, the Executive Council's decision to cut the proportion of government contribution on the only ground that the number of traffic accidents due to pedestrians' faults has dropped is obviously contrary to the original principle of treating TAVA Fund as welfare relief fund. The Government has to explain and clarify this change.

Unless the TAVA Fund ceases to be a welfare element, the first solution to the problem at hand is to revert the proportion of government contribution from one-fifth to one-third. Based on the \$70 million total expenditure of the Fund in 1991-92, government contribution should be \$23 million instead of \$14 million. Reversion of government contribution to the original proportion is the most direct way to save the TAVA Fund from insolvency.

The second option to be examined for opening up new sources of finance is to make more applicants refund. Under the law, applicants of the Scheme are required to refund the disbursements to the Scheme if they succeed in recovering the compensation. However, according to the statistics for the past few years, the average annual refunds accounted for only 10% of the disbursement of the Scheme. This rate of refund is too low, and ways have to be found to increase the rate.

One of the feasible options is to simplify the legal procedures so that the Government can exercise the right to claim damages on behalf of the applicants to prevent them from not pursuing their claims for fear of trouble.

Another option is to enhance the co-operation between the Government and the Legal Aid Department in assisting victims eligible for legal aid to claim for compensation as soon as possible through the courts of law to increase the refund rate.

The third option is to impose a levy on insurance companies. All vehicle owners are required by law to take out third party insurance for their vehicles to ensure that traffic accident victims will be compensated. The Insurance Association estimated that last year the premium for third party insurance alone amounted to \$300 million. This amount only includes the premium received by members of the Association, accounting for about three quarters of premium of the third party insurance market in the territory. In other words, the total premium received by the third party insurance market should exceed \$300 million. Now the TAVA Scheme can only recover refunds equivalent to less than 10% of the disbursements. In the 1991-92, disbursements amounting to \$60 million were made but refunds recovered amounted to \$5.7 million only. If a contribution equal to 10% of the third party insurance premium can be collected, the Scheme will have an additional income of \$30 million per year. This is a rich source of finance which the Government must explore. The fact that refunds to the TAVA Fund amounts to less than 10% of the disbursements shows that many applicants of the Scheme do not claim the third party insurance compensations due to them. Therefore, a more direct way is that the Government should consider imposing a levy according to the policy on the insurance companies that sell third party insurance.

I urge the Government to give serious consideration to recovering reasonable compensation from this huge source of finance from third party insurance. Since in addition to traffic accidents, there are also industrial accidents, the Government should also examine ways to get compensation due to it from labour insurance to recover the medical cost incurred by government hospitals in treating workers injured at work.

At present, the Government only charges injured workers hospitalized in government hospitals fees of third class beds, that is only the cost of meals, and their medical fees are subsidized with public money. However, all employers are required by law to take out labour insurance for their employees. In other

words, the medical fees of the injured workers are already covered by insurance, and should therefore be met by insurance compensation. However, with the excuse of complicated administrative procedures, the Government has been reluctant to find ways to recover from insurance companies the full medical costs incurred by government hospitals in treating workers injured at work. This is very unfair to the taxpayers.

Therefore, I hope that the TAVA Fund can have a breakthrough in this area to set an example for the Government.

I would like to take the opportunity here to thank Mrs LAU, who apart from leading the work of the subcommittee with unremitting efforts and moving the amendment motion, plans to bring the issue back to the Panel on Transport chaired by her for follow-up actions. I pin high hopes on the panel, and lend it my greatest support.

DR CONRAD LAM (in Cantonese): Madam deputy, I am not sure whether I have to declare interests because I am a vehicle owner, a holder of driving licence and a pedestrian. However, I am a pedestrian most of the time.

Madam deputy, the wording of the speech of the Secretary for Health and Welfare on the Traffic Accident Victims (Assistance Fund) Ordinance today differs to a certain degree from that of her letter in Chinese addressed to the subcommittee on 6 January. Perhaps, the Chinese letter was not drafted by her. In her letter, she emphasized that, unless the Legislative Council was co-operative, the Traffic Accident Victims Assistance (TAVA) Scheme would demise and exist only in name. She added that, if the amendment motion was passed, the Government would seek to raise the levies again in May or June. But the most puzzling of all is that she should suggest the Legislative Council consider repealing the Ordinance. The text of the letter is, and I quote, "Apart from this, Members of the Legislative Council may have to consider repealing the Ordinance." I must make one point emphatically clear. As far as I know, among all Members of this Council, none of us would agree to repealing the Traffic Accident Victims (Assistance Fund) Ordinance. It is really very shocking and puzzling to me that the Secretary, Mrs WONG, who has all along attached importance to social welfare, should suggest that we, Members of the Legislative Council, should consider repealing the Ordinance. If the Government does not want to continue the TAVA Scheme, it may frankly say so. According to the Government's budget, there would be a deficit of about \$3.3 billion this year. However, this deficit has now turned into a huge surplus. Even without the levy increase, it would still be hardly credible to say that with this \$30 million or so, the Government cannot afford the cost of the scheme. Does the Government mean to abandon the TAVA Scheme? If this is the case, it would have to be responsible for the consequences.

It is said that the levy of merely tens of dollars on vehicle owners and holders of driving licence is insignificant. I do not agree to this for the following two reasons:

Firstly, if the Government's motion is passed, the TAVA levy will increase by 62% after the second increase, that is, in about three months. It would be a very big increase.

Secondly, the most important consideration is the way in which the cost of the scheme is shared. The way has been unfair to vehicle owners and holders of driving licence from the very beginning. I call on government officials and Members of the Council who are concerned about this Ordinance to spare one or two minutes to read the speech of Mr Oswald CHEUNG, the then Senior Unofficial Member of Legislative Council, delivered on 20 December 1978 at the Second Reading of the TAVA Bill. Mr CHEUNG made it very clear that he hoped that the Government would work out a simpler and fairer way to raise fund. He also suggested that if, after the introduction of the method, operational difficulties were found, or the method was found to be unfair, then consideration could be given to levying on vehicle fuel prices. Over the past years, fuel tax has been raised again and again but has the tax revenue ever been used to support the TAVA Fund? While moving the Second Reading of the Bill in this Council on 29 November, the Secretary for Planning, Environment and Lands said that being a social welfare programme irrespective of fault, this scheme should be funded with public money. About one-third of traffic accidents are caused by pedestrians. Since the TAVA Scheme is a social welfare programme, why then must vehicle owners and holders of driving licence share two-thirds of the cost of the scheme? What wrong have they done? The explanation given at the time by the Secretary for Planning, Environment and Lands was that, since most traffic accidents were caused by motorists, they should share a certain contribution. I find the Secretary's argument illogical on the following grounds:

Firstly, since the TAVA Scheme is irrespective of fault, and pedestrians, vehicle owners and holders of driving licence are all Hong Kong citizens, why should the cost of pedestrians' faults be met by general revenue whereas the cost of faults attributable to other reasons is borne by all vehicle owners and holders of driving licence?

Secondly, vehicle owners and holders of driving licence have paid their annual licence fees and taxes for using the roads.

Thirdly, even if a traffic accident is caused by a motorist, the vehicle owner concerned has done his duty through the insurance, and may even have been punished accordingly by law.

Fourthly, if the Government's decision on who should pay is based on who is at fault, why require the 400 000-odd vehicle owners and 900 000-odd holders of driving licence who have done nothing wrong to share the liability of

individual drivers who are at fault? We cannot penalize an entire group for the faults of its individual members. This would be unfair and unreasonable to the innocent. It is said that vehicle owners and holders of driving licence are a more easily identifiable group. To require them to contribute more can obviate the need to cut the expenditure of the Social Welfare Department on other items. This argument is very questionable:

Firstly, it is very improper to solve problems by unfair means simply for the convenience of the executive-led Government.

Secondly, to single out and discriminate vehicle owners and holders of driving licence is contrary to the democratic spirit of safeguarding the interests of the minorities.

Thirdly, this presupposes the insignificance of the TAVA Scheme before the Social Welfare Department publicizes its way to prioritize the various social welfare services.

Madam deputy, at the Second Reading of the TAVA Bill in this Council in 1978, only a few Unofficial Members spoke on the Bill. Although all Members of the Council in those days were appointed members, the Senior Unofficial Member questioned the equitability and desirability of the Bill. Today, many Members of the Council are speaking from the stand point of members of the public, enhancing greatly the credibility of the Council. If the Government really wants to continue the TAVA Scheme and has to inject more fund, it can put up the request to the Finance Committee at any time. I believe that Members will be glad to endorse and accept such a request. What does this prove? It proves that Members of this Council support the TAVA Scheme. If, instead of seeking for additional fund, the Government seeks to increase the TAVA levies, this would be a deliberate and unfair discrimination of part of the community.

Lastly, I want to stress that the United Democrats of Hong Kong support the Government in injecting more fund when necessary, so that the operation of the TAVA Scheme can continue. In addition, we call on the Government to adopt a simpler and fairer levying method. However, we oppose the Government's motion today, and do not support Mrs Miriam LAU's amendment motion.

I so submit.

MR ERIC LI: Madam deputy, I have no quarrel with my honourable colleagues on the findings of the subcommittee. There are good reasons to press the Administration in taking a serious look at the rather shabby administration of the TAVA Scheme. However, it seems that the amendment only seeks to simply pass the bulk of the financial buck back to the Government. It is from this hasty conclusion that I beg to differ.

We are correct to recognize that the scheme is welfare in nature. But what is welfare? It is not equivalent to say that the Government must immediately "cough up" the necessary funds. If all welfare programmes are automatically funded, I shall be a very happy man as the chairman of the Social Welfare Advisory Committee. Therefore, the passing of the amendment can at best achieve in making a point and exerting some moral pressure on the Administration. Unless we can be satisfied beyond reasonable doubt that the Government has a statutory duty at all times to make payment to accident victims under the scheme, the fact of life is that any request for fresh funds from the public coffers, welfare or otherwise, will still have to be prioritized in the normal Resource Allocation Exercise. It is obvious therefore that there is no guaranteed funding.

The point is that if we accept the scheme as a necessary welfare, which it clearly is, it is much more important to ensure that monies come from somewhere. It is less important who actually pays it. Welfare is not really about a system to apportion responsibility, it is not about a system to place blames. We as legislators cannot place responsibilities and seek to "punish" the Government for poor administration if it is ultimately the taxpayer in general who pays the "fines". There are shining examples in the travel and securities industries where there are levy systems in place to collect from the good guys to cover for the mistakes of those who fail in the same industry regardless of blame. The right approach to take in welfare funding is to see who are more able and who have better reasons to pay. Then it is a question of whether it is at an affordable level. Put in this context, my own choice is to ask the motorists rather than the taxpayers in general to contribute towards this small increase in levy. The funding from this source is certain, is well affordable in absolute terms by vehicle owners and it sends a more positive social message to the community.

If this Council persists in a course of laying blames and shifting responsibilities, we may win an argument. But at the end of the day, future traffic victims may fall victim once more, not to accident this time, but as a direct result of our inability to reach practical compromises with the Government.

The TAVA Scheme has taken years in the 1970s to establish after much hard bargaining and compromises. It is a slippery road to go down again. With the reasons given above and a firm commitment to ensure that the scheme remains adequately funded, I cannot support the amendment to the motion until after a full review.

PRESIDENT'S DEPUTY: Secretary for Health and Welfare, do you wish to reply?

SECRETARY FOR HEALTH AND WELFARE: Yes, indeed, Madam deputy. I am grateful for all the comments and criticisms uttered in the debate. In particular, I am grateful for the singular appeal and perceptive support from the Honourable Andrew WONG and the Honourable Eric LI. I am also grateful for the constructive suggestions from Dr the Honourable LEONG Che-hung and Dr the Honourable Conrad LAM.

However, it would appear to me that Members' criticisms stemmed essentially from what they would wish the TAVA Scheme to be, rather than what the TAVA Scheme is. We have, as quoted by the Honourable Eric LI, a time-honoured TAVA Fund.

This time-honoured policy that the TAVA Fund should be financed in accordance with the law, that is to say, levies on vehicle and driving licences, contribution from general revenue on behalf of pedestrians, refunds from applicants and proceeds derived from investment of the fund.

We have explained earlier, and many times at meetings with Members of the Legislative Council, that the proportion from the levies on vehicle and driving licences and the contribution from general revenue should correspond broadly to the proportion of traffic accidents caused by motorists and pedestrians respectively. It is on this basis that the contribution from general revenue now covers one fifth of the cost of the TAVA Scheme, that is to say, put it another way, the contribution from general revenue covers a 100% of accidents attributable to pedestrian carelessness.

Indeed, in the event that pedestrians became the main offenders, naturally contribution from general revenue would have to be reviewed and adjusted accordingly in accordance with the existing scheme and existing policy.

Here I must again congratulate the Road Safety Council for their excellent work, which it has done to promote road safety amongst road users. I am happy to say that pedestrians are now taking greater care in crossing the road and as a result the percentage of traffic accidents caused by pedestrians' negligence has dropped dramatically.

The financing of the TAVA Scheme is fair, based as it is on the principle of proportional distribution. To reject this principle would knock at the very foundation of the existing scheme. To change the essentials of the scheme might mean the demise of the scheme itself and the start of an entirely new scheme under an entirely new situation.

Madam deputy, it could be argued that in Utopia we would not need a TAVA Scheme at all as there would be no traffic accidents. But we must deal in reality. There are traffic accidents, and it is good that we have this scheme to provide immediate relief to victims, whether they are drivers of vehicles or pedestrians, irrespective of means and fault.

Reality also tells us that the TAVA Fund is fast running out in the next couple of months. The motion I move is aimed at restoring the fund to a solvent state for speedy disbursements to be made to those in need. The levies proposed in my motion amount to an additional \$10 and \$30 for this year and a further \$16 and \$48 for the next year. It is a small contribution to comfort those in need. My proposal would also enable the Fund to operate efficiently and with certainty.

Madam deputy, it is my public duty to seek appropriate funding for the scheme in accordance with the approved policy. I trust Honourable Members will wish to do their part.

Thank you, Madam deputy.

Question on Mrs Miriam LAU's amendment to Secretary for Health and Welfare's motion put.

Voice vote taken.

The President's deputy said she thought the "Ayes" had it.

MR ANDREW WONG: Madam deputy, may I claim a division?

PRESIDENT'S DEPUTY: We shall proceed to a division.

PRESIDENT'S DEPUTY: Would Members now proceed to vote?

THE PRESIDENT'S DEPUTY: It seems that one Member has not voted. Yes, it is all right now. Do Members have any queries because, if not, we will now have the results displayed?

Mrs Selina CHOW, Mr HUI Yin-fat, Mr Martin LEE, Mr SZETO Wah, Mr Edward HO, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Dr LEONG Che-hung, Mr Jimmy MCGREGOR, Mr Albert CHAN, Mr Vincent CHENG, Mr Moses CHENG, Mr Marvin CHEUNG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr Henry TANG, Mr TIK Chi-yuen, Dr Samuel WONG, Dr Philip WONG, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Dr TANG Siu-tong, Mr James TIEN and Mr Alfred TSO voted for the amendment.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Andrew WONG, Mr Timothy HA, Mr Eric LI, Miss Christine LOH, Mr Roger LUK, Ms Anna WU voted against the amendment.

Mr CHIM Pui-chung abstained.

THE PRESIDENT'S DEPUTY announced that there were 35 votes in favour of the amendment and nine votes against it. She therefore declared that the amendment was carried.

Question on the amended motion put and agreed to.

First Reading of Bill

HONG KONG AIRPORT (CONTROL OF OBSTRUCTIONS) (AMENDMENT) BILL 1993

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

Second Reading of Bills

HONG KONG AIRPORT (CONTROL OF OBSTRUCTIONS) (AMENDMENT) BILL 1993

THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS moved the Second Reading of: "A Bill to amend the Hong Kong Airport (Control of Obstructions) Ordinance."

He said: Madam deputy, I move the Second Reading of the Hong Kong Airport (Control of Obstruction) (Amendment) Bill. The Bill seeks to extend the application of the Hong Kong Airport (Control of Obstruction) Ordinance to the proposed airport at Chek Lap Kok, to transfer certain powers vested in the Governor in Council to the Secretary for Planning, Environment and Lands and to revise the level of penalty prescribed under the Ordinance.

The Ordinance provides, among other things, for the restriction and, where necessary, the reduction of the heights of buildings in the interests of the safety of aircraft. It also provides for the control of lighting, provision and maintenance of aids to air navigation and other related matters. At present, the Ordinance only applies to the Hong Kong Airport, which means the airport at Kai Tak.

Following the decision to build the replacement airport at Chek Lap Kok, a new set of Airport Height Restrictions will be required to ensure that the operation of the new airport will not be affected by building development. Hence, the first proposal in the Bill seeks to extend the provisions of the Ordinance to cover both the proposed airport as well as the existing one. This is an enabling measure to allow new Airport Height Restrictions in relation to the new airport to be prescribed by Orders made under the Ordinance in due course. It will have no immediate restrictive effect. The extent of new Airport Height Restrictions to be applied is still under consideration by the Administration. Lantau Island and some areas in the western part of the New Territories will probably be affected.

The second proposal is to relieve the workload of the Governor in Council in relation to technical and operational matters by transferring certain powers to the Secretary for Planning, Environment and Lands. These powers include the powers to specify Airport Height Restrictions, to authorize the provision or erection on buildings of any marks, lights and beacons for aviation safety purposes and to extend the period for making compensation claims under the Ordinance. The Bill also expressly empowers the Secretary for Planning, Environment and Lands, on the advice of the Director of Civil Aviation, to grant exemptions from Airport Height Restrictions for individual developments.

Finally, we propose to revise the penalty provisions under section 20 of the Ordinance. The present penalty level provided under the Ordinance was fixed in 1957 when the Ordinance was enacted. In order to maintain the deterrent effect against breaches of the provisions of the Ordinance, we propose to increase the penalty level and to add a provision imposing a daily default fine for some of the more serious offences involving continued non-compliance.

Madam deputy, the Bill is necessary to provide the legislation framework to safeguard the future operation of the airport at Chek Lap Kok and to improve the implementation of certain provisions of the Ordinance. I commend it to Members for favourable consideration.

Thank you, Madam deputy.

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

IMPORT AND EXPORT (AMENDMENT) (NO. 2) BILL 1993

Resumption of debate on Second Reading which was moved on 17 November 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).

NOISE CONTROL (AMENDMENT) BILL 1993

Resumption of debate on Second Reading which was moved on 12 May 1993

Question on Second Reading proposed.

DR SAMUEL WONG: Madam deputy, the purpose of the Noise Control (Amendment) Bill 1993 seeks to tighten up the use of noisy powered mechanical equipment (PME) and non-powered mechanical equipment (non-PME) in construction works during the restricted hours in designated areas which are essentially either populated or particularly sensitive. The Bill also seeks to clarify some of the existing provisions and empower the Secretary for Planning, Environment and Lands to establish designated areas and issue Technical Memorandum for such purposes.

The Bill was introduced into this Council on 12 May 1993. A Bills Committee was formed to study the Bill. The Committee, chaired by me, has held four meetings, three of which are with the Administration.

Three major issues have been considered by the Bills Committee. Firstly, it is the level of penalties. The current penalty levels in the Noise Control Ordinance were introduced in 1988. Members consider that opportunity should be taken to review the penalties and bring them in line with those provided for similar offences under other environmental protection legislations in order to achieve the necessary deterrent effect. After a review conducted by the Administration, Members are pleased to note that the Administration is prepared to move an amendment to adjust upwards the fines under the various sections of the Noise Control Ordinance.

Secondly, the Bills Committee deals with the drafting problem of existing section 6(6) and the proposed section 6(7). According to the Administration, both sections are intended to provide a defence for the same class of persons, that is, owners, tenants and occupiers of domestic premises in respect of certain noisy activities performed by them. However, the drafting of the two subsections would have the effect of having two different definitions on the scope of the beneficiaries of the defence. At the request of Members, the Administration redrafts the provision by combining the two subsections together to achieve more clarity. A Committee stage amendment will be moved by the Administration to reflect this.

Thirdly, Members have spent considerable time to discuss the six-month transitional period proposed by the Administration to enable the construction industry to make adjustments for the implementation of the Bill. It is noted that the Hong Kong Construction Association, while supporting the Government's efforts, has requested that the grace period should be extended for the 43 000 construction works covered by running contracts and contracts already tendered and/or signed. The Administration, in response, pointed out that different grace periods would give rise to enforcement and resource problems. Although it is possible to clarify the status of the activities by means of a permit system, the staff resource requirement is significant. The original intention is to introduce far more stringent measures to control construction noise than what is now contained in the Bill. The Administration does not wish to further relax the controlling measures. The combination of the time spent in discussing with the industry, the time required for the legislative process and the advance notice given to the industry of the proposed controls should have given sufficient time to the industry to prepare for the implementation of the Bill. Members of the Bills Committee, except one, accept the Administration's explanation and standpoint. The dissenting Member, Mr Ronald ARCULLI, however, is of the view that the Administration should consider issuing permits to the work sites which are covered by running contracts or contracts tendered or signed before the enforcement of the Bill and exempting them from the requirements of the Bill.

Further information pertaining to the estimated number of permits/letters to be issued to ongoing contracts and the resources required was provided to the House Committee to facilitate its deliberation on the Bill. Both the recommendation of the Bills Committee and the dissenting view had been brought to the attention of the House Committee. The House Committee endorsed the Bills Committee's recommendation.

Mr Ronald ARCULLI has given notice to move amendments to the Bill to the effect that the proposed control of noisy PME and non-PME work will not apply to construction works covered by running written contracts and contracts already tendered and/or signed before the enactment of the Bill. I personally appreciate Mr ARCULLI's concern but I am afraid that I cannot support his proposed amendment. I believe that the industry is supportive of any environmental protection legislation. They would make their best effort to co-operate and reschedule their works to meet the requirement of the Bill. As far as I know, the longer the duration of a contract, the more flexibility a contractor can exercise to accommodate such a change in law by means of improved site management, higher efficiency and work rescheduling. I hope Members would weigh very carefully the environmental benefits that could be brought to our community by the implementation of a uniform transitional period to all construction works before deciding whether or not to support Mr ARCULLI's proposed amendments.

We have been living in a noisy city for too long. With the enactment of this Bill which imposes more stringent controls on noisy construction activities, we hope that we would benefit from a quieter living environment.

Madam deputy, with these remarks, I commend the Noise Control (Amendment) Bill 1993 to Honourable Members.

MR RONALD ARCULLI: Madam deputy, the Noise Control (Amendment) Bill before the Council today will, if passed, extend controls on noisy construction activities during restricted hours in designated areas which, as the Honourable Samuel WONG has said, would be areas which are populated and of a particularly sensitive nature. It has therefore particular significance to my constituents.

I would like to say at the outset that my constituents recognize, and indeed support, the Administration's efforts in encouraging quieter working methods in the industry. Our concern, however, is one of timing, namely, when should the new proposals take effect? The Administration has opted for a grace period of six months whilst the industry had originally suggested 18 months. In my view, whatever period one chooses it is arbitrary. Naturally, the shorter the period the more unfair it is to the industry. I have therefore put forward the suggestion that in addition to the six-month grace period the new measure should not apply to existing contracts or contracts to be entered into as a consequence of tenders submitted before the new measures become law. This way the industry can adjust to the new measures as well as complete existing contracts without bearing any additional cost not previously provided for.

Insofar as this particular aspect is concerned, Madam deputy, during the deliberations of the Bills Committee I had put a question to the Administration as to whether the Administration was prepared to give the industry an assurance that, in terms of government contracts, should there be any loss the Government, as good employers, would be quite happy to make up this loss. I suspect that it comes as no surprise to Members that my request was denied.

Madam deputy, the form I have put forward was adopted by this Council when the rate of levy under the Pneumoconiosis Compensation Fund was increased from 0.02% to 0.03%. The major considerations were, as I recollect, identical. First, if the new levy were to apply to existing contracts, the industry would carry a heavy financial burden in not being able to pass the new levy on to existing contracts, and secondly, and perhaps more importantly, to apply the new levy to existing contracts would result in it being applied retrospectively. Madam deputy, we all know how jealously this Council guards against passing laws that have retrospective effect.

Madam deputy, I shall be moving two amendments during the Committee stage and I shall ask honourable colleagues to support my amendments. There is however one matter that I think I believe my recollection is right. The matter

was put to the House Committee but, if I remember correctly, the House Committee did not vote on it; what the House Committee endorsed was that the matter be brought up for Second Reading as we are doing today.

REV FUNG CHI-WOOD (in Cantonese): Madam deputy, just now Mr Ronald ARCULLI said that he was going to move some amendments so that the grace period would be applicable to all construction projects and be extended until the expiry of all existing contracts. At face value, the proposal sounds fair because existing works can thus remain unaffected. However, the problem lies in the fact that some of these contracts may run as long as some years and it is unreasonable to have such a long grace period. Furthermore, law enforcement officials, in particular the police, will encounter great difficulty if there are different grace periods for different construction projects because they do not know which construction sites are, and will be, subject to the new ordinance. Besides, many construction sites are now closed during public holidays and the new ordinance will virtually have little impact on them. For this reason, Members from the United Democrats of Hong Kong oppose Mr ARCULLI's proposed amendments.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Madam deputy, I am grateful to Dr the Honourable Samuel WONG and members of the Bills Committee for their efforts in studying the provisions of the Noise Control (Amendment) Bill and for their support. Their constructive suggestions have led to the amendments I would propose at the Committee stage.

In the course of their deliberations, and having noted that the stipulated maximum fines had not been revised since the enactment of the Ordinance in 1988, members of the Committee considered that the penalties should be increased. To maintain the deterrent effect of the fines under the Ordinance, and to make them compatible with penalties under other environmental legislation, we therefore propose to increase the fines to levels stipulated in the Committee stage amendments. This will have the effect of doubling the maximum levels of fines.

I would now like to turn to the issue of the length of the grace period for the implementation of the provisions of the Bill. The Administration's intention was to grant a grace period of six months before bringing the controls into effect. However, at the meetings of the Bills Committee, a view was expressed that a six-month grace period would not be sufficient for construction companies operating existing contracts or contracts signed before the Bill's enactment, and that such contracts should therefore be exempted from the provisions of the Amendment Bill requiring a permit for certain noisy construction activities during the restricted hours in populated areas.

However, another issue to be considered is whether, by exempting all on-going contracts or contracts signed before the Bill's enactment, the effectiveness

of the controls it introduces, and therefore its beneficial effect on the public, will be undermined. If such exemptions apply, the Authority will be required to verify the status of each construction site and contract in the relevant areas and this could well require additional resources.

Madam deputy, the Administration's intention to introduce the controls contained in the Bill has been known to the construction industry since January 1991 and the industry has been formally aware of the detailed proposals since the Bill was gazetted on 30 April 1993. Taking into account the proposal for a six-month grace period after the Bill's enactment, the construction industry will have had at least 15 months' notice of the new controls before they come into effect. The Administration therefore considers that the industry will have had ample time to anticipate the likely new requirements when entering into contracts. I should add here that the Housing Department has implemented a holiday ban on construction work since 1989. Their experience has shown that the additional noise control provisions have not resulted in a noticeable increase in costs or in any additional time being required for the completion of contracts. We should also not lose sight of the environmental benefits to the community for whom excessive noise remains one of the most pressing pollution problems. Any exemption to the provisions of this Bill or extension of the grace period will mean that the community will have to suffer longer.

I believe, therefore, that a six-month grace period after the Bill's enactment should be more than sufficient to enable contractors to accommodate the controls.

Thank you, Madam deputy.

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.

IMPORT AND EXPORT (AMENDMENT) (NO. 2) BILL 1993

Clauses 1 and 5

SECRETARY FOR SECURITY: Madam Chairman, I move that clauses 1 and 5 be amended as set out in the paper circulated to Members.

The amendment to clause 1 updates the title of the Bill. The amendment to clause 5 is a technical change consequent upon the enactment of the Interpretation and General Clauses (Amendment) (No. 2) Ordinance 1993.

Proposed amendments

Clause 1

That clause 1(1) be amended, by deleting "(No. 2) Ordinance 1993" and substituting "Ordinance 1994".

Clause 5

That clause 5 be amended, in the proposed section 6F —

- (a) in subsection (5), by deleting "by a further period not exceeding 21 days" and substituting "to the next sitting";
- (b) by adding -

"(8) In this section, "sitting", when used to calculate time, means the day on which the sitting commences and only includes a sitting at which subsidiary legislation is included on the order paper."

Question on the amendments proposed, put and agreed to.

Question on clauses 1 and 5, as amended, proposed, put and agreed to.

Clauses 2 to 4 and 6 to 20 were agreed to.

NOISE CONTROL (AMENDMENT) BILL 1993

Clauses 1, 2 and 4 to 8 were agreed to.

Clause 3

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Madam Chairman, I move that clause 3(b) be amended as set out in the paper circulated to Members.

Clause 3(b) of the Bill expands the application of the existing section 6(6) of the Noise Control Ordinance so that it also exempts non-powered mechanical equipment used by the owner, tenant or occupier of domestic premises from the

requirement to obtain a construction noise permit for its use in the evening or on Sundays or public holidays.

The amendments have been discussed and agreed by the Bills Committee.

Thank you, Madam Chairman.

Proposed amendment

Clause 3

That clause 3 be amended, by deleting paragraph (b) and substituting —

"(b) by repealing subsection (6) and substituting -

"(6) The owner, tenant or occupier of domestic premises may perform construction work in those premises without a construction noise permit being in force in respect thereof provided that -

- (a) the construction work is performed only by the owner, tenant or occupier, as the case may be;
- (b) the only powered mechanical equipment used for the construction work is portable and designed for operation while held by hand without any other form of support; and
- (c) only one item of powered mechanical equipment is in use in the premises at any one time."."

Question on the amendment proposed, put and agreed to.

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

New clause 8A Transitional

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

MR RONALD ARCULLI: Madam Chairman, I move that new clause 8A as set out in the paper circulated to Members be read the Second time.

I only have really two points to add. Firstly, in terms of the point on enforcement, I had volunteered, during the Bills Committee deliberation, to ask contractors to actually exhibit the contract at the site so as to assist in enforcement. And secondly, in terms of the 15-month period which the Secretary for Planning, Environment and Lands is suggesting the industry had, with the greatest respect, if this Council is to take note of that, he is rather assuming that once gazetted the Bill will pass unamended in every circumstances. And I do not think that is a fair approach.

Question on the Second Reading of new clause 8A put.

Voice vote taken.

CHAIRMAN: This calls for a division.

MR RONALD ARCULLI: I call for a division, Madam Chairman.

CHAIRMAN: Committee will proceed to a division.

CHAIRMAN: Would Members now please proceed to vote?

CHAIRMAN: Two Members have not marked themselves present. One Member now. All right. We are now voting on Mr Arculli's amendment. Any queries, Members? The results are being displayed.

Mrs Selina CHOW, Mr HUI Yin-fat, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Moses CHENG, Dr LAM Kui-chun, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG, Dr TANG Siu-tong, Mr James TIEN and Mr Alfred TSO voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Martin LEE, Dr David LI, Mr SZETO Wah, Mr Andrew WONG, Mrs Peggy LAM, Dr LEONG Che-hung, Mr Jimmy MCGREGOR, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Timothy HA, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr TIK Chi-yuen, Dr Samuel WONG, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH, Mr Roger LUK and Ms Anna WU voted against the motion.

Mr TAM Yiu-chung, Mr Vincent CHENG, Mr Marvin CHEUNG and Mr CHIM Pui-chung abstained.

THE CHAIRMAN announced that there were 15 votes in favour of the motion and 29 votes against it. She therefore declared that the motion on the Second Reading of the new clause was defeated.

New clause 8B Transitional

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

MR RONALD ARCULLI: Madam Chairman, I move that new clause 8B as set out in the paper circulated to Members be read a Second time, the reasons for which I have already stated during the Second Reading debate and in moving the earlier new clause 8A.

Question on the Second Reading of the clause proposed, put and negatived.

New clause 9 Amendments

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

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Madam Chairman, I move that clause 9 be amended as set out in the paper circulated to Members.

Clause 9 is a new provision to increase the levels of fines in the Ordinance and to enhance their deterrent effect. The amendment has been discussed and agreed by the Bills Committee.

Thank you, Madam Chairman.

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

Clause read the Second time.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Madam Chairman, I move that new clause 9 be added to the Bill.

*Proposed addition***New clause 9**

That the Bill be amended, by adding —

"9. Amendments

The provisions of the Ordinance specified in column 1 of the Schedule are amended by repealing the amounts specified in column 2 and substituting the amounts specified in column 3 -

Section	SCHEDULE	
	Repeal	[s. 9] Substitution
4(3)	5 000	10 000
5(5)	5 000	10 000
6(5)(a)	50 000	100 000
6(5)(b)	100 000	200 000
6(5)	10 000	20 000
7(2)(a)	50 000	100 000
7(2)(b)	100 000	200 000
7(2)	10 000	20 000
13(7)(a)	50 000	100 000
13(7)(b)	100 000	200 000
13(7)	10 000	20 000
14(5)(a)	50 000	100 000
14(5)(b)	100 000	200 000
14(5)	10 000	20 000
15(5)(a)	50 000	100 000
15(5)(b)	100 000	200 000
15(5)	10 000	20 000
16(6)(a)	50 000	100 000
16(6)(b)	100 000	200 000
17(5)(a)	50 000	100 000
17(5)(b)	100 000	200 000
17(5)	10 000	20 000

Section	Repeal	Substitution
17A(3)(a)	50 000	100 000
17A(3)(b)	100 000	200 000
17A(3)	10 000	20 000
27(3)	100 000	200 000
28(4)	10 000	20 000".

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

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

IMPORT AND EXPORT (AMENDMENT) (NO. 2) BILL 1993 and the

NOISE CONTROL (AMENDMENT) BILL 1993

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

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

Bills read the Third time and passed.

Members motions

PRESIDENT'S DEPUTY: The President has accepted the recommendations of the House Committee as to time limits on speeches for the motion debates and Members were informed by circular on 10 January. 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.

FARE INCREASES OF THE THREE RIALWAYS

MR LAU CHIN-SHEK moved the following motion:

"That this Council urges the Government to introduce amendments to the relevant legislation to stipulate that any future fare adjustments by the

Mass Transit Railway, Kowloon-Canton Railway and Light Rail Transit System must be approved by the Executive Council and submitted to this Council in the form of subsidiary legislation before they can be put into effect, so as to ensure that the fares of the three railways can be effectively monitored by the Executive Council and this Council."

MR LAU CHIN-SHEK (in Cantonese): Madam deputy, I move the motion standing in my name on the Order Paper.

Kowloon Motor Bus (KMB) and China Motor Bus (CMB) recently applied to the Transport Department to increase fares. News of this drew a strong public reaction. The press was generally critical of the breathtaking proposed increases. The nearly 20% overall increase was lambasted as "way out of line". The grounds for the proposed increases were also regarded as hardly justifiable. During the past few weeks, several concerned groups launched signature campaigns against KMB's big proposed fare increases. These groups included such political organizations as the Liberal Party and the United Democrats of Hong Kong. (I believe that there will soon be a major movement opposing CMB's big proposed fare increases as well.) Given that fares or rates charged by public utility companies directly affect their livelihood, any increase in these fares or rates is evidently a matter of major concern to members of the public.

According to government figures made available to this Council's policy panel, KMB, compared with other public utility companies, was the biggest contributor to inflation in recent years, whose fare increases added 0.2 of one percentage point to the inflation rate. MTR, whose fare increases adding 0.17 of one percentage point, was a close second. I believe that the three railways — MTR, KCR and Light Rail Transit (LRT) — provide far more convenient services than KMB to the multitudes of wage earners rushing to and from their workplaces every day. The three railways have effectively replaced public bus as Hong Kong's most important mode of public transport.

At present, the three railways together carry 3 million passengers a day. A significant increase in their passenger volume is anticipated for each of the coming years. (MTR, for instance, anticipates a 2.5% annual increase in its passenger volume.) In contrast, the bus passenger volume has levelled off or indeed declined in recent years. It is an indisputable fact that the three railways are becoming ever more important. This explains precisely why effective monitoring for the three railways (particularly in the area of fares) is important to the protection of people's livelihood.

The three railways never fail to announce a customary round of fare increases on 1 May of each year. They raise fares the most frequently among all public transport companies. An even greater problem is that the three railways, particularly MTR, never fail to link the fare adjustments to the prevailing inflation rate. It did so, with or without justification, even in the recent high-inflation years, thus putting further upward pressure on the

inflation rate. In 1991, the Government fought inflation by announcing a one-year freeze of government service fees and public utility rates. In 1992, the Government waived the fuel tax for the two franchised bus companies in a move to discourage them from raising fares. But the three railways continued to raise their fares on 1 May of each of these two years. This gives one an idea about their indifference to people's livelihood.

MTR's gross income amounted to nearly \$4 billion in 1992. Among its expenditure items, only employee salaries and electricity bills (together accounting for about 30% of its gross income) were actually affected by inflation. There was simply no inflationary pressure on the other debit items such as depreciation, financial charges and net profit. Therefore, it was most unjustifiable that MTR linked fare increases to inflation rate. From 1991, MTR's financial position has changed for the better. It stopped losing money and began to make profit which amounted to \$60 million net for 1991 and then shot to over \$400 million net for 1992. Its net profit in 1993 is expected to exceed \$600 million. MTR is now quite sound financially. But it has continued to announce inflation-driven fare increases each year. The public find these increases simply unacceptable!

KCR enjoys an even better financial position. Because it had few debts, it reported a high net profit of more than \$500 million for 1992. Since 1990, KCR has been paying more than \$100 million a year to the Government in dividend. In early 1991, the Government and KCR agreed on a target rate of return on investment. It was set at between 12% and 15% of net asset value. I believe that this rate of return has virtually served as a guide to KCR in deciding the size of its annual fare increases. It enables KCR to raise fares year after year despite the huge profits that it has been making.

In last February, I moved a motion debate in this Council, which urged the Government to conduct a comprehensive review of the operations of the two railways, their fares, their financial arrangements, the mechanism for monitoring and the Government's relations with them to ensure that the two railway corporations, while operating on prudent commercial principles, should also shoulder their responsibility for the public's well-being. I was hoping that, after the review, the Government would comprehensively re-define the two railways' operational objectives and set up some monitoring mechanism to make them, whilst operating as commercial entities, pay real attention to public interests. Regrettably, although this Council passed the motion on the monitoring of the two railway corporations, the Government showed no slightest intention to conduct the review, still less to make any institutional improvement. This is disappointing.

I feel that we cannot just sit here and wait for government initiatives. As legislators, we are under an obligation to initiate improvements in livelihood matters. It is precisely for this reason that I have chosen the three railways' fare increases, which most directly affect people's well-being, the subject of my motion. I hope that the Mass Transit Railway Corporation Ordinance and the

Kowloon-Canton Railway Corporation Ordinance will be amended to provide that any future fare adjustments by the three railways must have the Executive Council's approval and be submitted to this Council in the form of subsidiary legislation before they can be put into effect, so as to ensure that the fares of the three railways can be effectively monitored by this Council and the Executive Council. Judging from what they said in their speeches during last year's debate, I understand that many colleagues found the two railways' absolute autonomous power in raising fares the most disturbing.

It is common knowledge that the three railways have total autonomous power in terms of fare increases. As a matter of fact, all other major public transport companies have to submit their fare increase proposals to the Transport Department and the Transport Advisory Committee for endorsement and to the Executive Council for approval before they can be put into effect. In some cases (taxis and ferries, for instance), public transport operators must submit fare adjustments to this Council in the form of subsidiary legislation. Therefore, it is obviously questionable that the three railways are required only to give prior notice to the Executive Council when they increase fares.

Some say that "giving notice to the Executive Council" and "seeking the Executive Council's approval" are about the same. I must say that they are in fact quite different. I will try to illustrate by making a comparison between the bus companies' fare adjustment procedure and that of the three railways.

Firstly, to raise fares, a bus company must apply to the Transport Department. It must enclose data pertaining to the size of the increases, the justifications and the supporting data with the application. The Transport Department usually takes three months or so to study the application before forwarding it to the Transport Advisory Committee. Finally, the Executive Council's decision is sought. Even more importantly, when a bus company applies to raise fares, members of the public will be informed of the size of the increases. They can then offer detailed comments accordingly. I believe that the thrust of the public's comments made in the process will influence the deliberations and decisions of the Transport Advisory Committee and the Executive Council.

In contrast, each year, the three railways decide in mid-March the size of the fare adjustments that will come into effect on 1 May; but this decision is not made public immediately. It is not announced until early April, after the Executive Council's examination. Such arrangement denies the public any opportunity to participate in the discussion of the fare adjustment decision. Nor is the Transport Branch allowed ample time to study the decision carefully to find out whether the adjustments are justifiable. The Executive Council's role is reactive; it relies on the railways to notify it. This is, in effect, very different from "seeking the Executive Council's approval".

More importantly, where the Executive Council decides to approve a fare adjustment application, it will then be held responsible for the fare adjustment.

This is particularly important because this Council may wish to question the Government about the details of the adjustment. If the Executive Council is merely notified, chances are that the Government may ultimately not be held responsible for the fare adjustment. This will make it very difficult for this Council to perform its monitoring role.

Madam deputy, I am aware that some colleagues think that, if the public find the three railways to be worth their fares, then there is no need to monitor their fares at all. They think that it should be enough for market forces to regulate fares, since consumers have a choice of different modes of public transport.

Here is my analysis of this view.

There are alternatives to the three railways along their entire lengths and the bus, in particular, is MTR's main rival. However, as we know, railway services are incomparably faster, more punctual and more reliable than other modes of surface transport, especially in Hong Kong which has little land relative to its large population. In Hong Kong, in most cases, people do not live and work in the same area. This is why we see heavy rush-hour traffic. Most roads are jammed with traffic during rush hours. This makes the reliable and fast railway services all the more indispensable. Therefore, the three railways hold all the winning cards and they have no real competitors. It is sheer fantasy to think that other modes of transport could compete with it.

But are the three highly efficient railways worth their fares? In the absence of comparable alternatives, the three railways are admittedly the fastest and the most reliable. But does this mean that their fares are perfectly justifiable?

I have gathered statistical evidence to show that fares charged by Hong Kong's railways (especially MTR) are on the high side compared with elsewhere in Asia. For instance, in Seoul, South Korea, the underground railway system, which is wholly owned by the Government, charges far lower fares than MTR. Underground railway passengers in Seoul pay one fare, equivalent to three Hong Kong dollars, for any distance. In Singapore, the underground railway fare is only somewhere between three Hong Kong dollars and seven Hong Kong dollars. Despite the low fares, the underground railways of Seoul and Singapore are not at all inferior to Hong Kong's MTR in safety, speed and reliability.

I know that some honourable colleagues are the most concerned that, if the fare adjustments of the three railways are subject to some monitoring mechanism, the borrowing capacity of the corporations may be undermined. They are also concerned that lenders may charge interests at higher rates, thus increasing the debt servicing costs of the two railway corporations, ultimately to the detriment of passengers.

Is it true that a public utility company's borrowing capacity is bound to be affected if its fare adjustments are subject to a certain degree of monitoring? I remember that at a motion debate on "monitoring of the two railway companies" last year in this Council, Mr Steven POON noted that it was a specious argument that banks would refuse to make a loan to them if fares were subject to control. Mr POON added that the loans incurred by China Light and Hong Kong Electric amounted to tens of billions of dollars and their borrowing capacity had not been affected by the fact that their charges needed the approval of the Executive Council. Mr POON was China Light's former general manager and his comments deserve our consideration.

I am not a financial expert. Yet I feel that it is very questionable to say that a railway corporation's borrowing capacity will be affected if its fares are subject to control. First of all, we have reason to believe that the Executive Council and this Council will consider in a responsible manner any application by the three railways to raise fares. If their proposed fare increases are justified and if members of the public find them to be affordable, the Executive Council and this Council will certainly approve them. Therefore, if the two railway corporations think that their fare increase proposals are justified, why should they be afraid of control by the Executive Council and this Council? In fact, loan companies will make their lending decisions after studying from many angles, not only the operating and financial conditions of the two railway corporations but also Hong Kong's long-term political and economic prospects. Conversely, if the two railway corporations' proposed fare increases are really unjustifiable, then it will be only right for the Executive Council and this Council to withhold approval. In such a case, if they do not withhold approval, passengers of the three railways will be forced to submit to "robbery in broad daylight", as it were, by the two railway corporations, will they not?

I would like to draw honourable colleagues' attention to the fact that, as a representative body, this Council is under an obligation to monitor the three railways' fares on behalf of the public; this is part of this Council's larger obligation to protect people's living standards. As a law-making body, this Council has the right to ask the Government and the public sector to be accountable to the legislature. Therefore, the three railways' fare adjustments should not only seek the Executive Council's approval but also must be submitted to this Council in the form of subsidiary legislation. This is the unshirkable responsibility of all legislators to scrutinize their fare rise applications. In fact, back on 23 April 1975, during the second reading of the MTRC Bill, then Legislative Council Member Mr S Y CHUNG (now Sir S Y) already suggested that MTR's fare adjustments should be put to this Council for debate and require this Council's approval.

Finally, I hope that the Secretary for Transport, in his reply later on, will clearly respond to the points that I have raised and expound to what extent the two railway corporations are accountable to the public, to the Government and to this Council. I urge the Government to stop casting the two railway companies in roles that are "official, but not quite; commercial, but not really".

When the public call for control of fares, the Government would try to describe the two railway corporations as public bodies not subject to the same kind of control as private institutions. When this Council wants to monitor the two railway corporations as public bodies, the Government would say that they are commercial concerns and not a part of the Administration. It must be realized that the two railway corporations cannot evade the public's and this Council's monitoring no matter if the Government dresses them up as a public body or a commercial concern.

Madam deputy, with these remarks, I move the motion.

Question on the motion proposed.

MR HUI YIN-FAT (in Cantonese): Madam deputy, the two bus companies recently applied to the Government for fare increases by as much as 20%, which is much higher than the rate of inflation. The increases are not only unacceptable to members of the public but even take government officials by surprise. I can surely understand why members of the public are looking forward to the Legislative Council's putting on a good show of monitoring public utility companies' fare or rate increases. In this connection, our debate on the fare increases of the three railways has a special symbolic meaning.

Public transport companies operating as monopolies or oligopolies are subject to government control of one form or another in terms of setting fare levels. Some of them, under schemes of control, set profit targets at a specific percentage of net asset value; then they set fare levels accordingly. Some even have to submit to this Council for approval fare increase proposals in the form of subsidiary legislation. But other public transport companies, with government officials sitting on their boards, can decide to increase fares on their own without having to seek the Legislative Council's approval; even the Executive Council has no veto power though it must be notified in advance.

These fare adjustment mechanisms each have their merits and demerits. But one thing is very clear. It is unrealistic to apply a blanket monitoring mechanism as different companies are different in mode of operation and in nature. What the Legislative Council has to consider today is whether the existing fare increase procedure of the three railways is the best arrangement available. If not, should Mr LAU Chin-shek's proposals put forward in his motion be accepted?

On the surface, the two railway companies are not subject to the Government's control and their boards can decide to increase fares on their own free from any scrutiny by the Legislative Council and the Executive Council, with or without their approval. This indeed sounds a lack of control. Members of the public can only pray that the railway companies' directors appointed by the Governor, including government officials sitting on the boards, will act conscientiously. Such benevolent dictatorship, though hard to gain the general

public's trust, has always been regarded as the most efficient management system. Looking back at the past 10 years or so, the three railways have had major and minor accidents, some of which caused a great deal of inconvenience to members of the public. Still, their overall performance and pace of growth have been acceptable. At least, they have made no mistakes that are serious enough to compel members of the public to call for the entire management to be replaced. Of course, they must continue to make improvements to meet the public's rising expectations.

Concerning fares, as non-profit-making public utility companies, both railway companies, when setting their fare levels, should mainly consider how much will be enough to meet operating expenses, catch up with inflation, pay interest and repay principal. If a profit is made, the beneficiary should not be the Government but the public, though the companies, which are still \$18 billion in debt and must pay interest on it, are not making a profit and sustain a paper loss each year.

As far as I know, the three railways have raised their fares every year but the adjustments have been less than the rate of inflation. Take MTR fares as an example. Though Hong Kong's *per capita* GDP overtook that of the United Kingdom last year, MTR fare in Hong Kong for a ride along its entire length is 10 pence cheaper than the fare for a one-stop ride in London's underground railway, thanks to the large and steadily increasing passenger volume and also the efforts made by the MTR management to raise efficiency and cut operating costs.

However, an overriding consideration is of course whether the two companies' borrowing capacity would be undermined if their fare-setting autonomy is taken away. As far as I know, what credit rating foreign countries give to the two corporations would affect how favourable their debt servicing terms will be. Foreign financial institutions' main consideration is whether the autonomy of the two companies will be weakened by unpredictable political climate.

Madam deputy, I have not the slightest intention, or indeed any obligation, to defend the two railway corporations' fare setting mechanism. Still, it is my obligation to strike a right balance between the interests of the public and the parties concerned. My view is that the existing fare increase monitoring mechanism and process are acceptable. Certainly, I think that it will be appropriate for the companies to submit their fare increase proposals for the Executive Council's scrutiny and approval. In addition, in face of a growing public demand for an open and democratic political environment, I think that the Government must move quickly to add elected elements on the boards of the two railway companies. The Government can do this, for instance, by revising law to stipulate that a specific number of directors who must be members of public bodies with elected members such as the three-tier board/council and even pressure groups to be included on the boards. I believe that only such an arrangement will answer the public's call for monitoring without damaging the

autonomy and efficiency of the two railway companies in terms of their decision-making process.

It is against my principle to move amendments or abstain from voting. Therefore, I have to oppose the motion.

DR DAVID LI: Madam deputy, as a former member of the Kowloon-Canton Railway Corporation's Managing Board, I believe that the territory's three railways represent a good balance of interests between each railway, its customers and the Government.

The Mass Transit Railway (MTR), the Light Rail Transit (LRT) and the Kowloon-Canton Railway (KCR) are Hong Kong success stories. They are public corporations operating prudently and commercially to provide quality services independent of government subsidies, and therefore are no burden to the taxpayer. Through capable fiscal management, these corporations have been able to fund their own capital programmes for service upgrading and network development which are in the best interests of their customers, the people of Hong Kong.

I am sure that regular commuters on the KCR, the MTR and the LRT would testify to the range of improvements and the expansion each system is undergoing. The KCR and the LRT alone are spending HK\$8 billion on improvements over the next five years. The MTR is spending HK\$8 billion on capital work improvements over the next seven years.

While these improvements include such tangibles as new services, vehicles, escalators, ticket vending machines, entrances and exits, they also include such unseen benefits as enhanced train safety and reliability.

These improvements would not be possible without additional funds. Some of these funds have been raised through borrowing. One of the key factors affecting the ability of each corporation to raise funds is its autonomy in determining fares. If this autonomy is undermined, investors will be reluctant to lend. Eventually, it would be passengers, suffering stagnating and deteriorating services, which would be most affected.

I should also note that, based on their past performance on fare revisions, each corporation has acted responsibly to ensure that its excellent services continue to be affordable. Our public transport is the envy of most cities around the world not only because it is efficient, reliable and clean, but because it is very reasonably priced.

With these remarks, Madam deputy, I oppose the motion.

MR TAM YIU-CHUNG (in Cantonese): Madam deputy, the Mass Transit Railway, the Kowloon-Canton Railway and the Light Rail Transit are public utilities which have direct bearing on people's livelihood. They should have been monitored more closely by the Government to ensure that their operation and development are cost effective and that the travelling public can enjoy high quality service at reasonable prices. However, the Government has not been exercising adequate monitoring of the three railways. It has been more concerned with delegating powers to the two corporations running the three railways while failing to carry out effective monitoring their operation. Furthermore, although the two corporations are public utilities, the transparency of their operation is extremely low. These corporations do not release detailed information and data on their operation and development plans. They often apply for fare increases on the ground of development needs and improvement of service. The three railways are not required to carry out any public consultation before they impose a fare adjustment on the public who find themselves not in a position to judge whether the scale of increase is reasonable or not. Against this background, it is entirely in the interest of the public to monitor the three railways effectively.

The fare increases of the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC) have been on the whole lower than the prevailing inflation rates over the past few years. The public, however, find it difficult to tell whether the scale of increase is reasonable in an absence of sufficient information and data. The three railways, as public utilities with a steady increase in revenue and without any competitions, should make public more information and data so that we may judge whether the fare levels are justified. Apart from enhancing their transparency, it is essential that an effective monitoring mechanism be established to overlook the operation and management of the three railways. The monitoring body should also keep an eye on their operation and management to see if they are cost effective, whether there is abuse of resources in the sense that large amount of money is spent on items totally unrelated to improvement of service or whether any loss incurred from mismanagement is passed on to the consumers, ultimately leading to a greater financial burden on the public with higher fares. In May last year, the Democratic Alliance for the Betterment of Hong Kong urged the Government to set up a monitoring committee on the three railways, with its members drawn from Members of this Council, district board members and representatives from the Government and the three railways. Its responsibility is to carry out consultations on, and studies of, issues which public interests are involved such as their daily operation, development plans and fares adjustments. It is unfortunate that our proposal was not accepted by the Government. The recently enacted Airport Corporation Bill stipulates that the Governor may appoint auditors or the Director of Audit to make inquiry into the airport corporation, if necessary. I suggest that the Government should observe the spirit of this Bill and amend the relevant ordinances so that the Governor may also appoint auditors or the Director of Audit, if necessary, to conduct inquiries into the operation of the two corporations running the three railways and to see if their operation and management are cost effective, and the public interest is

safeguarded. As a matter of fact, the three railways have been operating for years. It is time to place their management under public scrutiny.

Madam deputy, I understand that if the Executive Council and this Council are empowered to approve applications for fare increases, it may undermine the three railway's credit ratings on financial market and they may encounter greater difficulties when borrowing loans for development. Despite this, the Government should strengthen its monitoring over the three railways in such a way that the Executive Council and this Council may perform their monitoring functions more effectively and boost the public's confidence in the Government. In my view, if the above-mentioned monitoring mechanism is to be proved ineffective, it is necessary, in the public interest, to empower the Executive Council and this Council to determine the fare increase.

Madam deputy, these are my remarks.

MR EDWARD HO: Madam deputy, I would first like to declare my interest as a member of the Board of the Mass Transit Railway Corporation (MTRC). Mr LAU Chin-shek moved a motion in February 1993 on the subject of monitoring of MTRC and Kowloon-Canton Railway Corporation (KCRC). On that occasion, I spoke in this Council about the question of fare arrangement for the three railways. I have found that my speech on that occasion can be reused for this debate. Of course, I will not repeat verbatim of that speech and, at any rate, a copy of that can be referred to in the Hansard.

In discussing Mr LAU's motion, it is important to remove any misconceptions that a member of the public may have in his mind. I shall therefore address first how his typical questions can be answered.

Question 1: Are the two railway corporations effectively monitored by the Executive Council and this Council in fare adjustments?

Answer: First of all, the two corporations are wholly owned by the Government and members of the board are appointed by the Governor. In the Ordinances that govern the two corporations, the Governor in Council and the Financial Secretary have powers of directions in many areas. In particular, the Governor in Council may, if he considers the public interest so requires, give directions in writing of a general character to the corporation and the corporation shall comply with those directions. Thus, if the Governor in Council was to consider that fare adjustments were inappropriate in the public interest, then he has the power to direct the corporation to modify the fare provided that the Government will compensate the corporation if it requires it to act contrary to prudent commercial principles. Members of this Council monitor the performances of the two corporations through the Government in the forum of appropriate panel or in question time in Council sittings.

Question 2: Since the Government is the 100% shareholder of the corporations, why is it necessary for the corporations to make profit?

Answer: Any profits that are made by the corporations will either go to enhance the services for the railway systems or for development or extension of the systems. The Financial Secretary has power to direct the corporations in how they may apply the profits. Moreover, the Financial Secretary has the power to direct the corporations to pay any profit excessive to their needs to the general revenue in the form of dividends. Thus, any excessive profit will benefit the community as a whole. The profits of the railway corporations are not, as Mr LAU said, "stealing money". If there is any stealing of money, the money goes to the benefit of the community. Conversely, if there were no profit or if there were deficit, then the Government, as sole shareholder, may be called upon to subsidize the corporations. At this point I would like to remind Mr LAU that when he referred to the profits of MTRC in recent years, he conveniently neglected to mention that MTRC has still to repay its loans for its initial capital investment until the end of this century.

Question 3: Why should the Government compensate the corporations when, out of public interest, the Governor in Council gives direction to the corporations to modify their fare adjustments downwards in contrary to prudent commercial principles?

Answer: The corporations were set up to provide efficient and safe public transportation along prudent commercial principles, which means that these corporations have to compete directly with other modes of transport. They were not meant to provide transportation as a social service. Social service is taken care of by the Government out of the appropriate part of the annual budgets.

Question 4: Why should the Legislative Council not have the power to decide through subsidiary legislation fare adjustments of the two corporations?

Answer: If fares were to be subject to Legislative Council approvals, then the corporations would lose their character as commercial concerns as they will be subject to political pressure for social aims which are not related to transport and commercial practices. As in my answer to the previous question, the pursuance of social aims should be and is dealt with by the Government in social orientated programmes. The mixing of the two is confusing the objectives of transport and social needs.

Madam deputy, since I have a better current knowledge of MTRC, I shall mention some relevant facts about that corporation, specifically on fares. The MTRC's fare increases since 1980 have been on an average of 7.6% per annum which have been slightly behind increases in the Consumer Price Index over the same period which was 8.6% per annum. Thus, in real terms, MTRC fares have actually been going down. Moreover, as workers' incomes have arisen by 14% per annum in the same period, the MTRC fares have been considerably lower

than increases in incomes. Thus it is both unfair, and misleading for Mr LAU to use the two bus companies plans for what they want to do in fare rise as a pretext for this motion debate.

Madam deputy, I note Mr LAU's endorsement that our railways have been reliable, efficient and offer value for money. Both the MTRC and the KCRC have served Hong Kong well. There is no evidence to suggest that a change has to be made. In fact, politicizing fare adjustments would alter entirely the character of the two corporations as prudent commercially run transport corporations. Members of the public would have nothing to gain from the proposed changes Mr LAU wanted to put forward. Judging by what has happened in other parts of the world, what they may lose would be three railways that are well run and unsubsidized.

With these remarks, Madam deputy, I oppose the motion.

MRS MIRIAM LAU (in Cantonese): Madam deputy, only a few among the legion of railway corporations of the world do not need government subsidy and Hong Kong's Mass Transit Railway Corporation (MTRC) and Kowloon-Canton Railway Corporation (KCRC) are among these few, and we are proud of them.

Mass Transit Railway (MTR) and Kowloon-Canton Railway (KCR), which provide efficient transport services to the public, are financially sound. This is largely because they operate along commercial principles and the Government does not directly interfere with their operations. Some have criticized that the two railway corporations are not subject to any control. Mr LAU Chin-shek, in his motion today, suggests that the fares of the three railways should be monitored by the Executive Council and the Legislative Council. As responsible Legislative Council Members, certainly we should monitor government and public bodies and thus protect the interests of the public. However, we must make sure that our monitoring is reasonable, necessary and positive in its effect. Before we make a decision on whether or not the autonomous power of setting fares should be removed from the two railway corporations, we should consider the following points.

(1) Are the two railway corporations really subject to no control, as Mr LAU Chin-shek claims in his criticism? I think this is an exaggeration. In recent years, these two corporations have always been receptive to Legislative Council Members' criticisms and the views of the public, and they have also taken positive measures to make the necessary improvements. Let me cite a few examples. MTRC has dropped the rush hour surcharge; LRT has opened up its exclusive zone; all three railways offer concessionary fares for senior citizens, and they have made service pledges and established channels to improve communication with passengers.

Another question is: Does the Government not monitor the two railway corporations at all? Probably not. Under the MTRC and KCRC ordinances, these two corporations' operating plans, growth strategies, financing plans and safety records are all subject to government monitoring. There is no provision in the ordinances which governs fare adjustments. Still, it has become a common practice that the two railway corporations would submit fare increase proposals to the Executive Council. Furthermore, in recent years, they consulted the Legislative Council's traffic affairs panel before decisions were made to raise fares, and they provided Members of this Council with explanations afterwards. It has been proved that this is not window-dressing. The Executive Council and the Legislative Council, through such a procedure, can exercise a degree of supervision over the two railway corporations. Some years back, KCRC, on the advice of the Executive Council, initiated a downward revision of proposed LRT fare increases, and, last year, in response to suggestions from Members of this Council and the public, KCRC again took the initiative to moderate the increase in train fare for the distance between Sha Tin and Fo Tan. These facts show that political pressure does have a restraining effect on the two railway companies.

It goes without saying that we must, in the spirit of protecting the interests of the public, continue to seek improvements from these two corporations. For instance, we should ask them to provide more statistical and other data before adjusting their fares. This will enable Members of this Council to take a fuller look at the fare adjustments to see if they are justifiable. In fact, we should ask the two railway corporations to submit full statistical and other data to the Transport Advisory Committee for scrutiny before they are submitted to the Executive Council. (The Legislative Council's transport panel did make such a request at one time.) We must realize that the absence of a statutory monitoring mechanism does not mean that there is no effective monitoring whatsoever. In this connection, I think that the Government should give the Legislative Council an undertaking that the present form of monitoring will continue.

(2) We must consider this question: If we remove the two railway corporations' autonomous power of fare adjustment, will there be negative consequences? As we all know, the bulk of the money needed by these two corporations is borrowed from international financial institutions without any guarantee from the Government. The two corporations do not need government subsidy, nor taxpayers' financial assistance. This is good for the public in that it leaves the Government with more financial resources to meet other community needs. The two railway corporations now have a very high international credit rating. From the information made available by the international lenders, we can see that they attach great importance to the two railway corporations' high degree of autonomy in setting fares. They think that this makes sure that the corporations' debt servicing capability will not be undermined by political pressure. If their autonomy is curtailed, the two railway corporations' borrowing capacity will be decimated. Their credit rating may be lowered and they may be required to pay interests at a higher

rate. If so, their costs will rise and the higher costs will ultimately be shifted on to the travelling public. Should it come to a stage where the Government has to subsidize them, then I am afraid public interests would be adversely affected. It is possible that the public will suffer the consequences before they can see the light of the tunnel. MTR is now still heavily in debt. KCR, too, has some debts. The two railway corporations are able to pay off their debts from the profits they make every year. But they have mammoth development plans, such as the airport railway project, the Tseung Kwan O MTR extension project and the New Territories West railway project. A huge amount of money will have to be borrowed. It is therefore very important to sustain the two railway corporations' borrowing capacity.

(3) Are the two railway corporations' annual fare increases really so unreasonable that we must do something drastic about them? The general public certainly want the fares of the three railways to be kept as low as possible. However, reasonable fare increases are necessary if the two railway corporations are to be able, without government subsidy, to continue paying off debts, to cope with higher operating costs and to improve services. On the other hand, we do have an obligation to ask these corporations to give serious thought to the inflationary effects of their fare increases and to try not to add to people's cost of living. Their average fare increases in recent years have in fact been below the prevailing inflation rates. Besides, from the passenger opinion polls they conducted from time to time, it is found that a vast majority of the respondents consider their fares to be reasonable and justified. But one thing is most baffling to members of the public: KCR, though having huge reserve, finds it necessary to raise fares and pays a dividend to the Government at the request of the Financial Secretary. The two railway corporations are public bodies wholly owned by the Government. What matters the most is that they should operate along prudent commercial principles, keep a balanced budget and need not go to taxpayers for a subsidy. This certainly leaves enough room for the two corporations to look after public interests and strike the right balance. The two corporations should take the initiative to achieve this. Another thing is that the Government, to defend the interests of the public, should not make the two railway corporations feel that they must pay dividends to it as they, under such pressure, would have to raise fares to meet the financial burden.

There is always some public discontent with the annual fare increases of the three railways. However, to be fair, the increases have not been excessive. Besides, as everybody can see, the services of the three railways are getting better and better. Madam deputy, the three railways are indispensable to Hong Kong. Under the existing monitoring system, the two railway corporations have had good financial and service records. While there is room for further improvements, I think that these improvements should be sought under the existing system rather than under a new and different system which does away with the basic principles on which the two railway companies were founded.

There is no doubt at all that our three successful railways are globally renowned mass transit systems. Many countries see them as very good models. I am afraid that we would become an international laughing stock if we should seek change for its own sake and, without full justification or not out of necessity, should take a retrogressive step by removing the autonomous power of setting fares from the two railway companies.

Madam deputy, with these remarks, I oppose the motion.

MR ALBERT CHAN (in Cantonese): Madam deputy, the most unforgettable remarks made in this Council's many debates and question sessions on economic matters in 1993 were authored by the then Secretary for the Treasury Mr YEUNG Kai-yin that "any interference from the Legislative Council will frighten away investors." Perhaps adhering to such a belief, Mr YEUNG, who may be particularly fond of investment, has left the civil service and now joined Sino Land, the most bullish property investor in the territory. He no longer has to answer Members' questions in this Council. He can now happily be engaged in property investment or speculation.

His remarks, "any interference from the Legislative Council will frighten away investors", are, I believe, typical of the thinking of colonial technocrats. His lack of confidence in this Council with elected representatives is typical of the attitude of the business community in general and the attitude of those with vested interests in particular.

If Mr YEUNG were still a government official today, he would strongly oppose Mr LAU Chin-shek's motion. I believe he would be a fervent opponent. He surely would be attacking the proposal to involve this Council in the monitoring of the fares of the three railways. He would probably be saying that the motion would tarnish Hong Kong's image. He might even be saying, "Any interference by the Legislative Council will ruin railway operation."

Now, why are colonial technocrats so hostile to this Council's involvement? A close look at the existing system will certainly give one a clear idea as to the relationship of the technocrats and parties with vested interests.

The directors of the two railway corporations are appointed by the Governor. Most of them are members of large financial institutions or so-called expert representatives. They are vested with all the necessary power to determine fare rise. For years, these expert representatives and representatives of financial institutions have worked hand in glove with the Government. They have turned a blind eye to objections by members of the public. Worse still, they do not concern themselves about the fact that higher fares would add to the cost of living. For instance, the rush hour surcharge, which was widely opposed, was the brainchild of the technocrats and the expert representatives and representatives of financial institutions on the Mass Transit Railway Corporation's (MTRC) board. The surcharge was under fire from all sectors of

the community and it was finally scrapped a few years after its introduction. The introduction of the surcharge clearly demonstrates the weakness of an MTRC board which has no elected elements.

As far as I know, the fare increase mechanism of the two railway corporations is like this: Corporation employees, most often senior staff, make a study and submit recommendations to the boards for their final decisions. The entire process from planning, study to decision is controlled by a handful of technocrats and by directors who are not elected by the public and whose appointments do not require the public's approval. Public voices are not at all their major consideration.

MTRC and the Kowloon-Canton Railway Corporation (KCRC) are statutory bodies wholly owned by the Government. Their capital comes from public coffers. Their power comes from the relevant ordinances enacted by this Council. In principle, they are public utility companies owned a hundred percent by the public. Ironically, however, they are not subject to any monitoring or control by the executive or legislative branch of the Government. By and by, the two railway corporations have evolved into independent kingdoms. Members of the public in Hong Kong, though their "share holders", have never been given any opportunities or channels to participate in their decision making. How on earth can this situation be acceptable to "a fair and reasonable" government? Even if the Government accepts it, do members of the public in Hong Kong, being the "share holders" of the two railway corporations, want to be at their mercy?

In the United Kingdom, the United States and Canada, most directors of statutory or government-owned institutions are appointed by heads of governments, for example, governors or mayors. On the surface, it may appear that Hong Kong does not work differently. But we must not lose sight of the fact that most heads of governments in foreign democratic societies are elected by universal suffrage. They are accountable to the electorate. Their appointees are indirectly accountable to the public. In that case, what are things like in Hong Kong? The fact is that the directors of the two railway corporations are appointed by the Governor, who himself is appointed by the Queen of the United Kingdom. Members of the public are not involved in any part of this process and have no legitimate means to hold decision makers on the corporations' boards accountable for their moves. The boards of the two railway corporations have absolute power in handling corporate affairs. As a matter of fact, the existing system is seriously flawed, there being no checks and balances, no monitoring and no accountability. Therefore, a reform is called for and cannot brook one moment's delay.

Where Hong Kong's central government is concerned, only this Council has elected representatives in its membership and has the public's mandate. Some Members are returned by direct elections. Their power comes from the people. This Council should naturally play a more active role and show greater initiative in making laws about, and in monitoring decision making by, statutory

entities wholly owned by the Government. For this reason, I think it is only fair and reasonable that this Council should have the final say on the three railways' fare increases, on behalf of members of the public, who are the share holders of the corporations. To give share holders a more appropriate channel to participate in the companies' decision making, the Government should proceed expeditiously to amend the relevant ordinances to give this Council the power to veto the three railways' fare increases on behalf of members of the public. The person who says "any interference from the Legislative Council will frighten away investors" wants to continue enjoying the privilege of not being subject to any monitoring mechanism or any monitoring by the people. He wants to maintain the *status quo*. However, Madam deputy, this is only a dream. The cold reality must be faced. The days of uncontrolled privilege have gone forever.

Madam deputy, the official who does not have confidence in this Council has left us. I do not want to hear any more words like his. Such words should not come from the mouth of a government that supports the democratization of our political system. If the Government has the *bona fide* to develop democracy in Hong Kong, it should transfer the relevant power from a non-elected executive body to a legislative body with elected representatives in it. This is what democracy is all about.

Madam deputy, with these remarks, I support Mr LAU Chin-shek's motion.

MR MOSES CHENG (in Cantonese): Madam deputy, before I speak on Mr LAU Chin-shek's motion concerning the fare increases of the three railways, I have to firstly declare interest. I am a director on the managing board of the Kowloon-Canton Railway Corporation (KCRC). However, I do not think I am, as what Mr Albert CHAN said, a member of any big consortium nor a representative of any group enjoying absolute powers.

The KCRC and the Mass Transit Railway Corporation (MTRC) are, I think, two of the few successful railway operators in the world. They have been very successful in running the public corporations on prudent commercial principles. They have turned a government body previously operating in the red and depending on subsidy from taxpayers' money into two dynamic and energetic public corporations, both of which are providing the public with efficient, inexpensive and safe railway services.

We must bear it in mind that the golden rule of operating on prudent commercial principles is not the single factor leading to the success of the KCRC. In broad terms, it also owes its success to our long-standing free economy which is an impetus to Hong Kong's prosperity.

Let us take a look at the highest decision-making level of the KCRC, that is, its managing board. It currently consists of eight directors appointed by the

Governor. They come from a wide spectrum of professions including the industrial and commercial sector, accountancy, legal profession, financial sector, shipping sector and the academic community. All of them have made their professional contribution to the corporation and had a hand in charting its operation and development. Above all, these directors are not investors who directly share the corporation's profits. They can be regarded as consumers. The special *modus operandi* of these public corporations ensures public interest to be safeguarded and prudent commercial principles upheld in the decision-making process.

In deciding the level of fare increase each year, the managing board of the KCRC has to consider many factors. One must not lose sight of the fact that it is only with long participation in the work of the corporation and a profound understanding of its overall operation that the directors could arrive at any sensible and reasonable decision which can also strike a balance of interests between the corporation and the travelling public. I hope all of you will understand this point.

Some people wrongly equate commercial principles with profiteering. This is indeed a very regrettable misunderstanding. Let me take the KCRC as an example. The fare adjustments in the past 10 years were basically equal to or even lower than the prevailing inflation rates. A comparison of the scale of fare increase by the KCRC between 1986 and 1992 with the salary increase over the same period for half of Hong Kong's working population on the lower-income end shows that the railway fare decreased 30% in real terms. A further comparison with the increase in the Consumer Price Index (A) over the same period also indicates that the railway fare is 5% lower. Can we say that this is profiteering?

At present the KCRC makes most of its profits from freight business, the Lo Wu line operation and other joint ventures. These incomes are mainly used for further development and service improvement schemes so as to meet the ever-increasing demand for transport services and provide passengers with an efficient and more comfortable train service. How can one say that the corporation is ripping the travelling public off?

It is the policy of the KCRC to increase its fares modestly on an annual basis and take into account passengers' affordability when setting the increase rate. According to the bulk of surveys conducted in the past, most passengers think that the fares charged by the KCRC are both reasonable and of good value for money.

At present the KCRC's operation mechanism works very well. Yet Mr LAU Chin-shek proposed that any future fare adjustments by the three railways must be approved by the Executive Council and the Legislative Council. If this comes true, it will be undoubtedly a direct intervention of the legislature with the management of public corporations. This will set an

extremely dangerous precedent and totally run counter to the golden rule of prudent commercial principles observed by public corporations.

I would like to remind honourable colleagues that the duty of Members of the Legislative Council is neither to oppose blindly any charge increase by public utility companies nor to decide the rate of fare increase for the public corporations. It is, in fact, incumbent upon us to monitor whether the proposed fare or fee increases are reasonable. Only by doing so can the long-term basic interest of the general public be served.

What I am most worried about are the consequences of taking a shortsighted approach to deal with railway operation. In the event the corporations run a deficit as a result, the Government will have to cover the deficit with taxpayers' money or the corporations will introduce hefty fare increases. Should this take place, is this fair to the whole citizenry of Hong Kong?

Madam deputy, with these remarks, I oppose Mr LAU Chin-shek's motion.

MR MARVIN CHEUNG: Madam deputy, first, I must declare an interest in this debate. My firm, KPMG Peat Marwick audits the accounts of the two corporations and I personally have been involved in the audit of the Mass Transit Railway Corporation for 10 years.

In Hong Kong we enjoy an excellent railway system. Our railways are the envy of all others because they provide an efficient, reliable, safe and clean service in one of the busiest and most densely populated parts of the world and are financially viable. At the same time, fares are reasonable, judged by any standards.

The Honourable LAU Chin-shek refers to rail fares in Singapore and Seoul and argues that they are lower than those in Hong Kong. I have no facts to dispute those statements. However, I would invite Members to relate these to the cost of living in these two cities, which is clearly lower than that in Hong Kong. I would guess, although I have no concrete figures in front of me, that the average wages in those countries are by far lower than the comparable wage of workers in Hong Kong. In the case of Singapore, I know that the cost of building that railway was financed by government money; so all the fares collected by the Singapore railway are needed to pay for its operating expenses. Whereas in the case of the Mass Transit Railway, for example, a significant proportion of the costs of construction were financed by borrowed money and hence the fares are necessary to pay for the servicing of those debts and to repay the borrowings.

The railway corporations in Hong Kong are accountable to the people of Hong Kong. As stated in a debate some time last year, there are no less than six

ways in which they are being monitored; that is, by the Board of Directors, by the Government, through annual accounts, external auditors, funding agencies and the customers themselves. They are required by legislation, first, to meet transport needs by constructing and operating railways and, secondly, to be responsible for their own finances. With the statutory obligation to operate on prudent commercial principles they had to have, and were given, the power to determine fares. If this power is removed then responsibility for financial viability is also removed. If the Government determined fares, it would also have to take over the responsibility to service and retire debt. I firmly believe that Hong Kong taxpayers do not want to assume this burden.

The obligation to operate on prudent commercial principles is translated, for example, by the Mass Transit Railway Corporation into a financial strategy that states clearly its aim, which is: to plan, justify and obtain sufficient revenue over time from its customers to cover costs incurred in providing the service and in maintaining and improving the assets; to secure, service and retire an appropriate level of debt and to reward the shareholder at a level commensurate with this risk and expectation.

From the beginning the Mass Transit Railway Corporation was heavily financed by debt. The Mass Transit Railway Corporation's reputation as a borrower in the international financial market has grown. It is awarded very favourable credit ratings and the number of lenders willing to lend and invest have increased enormously over the years. The Kowloon-Canton Railway Corporation has also been active as a borrower in the international market.

Unless we are prepared to use taxpayers' money to repay existing debts and to fund future extensions, the utilization of borrowing strength is fundamental to the financing of railway corporations. If the power to determine fares passes from the corporations to politicians, potential lenders will lose confidence and simply cease to lend. They will not see the robust financial projections to which they are accustomed, but an uncertain growth in revenue and, most likely, reduction in dividend cover. Lenders will also be mindful of transport systems throughout the world which can borrow nothing, are heavily subsidized, sit or run down assets and provide substandard services.

The Honourable LAU Chin-shek refers to assertions that some utility companies are able to borrow in spite of government control over the tariff. I respectfully say that this is not a valid comparison. Some of these companies, for example, operate under profit control schemes and some will argue that this, in effect, gives them a guaranteed level of profits. These arrangements do not apply to the rail corporations.

In any event, I would invite the Honourable LAU Chin-shek, or any of his colleagues, to give us an example of any other railway corporations in the world, which have their fares regulated by their government or their politicians, being able to borrow any appreciable sums of money in the international marketplace without a guarantee from their government. If he can

show us that, then he can substantiate his statement that government regulation over fares will not inhibit borrowing. If he cannot do so, we have to believe the statements made by the bankers that this is not the case.

If lenders withdraw the Mass Transit Railway Corporation would have no option but to turn to the taxpayer. The customer would then cease to pay for the service he uses and taxpayers would be at risk over the cost of the product and the cost of assets expansion. This is surely not in the best interest of Hong Kong. The user pays principle is widely accepted here as being fair and workable and is being established in all sorts of new areas. It has always applied in the railway corporations. A reversal would be a step backwards.

I challenge anyone here to show me a better railway system anywhere in the world. If a thing is not broken, why mend it? In this case, to do so could be disastrous.

Madam deputy, I oppose the motion.

REV FUNG CHI-WOOD (in Cantonese): Madam deputy, train fares go up every year. There is no exception to this rule. The next round of fare increases will come into effect in May. It is admittedly that train fares have gone up at a rate lower than that of the prevailing inflation in recent years. But are such fare increases justified? Must fares go up by so much? The fact is that in the absence of any monitoring mechanism, Kowloon-Canton Railway Corporation (KCRC) has a free hand in making fare adjustments. Yet in view of its sound financial position, KCRC should not have to raise fares this year.

In 1992, KCRC made a net profit of \$520 million and paid \$150 million of it as a dividend to the Government. I oppose KCRC's payment of dividends to the Government, the reason being that, without this disbursement, there will be no need to raise fares. KCRC in 1993 raised fares (including train fares and Light Rail Transit (LRT) fares) by an average of 7.7%. I estimate that, if the fares had not been raised, the company's gross proceeds from the sales of tickets would have been \$130 million less, a figure smaller than the \$150 million dividend paid to the Government. I believe that a dividend will again be paid to the Government for 1993. So I urge KCRC to desist from paying a dividend to the Government for 1994. This, I believe, would dispense with the need of further fare increases. The Government has stopped to collect fuel tax from Kowloon Motor Bus for the past two years. Why can it not stop collecting a dividend from KCRC? I must note that it is because of the lack of monitoring that KCRC is raising fares despite already having ample resources. Higher fares or rates have become routine and epidemic. The two bus companies, on grounds of poor business and high inflation, are asking for 20% fare increases. Luckily, they are subject to monitoring. Unfortunately, KCRC is not subject to monitoring and it, despite already having ample resources, is still raising fares. KCRC's increases in train fares in May may be less than the rate of inflation. But I believe that the increases in LRT fares will not be less than the inflation

rate. It is just too bad that there is no guarantee that lowly citizens' income will keep pace with inflation. Those who live in the New Territories, especially those living in remote parts like Sheung Shui, Tai Po and Fan Ling, spend more on fares for trainrides to Kowloon. The train fare from Sheung Shui Station to Kowloon is now \$7.50. On top of the cost of riding other forms of transport to get to the destination, I believe that one has to spend over \$10 on one way transport. A round trip a day amounts to \$30. The monthly cost is then \$900. From a survey that I conducted last year, I found that 60% of all train passengers needed to change other forms of transport.

Madam deputy, the forthcoming train fare increase in May to catch up with inflation will certainly put a heavy burden on people living in the New Territories. This raises the question: Does KCRC have to increase fares? What will go wrong if fares are not raised? As far as I can see, nothing will go wrong. KCRC does not need an additional income of some \$100 million; nor the Government need the annual dividend of \$100 million or so.

KCRC will spend \$6 billion on improvement projects in the coming few years, including platform changes, noise barriers and better signal systems. Suppose that these projects are carried out over six years. (Some will of course take longer to complete.) The annual spending on the improvement projects will be \$1 billion. KCRC's 1992 net profit was \$500 million. In other words, it is going to spend on the improvement projects twice as much as it earns in net profit. This shows that KCRC has ample resources. Such being the case, does it still have to raise fares? Better services are of course good news to passengers. But the improvement of services will put an additional burden on them in the form of higher fares. Madam deputy, can the budgets for some of the improvement projects be cut to reduce pressure to raise fares? We have no monitoring role to play in this area. We hope that some government body will monitor KCRC's budgets for major projects and find out if these budgets are appropriate. The project involving the expansion and face-lifting of the Kowloon Station and the automation project of signal systems will cost in excess of \$1 billion. In the absence of any monitoring mechanism, members of the public have no way of finding out if these projects are worth their costs. Why are we allowing an institution as big as KCRC to operate without monitoring?

Madam deputy, the motion now before us urges the Government to monitor the fares of the three railways. Actually, not only fares but also the quality of services should be monitored and when the Government and this Council are empowered to monitor the fares of the three railways, there will certainly have a bearing on the quality of their services. I must note that, while people are satisfied with KCRC's services (especially train services), they are not too happy with the way KCRC deals with train accidents. When service is disrupted following a train accident, stations are full of people. There are not enough staff from the railway corporations to maintain order, nor are there enough buses to disperse the train passengers. Worse still, people are not warned in time not to take train but to use other forms of transport. Such a large-scale chaotic situation arose four or five times in the past few years. So

far, KCRC has taken no substantive action to forestall such chaos in the event of a train accident. This is really disappointing. Here are some accidents taken place in 1993. On 9 June 1993, a station master fell onto the railway tracks and was seriously injured. On 19 June 1993, when a fire broke out in the underside of a car in a north-bound train, the driver did not stop the train to evacuate the passengers; instead, he continued to take the train to the Sheung Shui Station. On 22 September 1993, a fire broke out at a platform in Sha Tin Station.

Members of the public have no way to find out what the accident reports say and what improvements are suggested. I have asked for these reports several times but to no avail. I must point out that passengers have a right to know how safe the trains are and have a right to call for improvements. Therefore, I urge the Government to set up a mechanism whereby KCRC would have to release its accident reports and safety improvement plans and contingency plans for coping with accidents and their after math are subject to comprehensive monitoring.

Another problem is that LRT, despite acquiring 30 new cars last year, is still not able to cope with rush-hour demand. LRT platforms are often crowded with passengers. I hope that KCRC will make the necessary improvements.

Madam deputy, I request that KCRC be subjected to more monitoring. The company has indicated interest in applying for the right to build and operate new railway lines. If its application is successful, its operation of the new lines must be put under supervision.

With these remarks, I support the motion.

Mr FREDERICK FUNG (in Cantonese): Madam deputy, Mass Transit Railway Corporation (MTRC), Kowloon-Canton Railway Corporation (KCRC) and Light Rail Transit (LRT) form an important part in Hong Kong's public transport network. Their services and their fares have great repercussions for the several million people of Hong Kong. The railway corporations which provide services to the public must discharge their responsibilities and obligations towards the community. When setting their policies, especially in the case of those affecting people's everyday life, they should consult the public. However, the existing fare increase mechanisms of the three railways deny the Legislative Council any monitoring role. Nor may their fare increases be scrutinized as to whether or not they are reasonable under the applicable ordinances. Members of the public cannot do anything about their fare increases or have no monitoring part to play in their operations.

The Association for Democracy and People's Livelihood, including myself, thinks that the railway corporations, as public utility companies, have an undeniable obligation to upgrade their services to meet the needs of the public. Therefore, they should not pass the costs of service improvements to members of the public. Better services will attract more passengers. A rising passenger

volume should suffice to provide the corporations with higher gross incomes. Now, look at the railway corporations' annual profit figures. These figures make me doubt even more the justification and necessity of the three railways' fare increases. I will talk about KCRC first. KCRC's annual profit amounts to as high as something between \$400 million and \$500 million. Its profits for 1991 and 1992 were equivalent to an average rate of return of 11% on fixed assets. If this is cited as its ground for paying dividends to the Government, it is not justifiable at all. Similarly, as I have said earlier, improving services is the corporations' obligation. I think it is unacceptable to ask members of the public to meet some of the costs of its service improvements. It seems that fares are raised only to increase the corporation's reserve. But KCRC already has a reserve of about \$5 billion. This obviates the need to raise fares.

LRT often raises fares on the ground that it is losing money. This argument, too, does not hold water. LRT's construction cost was just over \$1 billion. KCRC earned several times that amount from property development atop the LRT stations. The earnings are more than enough to cover the construction cost. I am afraid that, when the company says that LRT is losing money, it is counting construction cost as operating cost and its earnings from property development are carried in a different book. How can members of the public and legislators, with the robust financial position of KCRC and LRT in mind, accept its same old grounds for raising fares?

We see that the three railways raise their fares each year and link the increases to inflation. This is bound to put some pressure on members of the public. It will also fuel inflation. Such a cycle will surely have an adverse effect on people's living standards. As far as I know, the three railways will be installing, in the coming few years, high-tech equipment and going computerized in the control rooms, platforms and cars. They will then need fewer staff and be able to operate more cost-effectively. I believe that the three railway corporations should then stop linking their fare increases to inflation. Future fare increases should be less than the prevailing inflation rate.

Another thing is that, I think the three railways' fare increase proposals should be subject to the Executive Council's and the Legislative Council's monitoring. They must apply to the Executive Council if they want to raise fares. Their fare increase proposals must then be submitted to this Council in the form of subsidiary legislation for endorsement. Representatives of the three railways should be present at the scheduled meetings of this Council's traffic affairs panel to answer questions. Also, I wish to suggest that the Government should upgrade the Transport Advisory Committee to a body with statutory power and charge it with responsibility for reviewing transport policies and public transport's fare structures. The new body must be composed of elected representatives, academics, professionals and representatives of community groups. At present, KCRC and MTRC operate like commercial companies in the public sector. Their directors are appointed by the Government from the private sector. They represent the interests of the companies' share holders and not the interests of the entire community. They have full power to set the fares

for the railways. In a nutshell the railway corporations are not subject to any day-to-day supervision. Here I urge the Government to appoint some elected legislators to their boards of directors at some future time to represent the interests of members of the public.

The Government is the boss of the three railways. The people of Hong Kong are the Government's boss. I fail to see why the people of Hong Kong and their representatives, that is, the elected legislators, are denied the power of directly monitoring the three railways. I cannot accept that the three railways are allowed to operate with so little transparency and no accountability to the public.

I hope that the Government will review the loopholes in its monitoring of the day-to-day operations and the fare increases of the three railways and make sure that this Council as well as the Executive Council can have an active role to play in monitoring their future fare increase proposals.

With these remarks, I support the motion.

MR LEE WING-TAT (in Cantonese): Madam deputy, last year the motion moved also by Mr LAU Chin-shek urging that the Government conduct a comprehensive review of the operations of the two railways and the mechanism for monitoring the fares of the two railway corporations was passed by this Council. Regrettably, a year later, the Government is still doing nothing about the carried motion. Mr LAU's moving a related motion today is just a way of telling the Government that the Legislative Council is not a talking shop. We would fight to the end for what has had the approval of members of the public.

For years, Hong Kong's inflation rate has been higher than the real economic growth rate. Members of the public helplessly watch their living standards decline. Regrettably, the Government has been unable to combat inflation effectively. Rises in property prices and transport costs have far out-stripped the rate of inflation and wage increases, with snowballing effects. Hong Kong's railways are an important everyday means of transport. For more and more members of the public, the bulk of their travelling expenses go to train fares. The three railways' share of the franchised transport service market in Hong Kong is nearly 50% and still rising. With the completion of the airport railway, and the completion of the other railway projects in year 2001, the two railway corporations will be playing even greater roles in local transport scene. Their interests and those of the public must be kept in balance. For this reason, it is only fair and reasonable that this Council should participate in the monitoring of the two railway corporations, which were set up with taxpayers' money.

First of all, we understand that the two railway corporations make good profits and are managed efficiently. We want the Legislative Council to play a part in monitoring their fares not because we want to interfere in their

operations and management. Some Members are over-sensitive. They say, "To give the Legislative Council such monitoring power will politicize the fare increase application procedure." They also say to the effect that such monitoring means political interference with the operations of the two railway corporations. Those who say so actually suffer from political allergy. They abuse the term "politicization". To take their logic further, this Council's passing the Government's budget each year must have politicized the budget making process, so the law should be amended to obviate the need for the budget to seek this Council's endorsement.

I do not see this Council's monitoring of the two railway corporations' fare increases a case of politicization. Rather, I would say that it is a case of making fare increase procedures more equitable and more open. These procedures must be made more equitable because the Kowloon-Canton Railway Corporation (KCRC) and Mass Transit Railway Corporation (MTRC) ordinances, while protecting the two corporations' commercial interests and freedom of operation, say nothing about the interests of the public. In other words, the railway corporations enjoy absolutely free operation autonomy. Members of the public must unconditionally submit to their so-called "commercial decisions" and, relatively speaking, are deprived of their freedom and their right to participate in the decision-making process. This demonstrates that fare increase decisions are important. It is the fairest and in the best overall interests of the community for elected Members of this Council, on behalf of the public, to strike a balance between commercial interests and public interests by participating in the making of these decisions.

Public transport systems and railways in most of the countries in Europe and America are supervised by monitoring bodies elected by the electorates or appointed by elected legislatures. These bodies represent the interests of members of the public. To say that elected legislators should not intervene in such an important livelihood issue as railway fares is to pour cold water on all the people of Hong Kong and then tell them, "Do not think that, just because you have elected representatives to the legislature, the Government will respect your views on issues affecting your lives." I believe that members of the public will not accept this.

It is quite obvious why fare increase procedures must be made more open. The two railway corporations' fare increase decisions and other important decisions by the board of directors are made behind closed doors and then submitted to the Executive Council for consultation before they are made public. Members of the public are just told the results and expected to accept them. Their views are not sought throughout the decision making process. If this Council takes part in monitoring, then the fare increase procedures will become much more transparent; Hong Kong will also become a more open society. What is wrong with this?

There is no real evidence to prove that, if their fares are monitored by the Executive Council and the Legislative Council, the credit rating of the two

railway corporations will be undermined. These corporations' high credit rating is supported most importantly by the fact that they are wholly owned by the Government of Hong Kong and the fact that, being franchised railway corporations operating in the high population density environment of Hong Kong, they are well assured of a high passenger volume.

As long as the Government's financial position remains sound and the political climate stable, the two railway corporations' credit rating is not likely to drop sharply. Recently, an international credit rating company lowered MTRC's credit rating by two notches solely on account of the territory's uncertain political future, not at all the proposed fare monitoring mechanism. Therefore, it is an exaggeration to say that this Council's monitoring mechanism. the two railway corporations' credit rating. Honourable colleagues should not lose sight of the fact that Hong Kong Ferry Company's fare increases require this Council's approval. I have not heard the senior management of the company say that they have problems with credit rating or with borrowing money. The company's fare increases are usually passed by this Council after some debates. Even if this Council's monitoring of its fares has an indirect impact on its credit rating, it should produce only insignificant effects. Such minor effects are the price for a fair and open fare increase mechanism. The benefit is worth the price. Besides, it is not true that Members of this Council are blindly opposed to fare increases. It is not difficult for us to accept reasonable fare increases if they are justified by statistical and other data.

Madam deputy, public transport services are very important to people's livelihood. With inflation running high, members of the public can save on food and clothing. But they cannot stop riding public transport to go to work or to go to school. Given the importance of public transport, the United Democrats of Hong Kong requests that ultimately there should be a broadly based public transport monitoring committee with professional input to monitor the services and fares of public transport companies and to deal with relevant complaints.

Madam deputy, with these remarks, I support Mr LAU Chin-shek's motion.

MR FRED LI (in Cantonese): Madam deputy, at present the various mechanisms which scrutinize fare increases by privately-operated public utility companies can be broadly classified into the following categories:

The first category is those which have full autonomy to increase their fares such as the three railways and the Town Gas which have attracted my great concern all along (the Town Gas is not subject to any control scheme). What I have been striving for is to subject all public utilities to monitoring in future.

The second category covers those which require the approval of the Executive Council for fare increase. They include the two bus companies, the tram, taxies and the Star Ferry.

The third category is those under the monitoring of the Legislative Council by way of subsidiary legislation, such as the Hong Kong Ferry and the revised charging system of the telephone company. In fact, fare increase by the telephone company also requires the approval of the Legislative Council by way of subsidiary legislation. Of course, the charging system changed with the setting of a ceiling on fare increase last June.

What Mr LAU Chin-shek is focusing on is the fare increase mechanism of privately-operated public utilities under the first category, that is, the three railways.

Meeting Point had held a thorough discussion on this motion from the legal and human points of view as well as in the light of the present political climate. As a matter of fact, we have not come to any conclusion as to whether fare increases by privately-operated public utilities should be subject to the approval of the Legislative Council by way of subsidiary legislation. The Legislative Council may also consider seeking the power of nominating representatives to sit on the board of directors of the companies concerned like the MTRC or the KCRC. On the other hand, the Legislative Council may not have the necessary resources and experience to consider each and every fare increase as it involves the overall financial arrangement and the operation of the company concerned.

In principle, we support monitoring by the Executive Council. We think this would be more appropriate. Regrettably, under the existing political system, it seems that the Executive Council does not have to be accountable. It also lacks transparency and its public credibility is less than adequate. No wonder we, Members of the Legislative Council, are seeking to include the Council as a mechanism to monitor the fare increase of public utilities. If we look at the matter objectively, it is precisely because of the relation between the Executive Council and the Legislative Council, one in which the two Councils are separated, with no co-ordination and in constant confrontations, that the Legislative Council, which commands more public credibility and has the backing of public opinion, plays an active role in reflecting public opinion. As public utilities have an impact on people's livelihood, it is only natural that this Council is particularly concerned with the issue.

Regrettably, the Administration evaded Members' request. In February last year, Mr LAU Chin-shek's motion to urge the Administration to review the monitoring mechanism was eventually carried in spite of the Administration's opposition. I can also remember clearly that the Administration undertook at the time to explain and report to Members of this Council at a then later date. Yet after one year, the Administration is still marking time and no news is forthcoming. I simply do not know what the Administration has done and

Members certainly find this very disappointing. Under such circumstances, I understand absolutely why Mr LAU has to advance a further and more concrete request, one which is more specific than the previous motion. Meeting Point is very disappointed at the lack of action on the part of the Administration in the past year. The Administration has offered no option at all for the consideration of Members of this Council. Therefore, after very careful consideration, Meeting Point can only support the motion proposed by Mr LAU Chin-shek and continue to play a role to reflect public opinion while expressing our discontent over the neglect of duties on the part of the Administration.

Madam deputy, the other two Members from Meeting Point will later put forward their views from the perspective of local and practical issues. I support the motion.

MR STEVEN POON (in Cantonese): Madam deputy, the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC) are wholly owned by the Government. Under the relevant ordinances, they are operating on a privileged basis as they are publicly financed, provided with necessary land had loan guarantee, and promised monopoly of service. But the ordinances do not require them to be accountable to the Government nor to the public. Their operation is basically autonomous in nature and is vested with the powers to determine fare level. There are no mechanisms whatsoever for the Government and the public to monitor them. It is only when there is any accident in relation to their operation or a fare rise is announced, the corporations will attract press attention. In response, Members will then hold some debates. Afterward, the accident will gradually be forgotten and, in the latter case, the fare increase will go ahead as if nothing has happened. The Secretary for Transport is the official responsible for dealing with the two corporations. However the Secretary and his colleagues have never briefed us about the financial schemes of the two corporations. They have neither given an account, nor commented on the justifications, of the fare increase.

The focal point of today's debate is the fare adjustments by the three railways. The purpose of a fare rise is to increase revenue. This is applicable to utility companies both in the public sector and the private sector. Let me compare the procedures for fare adjustment among the various public utilities. Any increase in electricity charges by the two electricity companies, first of all, has to secure the Executive Council's approval of their development plans and financial plans. The bus companies are required to submit their proposed fare increases to the Transport Advisory Committee for its endorsement. An increase in tram fares has to be approved by the Executive Council. The scale of increase that the telephone company is allowed would be below the upper cap as stipulated in the Telephone Ordinance. As for the three railways, they may set their fare increases at they see fit without having to go through any of the above mentioned procedures. As a matter of fact, under the ordinances, should the Governor direct the MTRC or the KCRC to reduce the proposed fare increases, the Government will have to compensate the two corporations any

losses this may incur. The Schemes of Control governing various public utilities are often under fire by the public. Yet the three railways are even operating under no Scheme of Control. This would have rendered the Government virtually powerless to scrutinize their fare adjustments.

Now I turn to the reasons for fare increase put forward by the three railways. Their common excuse is inflation to which they claim that their fare increases have to be pegged. In fact, the depreciation of fixed assets and interests represent a large portion of the three railways' costs. They will not increase with inflation. Conversely, they will decrease with the repayment of loan and interest. In other words, the three railways' costs should go down year by year. Then why should their fares be pegged to inflation? Actually, inflation does not have much bearing on the operation of the three railways. On the contrary, their fare adjustments often add fuel to inflation.

Madam deputy, I have spoken on this topic time and again in this Council. I feel that the ordinances governing the two railway corporations should be amended so that the development plans, financial plans and fare increase proposals of the three railways will be subject to the scrutiny of the Government and the Executive Council as in the case of the two electricity companies. In turn, it is up to the Government to inform the Legislative Council and the public the result of its scrutiny. Today I still hold such a view. Yet I have reservations about the proposal that the Legislative Council be empowered to have the final say with regard to fare increases. We must bear in mind that the three railways are commercial concerns. With the change in political environment in Hong Kong, it is inevitable that the Legislative Council has become politicized and been influenced by party politics. Members have been inclined to look at the operation of a public utility company from a political point of view. They may overlook the importance of commercial considerations. If today's motion is carried and thus fare increases of the three railways are subject to this Council's approval, I trust that the corporations will find it difficult to secure any loan from the loan market. Sooner or later, they will have to seek public subsidy. I believe that this is not what Hong Kong people would like to see. I am sure many Members do understand my point of view.

Madam deputy, I very much appreciate the spirit of Mr LAU Chin-shek's motion. Yet I do not agree to his view that any such fare adjustments should be submitted to this Council for final approval. Therefore, I am going to vote against his motion.

These are my remarks.

MR TIK CHI-YUEN (in Cantonese): Madam deputy, we have carried out a simple survey in New Territories North and found that respondents' daily expense on transport to their workplaces each amounts to about \$20 to \$30. On average, they have to spend between \$700 and \$800 every month on that front.

This is a considerably heavy burden on an average worker who earns about \$7,000 to \$8,000 a month. For this reason, every year when the Kowloon-Canton Railway Corporation (KCRC) and the Mass Transit Railway Corporation (MTRC) announce their fare increases, it would draw a lot of comments from the disquieted public.

The interests of the consumers themselves and the passengers aside, each time when railway fares go up, the public would be affected as it produces chain effects and inflationary pressure. On each occasion when fare increase is announced both the passengers and the public would express serious concern in the hope that their interests can be safeguarded.

Both the KCRC and the MTRC operate along commercial lines under the relevant ordinances which require them to take care of public interest. In commercial sense, the two railways have been very successful and have won the praise of the general public. The financial health of these two corporations is extremely sound. In this connection, the two railways are, as commercial concerns running along commercial principles, indeed successful and achieve good results. Yet, as I said just now it is also incumbent upon the two railways to take care of public interest. Are the two railways, if left unsupervised, able to look after public interests effectively? I have some reservations. We often see conflicts between commercial and public interests. The corporations naturally would like to have more income, surplus and room of manoeuvre so that it can secure more loans. This is of great importance to the corporations. However, the public and the passengers will certainly hope that the lower the fares the better so that their standard of living would be better protected.

Actually how can such conflicts be removed and who should act as a watchdog in the interest of the public? Just now a Member cited several incidents to show that the three railways did listen to public opinion when adjusting their fares. However, I would like to tell Members that I have, on many occasions, mobilized the masses and some associations to protest against the KCRC's fare increases but these efforts all ended in failure. None of our views was accepted by the corporation. In this connection, I wonder whether the railway corporations will seriously listen to public opinion. Whenever a fare increase is announced, Members of the Legislative Council show deep concern and put forward their opinions. However, even by so doing, full data concerning the corporations' fare increases were not readily forthcoming. Without such data, we simply cannot play a monitoring role. Under the present circumstances, how can we expect the corporations themselves to act in public interest on their own initiative? I note that the corporations have done over these few years a bit more to collect public opinion, such as setting up liaison teams and issuing a great number of bulletins to the public to publicize their plans. However, I think they are merely public relations stunts or window dressing practices. The three railways' so-called respect for public opinion is only some sporadic goodwill gestures. In fact, the three railways will only listen to the public when they feel like to do so. They are under no legal obligation to listen to any public opinion if they feel otherwise. Even the

Executive Council cannot overrule the three railways' fare increase decisions. It is neither practical nor reliable to expect the Executive Council to strike a balance between the interests of the corporations and the public. As I said just now, there is basically an inevitable conflict of interests between the corporations and the public. And I think it is always the public interest which is sacrificed at the end of the day. For the aforesaid reasons, we from Meeting Point put forward two proposals which, we believe, can effectively uphold public interest.

(1) Existing legislation should be amended so that the three railways' fare increases must secure the Executive Council's endorsement.

(2) I think the three railways' boards of directors should include in their membership representatives elected from the public and the service users to enable them to participate in, and monitor, the railways' internal operation. Only by doing so can we effectively strike a balance of interests between the corporations and the public.

With these remarks, I support the motion.

MR JAMES TO (in Cantonese): Madam deputy, I would like to discuss the three railways' fare increases today in the context of constitutional separation of powers. On 15 December 1993, I moved in this Council an amendment to the Civil Aviation (Aircraft Noise) (Limitation on Landing or Taking off of Aircraft) (Amendment) Notice of 1993. I said on that occasion that whether the Legislative Council should have the power to make the final decision in the interests of the public was a constitutional issue, and that such a decision, despite what some Members might say to the contrary, was not a professional decision. By the same token, a decision on the timing and magnitude of fare increases for the three railways is not a purely commercial decision. It is a political decision and it should be made by the Legislative Council or the Executive Council for members of the public.

In fact, to a degree, the Government and the Legislative Council are already making the final decisions on fare or rate increases for the public utility companies, with the only exception of Hong Kong Gas which can still make its own decisions on rate increases without the Executive Council's approval. In the case of Mass Transit Railway, Kowloon-Canton Railway and Light Rail Transit, which are under discussion today, notices of fare increases must be given to the Executive Council. In the case of China Motor Bus, Kowloon Motor Bus, China Light, Hong Kong Electric, taxis, Hong Kong Tramways, Star Ferry, Eastern Crossing and Cross Harbour Tunnel Company, applications for fare or rate increases must be made to the Executive Council. In the case of Hong Kong Ferry Company, fare increases not only require the Executive Council's approval but must be submitted to this Council in the form of subsidiary legislation before they are put into effect.

The size and frequency of fare or rate increases by a public utility company are matters of delicate balance between the company's commercial interests and the public interests. We need to ask not technical questions like which company can increase fares or rates by how much this year, but questions with a political orientation, such as, who can decide for the public and bargain with the public utility companies? Who can most fairly keep the interests of the public and the commercial interests of the public utility companies in balance?

Those legislators whose careers began under the appointment system are apt to think that the commercial decisions of the public utility companies or the decisions made by the appointed elite on the Executive Council are good enough for the public. Such thinking is not only undemocratic in spirit but also inappropriate in that it fails to recognize the community's higher expectations today. The appointed Members may or may not like it, but the public is no longer the silent majority, especially not on issues affecting their everyday lives. Members of the public would air their opinions through different channels and expect their elected representatives to fight for their interests in the legislature. In such a political climate, if one remains convinced that the decisions of the public utility companies, government officials or the elite on the Executive Council will be accepted by members of the public as in their best interests, one is either refusing to face reality or extremely insensitive to the expectations of the public.

At present, not all Legislative Councillors are directly elected. This Council of course cannot be described as a wholly elected body. Still, under the present circumstances, this Council represents the public the best. Therefore, public utility companies' decisions to raise fares or rates must be submitted to this Council in the form of subsidiary legislation before they are put into effect. Such decisions affect the general public. They should be debated openly in this Council with its Members representing different interests, and then put to a vote. Incidentally, members of the public will see the standpoints of the individual Members clearly. They will know whom to vote for in future elections. In fact, opinions may not necessarily be lopsided in this Council. Public utility companies can lobby Members of this Council. They can strongly argue their cases and say something like this: If fare or rate increases are too tightly controlled, the companies will be unable to remain in business and members of the public will then not be provided with reasonable services. In this connection, different interests represented in this Council could have a fair and open contest.

Suppose that we have an elected administration which is accountable to the public and enjoys credibility, then government officials themselves can certainly make the final decisions on fare or rate increases for public utility companies. If these decisions should be unjust or go against the public interests, members of the public could turn their back on such an irresponsible administration and vote it out of office in the next election. In such a case, the Administration does not have to give the legislature power over the fare or rate increases of public utility companies. Yet Hong Kong's present administration is appointed by the

British Government. Its appointment did not require the approval of the public in Hong Kong. I have great reservations about giving such an administration with no popular support or its cabinet, that is, the Executive Council which is a consultative body the power of deciding on issues affecting the public interests.

In view of the points mentioned above, voting for or against today's motion is not simply a matter of voting on a material issue. It is also a matter of taking a political position. With these remarks, I support the motion.

MR WONG WAI-YIN (in Cantonese): Madam deputy, in Hong Kong, most public utility companies' operations and profit levels are, to a degree, subject to the monitoring of the Government and this is done on behalf of the public. However, the three railways are wholly owned by the Government. The Government's monitoring role in this respect indeed opens to doubt. We feel that the Government does not appear to be exercising effective monitoring on behalf of consumers. The Government insists that there is enough monitoring. I recall that, during a debate in February last year, the Secretary for Transport named 10 channels through which the Government monitored the two railway corporations, including the Government itself, the corporations' boards, the Legislative Council, the Transport Advisory Committee, district boards, the Governor in Council, passengers and the Commissioner for Administrative Complaints. But are these channels effective? More importantly, are they vested with the power to make decisions and set policies? We see no evidence of this.

Many points have already been covered by honourable colleagues speaking a moment ago. I do not wish to be redundant. However, there are some long-standing problems that I would like to talk about. Most importantly, how much do we know about the two railway corporations? We are not accessible to the data in support of their fare increases. There is a lack of transparency. Suppose that improvements are made now and that the two railway corporations come to this Council every year for endorsement of their fare increases; yet, when we ask for more data, they can refuse to provide them under the pretext of "principles of commercial operations" and their being "listed companies". A question that many Members asked is: Are the two railway corporations official bodies or commercial ones? The answer so far eludes us. I doubt if it is clear to the Government itself. At any rate, in the absence of sufficient data, we cannot judge if their fare increases are justifiable. Therefore, Meeting Point supports Mr LAU Chin-shek's motion. We hope that the subsidiary legislation procedure will bind the corporations to provide more data to enable Members of this Council to judge for members of the public if their fare increases are justifiable. I also agree with Mr LAU's comment that the corporations should not be afraid of being subjected to monitoring, still less suspect this Council with elected elements of its intention. They should not think that we will blindly oppose all fare increases or that we will try in each and every case to revise proposed increases downwards. If the corporations

could present strong arguments to this Council for public discussion, I am sure it would be good to the general public.

Another thing is that the Government repeatedly stresses that there are already many forms of monitoring, including monitoring by the Governor in Council and by the corporations' boards of directors. The Government thinks that there are now enough monitoring channels. However, all the Executive Council Members are appointed by the Governor. How much do they know about the needs of the public? When making decisions, what do they consider: the interests of the public or the wishes of the Governor who appointed them? The Governor is the boss of the two railway corporations. Whom will the appointed Executive Members and the directors of the two railway corporations he appointed speak for? That manifested why members of the public had no confidence in this Council, until it had elected Members in it, and the non-elected Executive Council as both of them have no credibility. It will not do for a body with no credibility to exercise monitoring. Besides, the monitoring is no more than consultation in nature and the existing monitoring bodies are toothless. Another thing is that we feel that the Government and the public utility companies are ignoring the views of the public. These companies, under public opinion pressure, have established channels to seek public views in recent years. For instance, they have set up advisory bodies including passenger liaison groups. In spite of these developments, we think that members of the public, being the direct or indirect customers of public service companies and public utility companies, have a right, and should have the power, to monitor their operations. Any way, how effective are the passenger liaison groups? I have attended some of their meetings and I know what are discussed. Many friends of mine have also attended meetings of such groups. At the first meeting, they were very enthusiastic. At the second meeting, they found that their views had not been taken seriously. At the third meeting, they left in disappointment. We believe that the setting up of passenger liaison groups to seek public views is a minor concession. However, should the companies refuse to release more data and account for their decisions to the public, these ornamental groups will soon be regarded as worthless and forgotten by members of the public.

In this connection, Meeting Point would like to reiterate several suggestions that it made last year:

Firstly, with an increase of elected Members, the Legislative Council is justified in having a mechanism under the law to monitor the services of the three railways.

Secondly, the three railways have an obligation to provide business data to members of the public. The Government should revise relevant ordinances to ensure that members of the public can secure the data that they need.

Thirdly, the boards of the two railway corporations should be more broadly based and include elected legislators, members of green groups, and representatives of local communities and the general public.

Fourthly, consumer organizations and effective channels should be set up to enable members of the public to participate in effective monitoring.

Lastly, we think that the Transport Advisory Committee and the Consumer Council should conduct annual surveys on public transport services and passenger opinions to make sure that the quality of services is maintained.

Madam deputy, with these remarks, I support the motion.

DR TANG SIU-TONG (in Cantonese): Madam deputy, for many years there have been strong voices in society demanding the Administration to set up a comprehensive monitoring mechanism to monitor the fees and charges of the public utilities companies, but the Administration has all along turned a deaf ear to these demands. It has on the contrary endeavoured to maintain the interests of the public utilities. As a result, these companies have become "bodies that are subject to no control". Among the various public utilities, the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC) have even stood out as two super "independent kingdoms". They are in fact public corporations set up with government funds. Nominally, public corporations are separated from the government departments, though their chairmen and board members are still appointed by the Administration. As these public corporations are independent bodies, it goes without saying that their boards of directors will be responsible for all the decisions of the corporations. The operations of these corporations are regulated by their respective Ordinances but are not subject to monitoring by the Legislative Council. Undoubtedly, it is utterly unreasonable that public enterprises set up with government funds should be subject to no monitoring. What I do not understand is on what basis the Legislative Council passed the MTRC and KCRC Ordinances many years ago, thus enabling the two railways to become "independent kingdoms" among the public utilities. Given that the capital of public enterprises comes from the Administration, in other words, the taxpayers, it is not inappropriate for this Council to monitor them on behalf of the public. The Administration has no reason to oppose such an arrangement. With this Council monitoring the charge increase of public utility companies, it can be ensured that there will not be any unreasonable increase. The fact that the toll increase of the Aberdeen Tunnel was vetoed by this Council last year shows the importance of a monitoring mechanism.

Some people worry that if fare increase by the Mass Transit Railway (MTR), the Kowloon-Canton Railway (KCR) and the Light Rail Transit (LRT) is subject to approval of the Legislative Council, these corporations' creditworthiness will be undermined. This argument is similar to the saying by a government official in the Western Harbour Crossing issue last year that "with

monitoring by the Legislative Council, no consortium will be willing to invest." I think that such worry is unnecessary. Privately owned public utilities like the China Light and Power, Hongkong Electric and the two bus companies have to seek as a matter of principle government approval for each tariff or fare increase application, but they have never encountered any difficulties in borrowing. Why are the two railway corporations different in this regard? In fact, the creditworthiness of the three railways is based upon the fact that they are wholly owned by the Government, their good business performance and satisfactory earning power, and the sound financial standing of the Hong Kong Government.

Some people think that as the two railway corporations are public corporations and the Administration is not directly responsible for their profit and loss, then they should be given sufficient flexibility and space in their commercial operations. If their fare increases are subject to a monitoring mechanism, their ability in terms of operations, improvement of service and renewal of facilities will be affected. This I do not agree. The number of passengers of the three railways operated by the two railway corporations is over 2 million daily. With the exception of the LRT, the MTR and KCR are basically not subject to any direct competition. They can be said to be the only operators in the market. So a monitoring mechanism will not exert any negative influence on the operations of the railway corporations. On the contrary, it will effectively restrain the two railway corporations from ridiculously increasing their fares every year not in accordance with increase in costs, and encourage them to improve really their operational efficiency. Meanwhile, since the two railways are the major means of daily transport for the public, if their fare increases are not subject to any monitoring, it will only push up inflation, and under the chain effects so ensued the quality of life of the general public will be affected. Faced with a choice between maintaining the commercial autonomy of the public corporations and safeguarding the people's livelihood, I will choose the latter.

Some people consider that to have this Council monitor the fare increases of the two railway corporations is politicizing the issue. Such an argument has not only damaged the impartial image of this Council but also insulted the intelligence of the general public. I do not think that the public will support a Legislative Council that cares only about votes but is indifferent to fairness and facts. If this Council performs well, the public will surely support it. But if it commits an error, it will surely be criticized. If we worry that intervention by this Council will politicize the matter, then the best solution will be to make this Council a rubber stamp that will cover up the faults, publicize only the merits and pretend to be unaware of any wrongdoings. But this is definitely not what the public wish to see.

In the past two to three years, price rises have been rampant while inflation continuously on the climb. But every time the Administration has put the blame of inflation on the increase of vegetable prices and totally ignored the inflationary influences of the upsurge of property prices and the unreasonable

fare increases by public transport companies. Obviously, the Administration is not ignorant of the true cause of inflation. But due to the lack of a good solution and the lack of resolve to change the long standing practice of safeguarding the interests of large consortiums and public utility companies, the Administration can only "pretend to be ignorant" and make the vegetable vendors scapegoats. I hope that the Administration can stop making all sorts of pretence and address the crux of the matter by setting up as soon as possible a comprehensive monitoring mechanism to monitor fare and tariff increases by the public utility companies.

With these remarks, Madam deputy, I support the motion.

MISS CHRISTINE LOH: Madam deputy, the substance of today's debate is that fare increases of the three railways should be properly monitored to ensure that the public is getting value for money. To this extent, I am in sympathy with the motion. But I am less convinced about using legislative means to control increases because, firstly, it will affect the ability of the corporations to raise money, and secondly, there are probably other effective ways to monitor fare increases.

In order to finance very expensive but necessary future expansion, the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC) need to raise money both locally and internationally. They need to assure lending institutions that they will be able to repay their loans on schedule in order to get the best possible terms. The imposition of legislative oversight will affect the quality of the assurance which the borrowing corporations can give to lenders. The Honourable Marvin CHEUNG gave an excellent account about this; so I will not repeat what he said save that we should also note that the credit rating for the MTRC has recently been lowered because of political concerns over the future of Hong Kong. This could already affect the corporation's ability to borrow at the cheapest rates. We should not further jeopardize its ability to raise funds.

The question Hong Kong needs to be assured of is that, in respect of the fares which we have to pay, whether we are getting the best value for our money. Madam deputy, perhaps let me rephrase this question again: For this level of investment, and for this quality of service, are we paying too much, or are we paying a reasonable amount?

The fact that we are having today's debate perhaps indicates that the public is not sure how to answer this question. Will legislative oversight, as proposed in the motion, provide the answer? It may not.

In order for the public to be assured that it is not being overcharged, the inner workings of these corporations need to be opened up. We need to see exactly how the public interest is being protected.

The MTRC and the KCRC, as public corporations, do not have to report to the Transport Advisory Committee. Instead, their respective boards of directors, appointed by the Governor, are expected to run the companies on prudent commercial principles, and at the same time, take into account the public interest when considering fare adjustments.

In the example of the MTRC, the public interest is, in theory, represented by the Secretary for Transport, the Chief Executive of the Monetary Authority, an Executive Councillor and a Legislative Councillor. For all we know, they might be vigorously defending the public interest at every turn. But like justice which needs to be done, and needs to be seen to be done, the public interest not only needs to be defended, but also needs to be seen to be defended.

I believe the MTRC conducts informal public consultation when it wants to adjust its fares. The Government should encourage all three railways to formalize their consultation process in order for the public to see that their interest is being defended. As to exactly how this can be done, perhaps the Government could give this some further thought along with the MTRC and the other railway corporation.

Further, I would like to see the three railways carry out and publish the findings of their own internal audits and value for money studies, so that Hong Kong can see how its public railways measure up against the best public transport systems in the world.

I have a specific question for the Government and I hope that the Secretary for Transport can respond to this when he speaks. The Government receives substantial land premiums from the sale of land adjacent to new transport links. Can we know how the Government decides on whether to plough back any of those earnings into developing transport, and/or to keep fares at a reasonable level?

I ask this question because I am concerned that rapidly expanding population centres are being and will be inadequately served for many years to come. The preliminary findings of the Railway Development Study show that several of the proposed rail lines to such areas as Tseung Kwan O, Ma On Shan, Tuen Mun, Yuen Long and Aberdeen are not considered financially viable at this time because the population concentrations as yet do not offer sufficient rates of return for rail links to be built.

Let us take the example of Tseung Kwan O which has around 90 000 residents. It will apparently not be financially viable to build a rail link until the population reaches 250 000 some time after the year 2001.

But the economic benefits of building rail links to these developing areas are indisputable for the communities living there. Rail services will lower commuter time, create local commercial centres, reduce vehicle pollution and provide the important psychological benefit of less stressful transportation.

Instead of waiting for the population to reach a critical level before putting in rail links, would it not be better for the Government to reinvest its development profits so that transport, the environment and quality of life could be improved sooner?

I look forward to the Secretary's response.

Madam deputy, I regret that I cannot support the motion.

MR ALFRED TSO (in Cantonese): Madam deputy, the Government hopes that the two railway corporations, by adopting the "corporate system" and "operation on commercial principles" as their *modus operandi*, will become cost-effective. This is sheer wishful thinking.

The visible results so far have not been satisfactory. The Mass Transit Railway Corporation (MTRC), one of two railway corporations, has yet to reach a satisfactory profit situation despite sharp increases in fares and patronage. The other company, Kowloon-Canton Railway Corporation (KCRC), operating under very favourable conditions, has made respectable profits. Yet it still raises fares each year, without offering any specific data to justify the fare increases and to enable members of the public to know more about the need to raise fares. The public can only accept passively vague justifications like inflation, heavier payroll expenditure and higher fuel costs.

The present government mechanism of monitoring the two railway corporations is no more than appointing a number of people, whom the Government trusts and finds to be appropriate, to the respective boards. The boards make decisions and leave the day-to-day operations to management staffs. Such a "corporate system" may have some merits operation wise, but it is practically in lack of monitoring. Today, people's awareness has been improved considerably. Although each fare increase proposal by the three railways is accepted by the public, it is accepted not without big question marks. Many members of the public even voice their opposition, as they are unhappy with the weak justifications for the fare increases and the lack of transparency in the corporations' financial situations.

Every time a citizen group or a district board member raises a question or voices opposition, the Government will hide behind the shield of "commercial operations." The railway corporations will only resort to their annual reports and statements of accounts as explanations. Even in answering questions raised in the Legislative Council, the Government just muddled through other than making references to the data in the annual reports and offering some of the reasons as explanation. It is hard for members of the public or Members of the Legislative Council to believe that the Government has been doing its best at supervising the corporations.

The Government's attitude towards supervising the public utilities and its ability in performing this role have always looked suspicious to the public. People are particularly disgusted when the Kowloon Motor Bus (KMB) submitted recently an application for a sharp fare increase on the grounds that it has sustained operating losses, despite having scooped huge profits from its property development. Yesterday, the Secretary for Transport said publicly that he was surprised at KMB's need to raise fares so sharply. Can he do more to gain the confidence of the public? The existing monitoring system is too loose and full of holes. What can the Government do about it?

Similar problems also lie behind the three railways' fare increases. Take the Light Rail Transit (LRT) as an illustration. In 1991, KCRC raised LRT fares by 15%. But at the same time, KCRC had already made a profit in excess of \$700 million from property development over LRT stations and was expected to profit \$400 million or more from development projects still in progress. The total profit from property development was almost equal to LRT's Phase 1 development of \$1.1 billion. In other words, KCRC had already earned back from property development the bulk of its investment in LRT. But LRT fares were sharply increased on the ground of day-to-day deficits, not requiring any government approval or scrutiny. Can this be called reasonable? At the time, maybe the Government had already accepted LRT's fare increase or maybe it just could do nothing to stop it. In the end, a group of Tuen Mun District Board members (including myself) had to resort to the high pressure tactics by sitting in on LRT's tracks to protest. Only then did LRT agree to make a little concession.

The above case illustrates the need for today's motion debate. The public and their elected representatives have no mechanism of recourse other than high pressure protest tactics. Although the Government has the influence and the mechanisms for dealing with such problems, given the two railway corporations are wholly owned by the Government which is an interested party, how can we expect the Government to make decisions objectively? Since the government officials need not bear any political responsibility for any of their wrong decisions, how can we believe that the Government will be so sympathetic with the sufferings of the humble citizens as to control and counter the interests of the decision makers of the big corporations? Besides, the Government says all the time that its policy for industrial and commercial development is one of "non-intervention." What expectations then can this Council and the public have?

Madam deputy, though the motion's proposal may not be the best arrangement for monitoring the management and fare increases of the two railway corporations, still, the motion deserves our support in the absence of a more effective alternative offered by the Government to the satisfaction of this Council. Besides, I support the motion with the intention that an alarm be

sounded on the Government and pressure put on it to work harder in supervising public utilities and catering for the livelihood of the general public.

With these remarks, I support the motion.

DR HUANG CHEN-YA (in Cantonese): Madam deputy, some Members have said that the three railways have to be independent and autonomous in determining their fare adjustments because only in this way will investors have confidence in them, thus making it easier for them to raise loans. But if the three railways are brought under monitoring by the Legislative Council, not only will the investors' confidence in them be affected, they will also be subject to political pressure in their fare increase decisions which cannot be made in accordance with normal commercial considerations.

In fact, arguments like these are out of touch with the reality. Public utilities in Hong Kong, such as the two power companies, the two bus operators, the telecommunications company and the various tunnel companies, all cannot raise their charges or tariffs at any time they like. Nor can they determine such charges or tariffs in a totally independent and autonomous manner. But have investors lost their confidence in these companies? Has it been difficult for these companies to raise loans? No. Have investors sold the shares of these companies in a panic? No. Instead the share prices of these companies have remained high. If the share prices and borrowing power of these companies have not been undermined by their being subject to government monitoring in their charges, what are the reasons for believing that the creditworthiness of the three railways will be affected by such monitoring?

Moreover, the political pressure referred to by these Members is in fact the decision made by Members in accordance with the views of the public instead of taking the profit growth of these companies as the sole factor of consideration. If the Liberal Party considers that commercial principles are superior to and should not be influenced by the people's wish, then I would like to ask the Liberal Party whether it is intending to inform us in advance that it will support a 20% fare increase by the Kowloon Motor Bus Company and a 19% fare increase by the China Motor Bus Company Limited? Will it oppose this Council using political pressure to check the fare increases by the two bus companies? If the answer is in the negative, then how can the Liberal Party justify itself when it says that this Council's monitoring of the fare increases by the three railways is an improper exertion of political pressure?

If fact, in many other countries the credit rating of public or state enterprises which are subject to monitoring by elected legislatures or government is not necessarily lower than that of private enterprises. The United Democrats of Hong Kong have consulted some financial experts on the matter of creditworthiness. They have told us that the most important factor in determining the credit rating of a public enterprise is the risk involved in the country as a whole or its political system. That the credit rating of the Mass

Transit Railway has recently been lowered by international credit assessment institutions is a clear indication of the influence of the political risk of 1997. Therefore, the best way of restoring confidence is to have democracy, "Hong Kong people ruling Hong Kong" and the genuine implementation of the concept of "one country, two systems".

Moreover, the three railways are collectively owned by the people of Hong Kong. It is only for the benefit of operational flexibility that they are run by independent corporations. The purpose is not to create "independent kingdoms". It is a matter of course that the profits of the three railways should eventually be returned to the general public instead of falling into private pockets. Why can the public, being shareholders of the corporations, not determine through the Legislative Council the profit level of the three railways, thereby controlling influence of the fare levels on people's livelihood? If the fare increases of the three railways are reasonable, why should there be worries about the Legislative Council having the final right of approval? If the fare increases have exceeded the prudent and reasonable needs of a commercial operation, then why can the Legislative Council not stop such increases?

In fact, was political pressure non-existent in the colonial era when there was no elected Member in the Legislative Council? Of course not. Only that the political pressure then represented the interests of the colonial government and the upper class of society. Why does the Liberal Party not oppose that kind of political pressure but oppose the political pressure from the general public?

Madam deputy, the reasons put forward by Members who oppose monitoring the three railways are in lack of supporting facts. Such reasons can only deceive those who do not know about the issue. The Liberal Party has always expressed its opposition to politicization. But is it not now opposing Mr LAU Chin-shek's motion on the basis of political reasons?

With these remarks, I support the motion.

MR CHEUNG MAN-KWONG (in Cantonese): Madam deputy, thank you for allowing me to speak without prior notification. I would like to say a few words in response to the comments made by some Members.

The Honourable HUI Yin-fat said giving the three railway corporations the autonomy to determine their fare increases is to allow them to exercise "benevolent dictatorship". Dictatorship, be it benevolent, ill-intended or even unintended, is dictatorship after all. An unrestrained dictator may do whatever as fancy takes him. Just because Mr HUI thinks that fare increases by the three railway corporations are well-intended and forgets that the mechanism is "dictatorial", he is practically giving up the monitoring role a legislator should play, as well as failing to live up to the public's expectations of a legislator. This would then amount to curtailing our legitimate powers. Madam deputy, why can people accept benevolent dictatorship while at the same time rejecting

benevolent democracy? Why should a democratic means of control, whenever it is mentioned, be invariably assumed as an irrational control? Someone stated, "You, being Members of the Legislative Council, would of course agree to increasing the powers of the Legislative Council, including the power to restrict the three railway corporations' powers to raise fare." However, if Legislative Council Members or political parties exercise their powers inappropriately, thus affecting the survival and development of the three railways and hence the public interests, then they would certainly be discarded by voters in future elections. With this in mind, Legislative Council Members would certainly wield their powers carefully and rationally, and act sensibly to strike a balance between the interests of the public and the three railways. As a matter of fact, when they monitor, and keep a check on, the three railways, they are at the same time subject to public monitoring and control.

Madam deputy, I heard the Honourable Mrs Miriam LAU said just now that Mr LAU Chin-shek's motion deprives the three railways of their autonomy in determining fare increases. I must say it is an eye-opener for me. (I thought I must have misheard her words, so I went out to check with the reporters.) Strictly speaking, citizens are shareholders of the three railways. It is already unfair and unreasonable when these shareholders have no means to influence the setting of the size of fare increase, nor doing so through their elected representatives. Now a motion calling for empowering the Legislative Council through legislation to monitor and keep a check on fare rises of the three railways is, to our surprise, regarded as depriving them of their power to determine fare increase. Madam deputy, how on earth could right and wrong be mixed up like this? It is the public, rather than the three railways, who is really being exploited where fare increase is concerned. Please do not mix up right and wrong. One must see clearly who is being exploited. Please stand up for the public.

Madam deputy, the Honourable Steven POON said this Council is a politicized venue and that if this Council is allowed to participate in determining fare increases, the three railways' borrowing capacity will then be undermined. In fact, this is but an old tune. Politics deals with public affairs. It is absurd that the Legislative Council, as a public body with its members elected by the people, should be excluded from the decision process on such matters. The use of politicization as an excuse to exclude this Council's participation is, in fact, just playing another kind of politics. Only that this latter kind of politics is used to protect the benevolent dictatorship of the three railways as mentioned by the Honourable HUI Yin-fat earlier. Madam deputy, problems cannot be solved by merely demonstrating benevolence. And dictatorship is even more disgusting. We need a mechanism, a mechanism of democratic participation. For this reason, Madam deputy, I support the Honourable LAU Chin-shek's motion.

SECRETARY FOR TRANSPORT: Madam deputy, let me say at the outset that the Administration does not see any reason to tamper with the present arrangements whereby the Mass Transit Railway Corporation and the Kowloon-Canton

Railway Corporation have the authority to determine the fare structure on its railways. Notwithstanding this I am grateful to the Honourable LAU Chin-shek for initiating this motion since, with over 3 million commuters travelling on our three railway systems daily, an exchange of views on the process of fare revisions is called for and it provides an opportunity to explain why the two corporations require autonomy and how this has benefitted the commuter.

I have listened to the wide range of views and comments expressed by Members with interest. Many Honourable Members have eloquently and succinctly argued in support of the present system. The Administration appreciates this and welcomes the support. But I must say I was surprised at the Honourable Albert CHAN's reference to my predecessor. All I would say is that, with respect, such comments are not very helpful.

Before responding to the main areas of concern raised and the suggestions put forward in this debate, let me take this opportunity to reiterate the Administration's fundamental policy and philosophy pertaining to the provision of our public transport services. This philosophy is clear and simple: all our public transport services should be run without any subsidy from the Government or the taxpayer.

In line with this principle, both the Mass Transit Railway Corporation (MTRC) and Kowloon-Canton Railway Corporation (KCRC) were established to operate on prudent commercial principles. The latter, of course, is also responsible for the Light Rail Transit (LRT). Both corporations are required by their governing Ordinances to ensure that as far as possible, taking one year with another, their revenue is at least sufficient to meet their expenditure. Central to achieving this policy aim is the premise that both corporations must have the unfettered ability to determine their own fares.

When the Government announced in mid-1970s its intention to build a Mass Transit Railway (MTR) system for Hong Kong, some doubted the financial viability of the project and the prospect of providing a self-financing MTR system. It was an uphill task to convince overseas financiers of the Government's commitment to this ambitious project and the ability of the MTRC to repay its debt. These difficulties were fully taken on board by this very Council which, quite rightly, considered it essential that, as a cornerstone of its business operation strategy, the corporation must be vested with the power to determine fares.

The decision has proven to be a wise and correct one. The corporation has successfully constructed and operated the MTR system. It has met the public transport needs of Hong Kong without any recurrent government subsidy. It has provided a model for the corporatization of KCRC in 1982 which since then has been operating both viably and efficiently on the same principles.

But what is equally important, and often overlooked, is that it is the passenger, the commuter and the travelling public that has benefitted from this fundamental policy of allowing the two corporations to determine their own fares.

The plain fact is that throughout the years, fares have been pitched at reasonable, affordable levels. Since its commissioning in 1980, MTR fares have increased by an average of 7.6% per annum against the average annual increase in the Consumer Price Index of 8.6% over the same period. In real terms, therefore, MTR fares have fallen. Similarly, over the past six years, KCR fares have increased by an average of 7.5% or 2.4 points below inflation again giving passengers better value for money. Even LRT fares, with an average increase of 9.4% per annum, have been half a percentage point below inflation since it began running in 1988.

The Honourable Edward HO very effectively answered many points raised by those who questioned the rationale of granting the two corporations autonomy. I thank him for his comments. Regarding Mr LAU Chin-shek's reference to the healthy cashflow position of the two corporations, several other Members have argued that the corporations should not be penalized by the imposition of unnecessary controls because the corporations, *inter alia*, reinvest in the railway services to both improve the services and to enhance safety. I share this view and need not labour these points which have been made so well.

To reiterate, the average increase in railway fares in recent years has always been less than inflation and well below the average wage increases. The MTR, KCR and LRT are all reliable and efficient railways. They have been rated among the best in the world in terms of safety, and value for money. Indeed, our systems are the envy of many other metropolitan cities. There are many examples worldwide of railway systems that have deteriorated due to political constraints on fares because those authorities concerned have not had fare autonomy. Thus, ultimately, the train passenger is the one to suffer. For example, it is interesting to note that the London underground system has suffered from this syndrome and has just now set itself the goal of becoming financially self-sufficient and upgrading its services to those of a "decently modern metro"; a goal which our two railway corporations have achieved for some time.

I have gone into some detail to illustrate that, despite their autonomy in fare determination, neither the MTRC nor the KCRC have gone overboard in fare adjustments. These have been reasonable and generally acceptable to the public and, what is more, they have allowed for improvement in services to enhance safety.

Let us now consider the motion before Members from a different perspective. The underlying assumption is that the present arrangements or procedures for fare determination lack adequate monitoring mechanisms and that, therefore, as a result the public and the Government have little say over

railway fares. Hence the Honourable LAU Chin-shek's call for legislation to require both Executive Council and Legislative Council approval. Some Members have echoed this concern in their speeches and asserted that the corporations have scant regard to the impact of their fare increases on the travelling public. Is this fair comment? Let us examine the process to ascertain how and to what extent public feedback is taken into account.

While the corporations must retain their ability to determine railway fares, this is not to say that they do not take public views and concerns into account in their fare determination. Nor is there inadequate monitoring.

Both corporations now adopt a sensible policy of generally revising their fares annually in line with or below inflation. However, before deciding on their annual fare increases, both corporations undertake extensive public consultation and market research to ensure that the proposed fares will not only remain competitive vis-a-vis other public transport modes but are also affordable and acceptable to the public.

The public consultation exercise starts with regular meetings with passenger liaison groups where soundings on the acceptability of proposed fare increases are taken. The rationale behind the proposed increases is explained at this stage and specific views are sought on their acceptability or otherwise. These soundings together with results from independent passenger surveys on possible fare revision levels undertaken by the corporations provide the basis upon which broad parameters of the proposed fare increases are formulated. The KCRC has made it a point in particular to fully brief the relevant district boards and obtain their feedback. The proposed fare increases are then revised, and refined in the light of such feedback. Let me give an example. Given the district board's strong objection to the proposed increase in fares between Fo Tan and Sha Tin in the 1993 fare revision, the KCRC responded positively by keeping the old fares for travel on this section.

The views of the Legislative Council are also sought through briefings of its Transport Panel. A full explanation of the corporation's fare policies, together with detailed research results and customer feedback is given. To illustrate the response to the Transport Panel's views, the MTRC, for example, dropped the peak-hour surcharge as part of their fare revision exercise last year. And, indeed of course, the Legislative Council Transport Panel is again briefed after the boards have taken a decision on new fare levels.

Before implementation, an information paper, with full details, is put to the Executive Council in which, *inter alia*, the views of the Legislative Council and other parties are fully reflected. This provides the Governor in Council with the opportunity to consider and give views on the new fares.

The referral to Executive Council is not a mere formality as some Members have suggested. The Council does scrutinize applications and comments are taken seriously by the Corporations. For example, in response to

comments from the Executive Council, the KCRC deferred implementing its LRT fare increase in 1989 to early 1990 and did not seek further adjustment until about a year and half later. It is also important to underline the fact that under the law the Governor in Council may direct the corporations on any matter including fare proposals. There is therefore no need to amend legislation to provide for Executive Council approval *per se*.

This process of consultation, I think, does ensure that the right balance is maintained between the interest of the travelling public on the one hand and the requirements of the two corporations to operate on prudent commercial principles. It has worked well.

Looking ahead, there are both immediate and long-term plans for new railway systems. There is the Airport Railway and indeed the Railway Development Study envisages other major lines. These will require substantial financing. A steady and reliable generation of revenue is a key consideration in the minds of prospective lenders. This can be assured by autonomy to determine railway fares. To fail to provide for such authority as suggested could have a serious and detrimental impact on future railway development. This would result in a downgrading of the credit standing, a smaller number of institutions willing to lend and much higher borrowing costs. Take the MTRC for example. If, on their existing and future debt, there was to be a 1% increase in borrowing costs, this would mean that passengers or the taxpayer would need to pay some \$3 billion more over a 10-year period.

Some Members have argued that subjecting railway fares to formal Executive Council approval should have no impact on the credit standing of the Corporations, on the basis that, for example, some utilities whose tariffs require Executive Council approval have experienced no difficulty in borrowing the necessary money for their expansion plans. There is, however, one major difference. In the case of utilities a steady and reliable generation of revenue is assured by the existence of their profit control schemes in their franchises. The two railway corporations have no such scheme to fall back on.

A few Members have suggested that the Government should waive the dividend payments from the corporations which could thus be used to reduce the fare increase required. The Government has only received dividends from the KCRC since 1990-91. Given that the MTRC is still repaying its debt and has a major construction programme ahead, the Government has not asked for any dividend from that corporation. In principle, these dividend payments are returns on the very substantial investment totalling over \$10 billion that taxpayers have invested in our railway systems. The dividend revenue received will be available to fund essential public service, for example, in the fields of education and social welfare. Apart from losing such a source of public revenue if dividends are high, to waive such payments would also mean that those passengers who can afford to pay to travel on railways would be subsidized. This is not in the overall public interest.

The Honourable Christine LOH referred to the sale of land adjacent to transport links and ask whether the Government would be prepared to plough back at least some of these earnings to develop new transport links. My understanding is that it is not the practice to hypothecate revenue *per se*. But bids for funds for transport infrastructural projects are given high priority. For example, \$9 billion has been earmarked for the current financial year. In addition, the Government encourages private sector investment, for example, for Route 3.

In a debate of this nature it is not possible to answer all points raised by Honourable Members. But I shall certainly follow up pertinent suggestions that have been made. Let me say here, however, that I certainly share Members' general concern that there is room to enhance the corporations' accountability and transparency in the process of fare determination. Thus I shall be asking the corporations to implement the following additional measures:

as an ongoing commitment, to improve and extend their public consultation process. For example, they should consult more widely and explain more fully the reasons behind their proposed fare revisions. In the respect, they will be requested to make available relevant facts and figures;

secondly, to comply with the Government's request for fuller disclosure on financial and operational information, both corporations have already started to examine the ways in which this can be done and how this Council, in particular, can be briefed;

thirdly, to require the corporations to put their proposed railway fare revisions to the Transport Advisory Committee for examination and comments;

fourthly, on the membership of boards, all I would say is that this is regularly reviewed and the comments made today will certainly be taken into consideration.

In response to the Honourable LAU Chin-shek's comments on the need to monitor the performance of the railway corporations, I can assure Members that both corporations stand ready to respond to both the Legislative Council and the Government. In the previous debate on this subject, my predecessor outlined in detail 10 different ways in which monitoring can and is effected. I refer Members to the Hansard record for details.

To conclude, neither the Mass Transport Railway Corporation nor the Kowloon-Canton Railway Corporation has abused the power given to them to determine railway fares. On the contrary, the Administration is satisfied that they have conscientiously maintained fares at affordable levels with annual increases below inflation. They have shown willingness to consult and obtain feedback. The Administration therefore sees no need whatsoever to amend

existing legislation to require approval for fare adjustments from the Executive Council and the Legislative Council.

I am glad that so many Honourable Members this afternoon support this approach. The three Official Members will, therefore, vote against the motion. Thank you, Madam deputy.

PRESIDENT'S DEPUTY: I have received a request from a Member to speak before Mr LAU gives his reply. I have checked the procedures and there is nothing to prevent him speaking. Mr Andrew WONG, if you wish to speak, would you please make your remarks very brief.

MR ANDREW WONG (in Cantonese): Madam deputy, I suggest a break of 10 minutes for you have been sitting here for almost five and a half hours. Moreover I have something to talk to you in private. If you would take a break of 10 to 15 minutes, then I can have a word with you.

PRESIDENT'S DEPUTY: Mr WONG, you are not going to speak on the motion, are you?

MR ANDREW WONG (in Cantonese): Madam deputy, since my views on this motion are very clear, I will not speak in this debate. However, as you are in the Chair today, you can neither speak nor vote. A Member therefore has suggested to me that I may consider using a two-way approach, that is if you support, then I will vote against it. In this way, this can cancel each other out. I do not know your views on this motion, nor do I know whether you support it or not. So I would like to have a break so that I can find that out from you. Anyway, as I have made this known, then would you indicate now whether you would vote for or against it? If you do not do so, then I will according to my wish.

PRESIDENT'S DEPUTY: I cannot say whether I am for or against the motion as long as I am in the Chair. As to taking a break, everyone seems to have had a break and I do not think we should stop the meeting just because of one person. So I will continue until we finish. It is very kind of Mr WONG to suggest it but I think I can manage.

MR LAU CHIN-SHEK (in Cantonese): Madam deputy, the three railways have turned from the red into the black. The profits of the Mass Transit Railway (MTR) in 1992 are six times as much as that of 1991, while 1993 also saw an 50% increase over that of 1992. The heavy railway was even able to pay the Government \$100 million dividends before the deadline last year, boasting a

healthy financial position with profits. A Member has mentioned that the success of the three railways should be attributed to their operation along prudent commercial principles. But I would like to point out that their success has also been a result of the following very important factors: dense population with limited land resources, places of work and residence not in same districts, political and economic stability, development of properties atop stations, rail precincts and full ownership by the Government (backed up by enormous reserves).

We would also like to point out that despite their many differences in opinion, Members from the two major parties have one point in common, that is, requesting the Government to take the necessary steps to refrain from receiving dividend payments from the three railways, so as to ease pressure on fare adjustments by the three railways. Meanwhile, I should like to mention that the MTR, among the three railways, has been maintaining better communication with Members in respect to its service and fare increase. It deserves our praise. However, it must be noted at the same time that this kind of communication is not institutionalized; nor is it a kind of control. The corporation may choose not to brief us.

A fare increase by the three railways will obviously be inflationary, despite the fact as stated by the Secretary for Transport earlier that the fare pricing is definitely not lower prevailing than inflation rate or the price indices. The Secretary may wish to ask Hong Kong people what their main concerns are. I believe they will say housing and transport in reply. This is a very important point.

I wish Members could consider one more point, that is, if this motion is carried, the Government should at least modify the existing control mechanism. I should say that I would be very disappointed if the Government tries to have this motion negated. Should this be the case, I would feel that the Government seems to look on with folded arms just like what it did last year.

Thank you, Madam deputy.

8.00 pm

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

CHIEF SECRETARY: Madam deputy, 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.

Question on Mr LAU Chin-shek's motion put.

Voice vote taken.

PRESIDENT'S DEPUTY: It seems we should proceed to a division as it is impossible to tell the result from the voice vote.

MR JAMES TO (in Cantonese): Madam deputy, I claim a division.

PRESIDENT'S DEPUTY: All right, Council will proceed to a division.

PRESIDENT'S DEPUTY: Would Members now please proceed to vote?

PRESIDENT'S DEPUTY: One vote missing. It is all right now. Any queries, Members, before we display the results?

Mr Martin LEE, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong and Mr Alfred TSO voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Dr David LI, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Jimmy MCGREGOR, Mr Peter WONG, Mr Vincent CHENG, Mr Moses CHENG, Mr Marvin CHEUNG, Mr CHIM Pui-chung, Mr Simon IP, Dr LAM Kui-chun, Mr Eric LI, Mr Steven POON, Mr Henry TANG, Mr Howard YOUNG, Miss Christine LOH, Mr Roger LUK, Ms Anna WU and Mr James TIEN voted against the motion.

THE PRESIDENT'S DEPUTY announced that there were 21 votes in favour of the motion and 30 votes against it. She therefore declared that the motion was defeated.

SETTING UP OF AN INDEPENDENT COMMITTEE OF INQUIRY

MR TAM YIU-CHUNG moved the following motion:

"That this Council urges the Government, for the sake of public interest, to set up an independent Committee of Inquiry as soon as possible to resolve the disputes arising from the claim of the civil servants for the shortfalls in salary revisions for the years 1990 and 1991."

MR TAM YIU-CHUNG (in Cantonese): Madam deputy, I move the motion standing in my name on the Order Paper. I move this motion as a result of a petition by representatives of Hong Kong's nine major civil service unions to this Council's Complaints Division on 28 October last year. They submitted that, in 1990 and again in 1991, on grounds of tight public finances and the need to suppress inflation, the Government gave civil servants salary adjustments which fell short of the pay trend survey indicators for the respective years. They said that civil servants found the shortfalls, adding up to 3.52% for the two years combined, to be unfair. The nine major civil service unions had posted protest bills and held demonstration parades to voice their dissatisfaction. But the Government still declined to consider reviewing the situation. In this connection, staff-side representatives on the Senior Civil Service Council called for the setting up of a Committee of Inquiry to mediate the dispute in September 1992. But this request was rejected by the Governor. Therefore, the nine major civil service unions now request this Council to pass a motion urging the Government to set up an independent Committee of Inquiry to resolve this dispute which has dragged on for several years.

Past experience shows that over the years, the rate of civil service salary adjustments have been roughly the same as, or close to, the annual pay trend survey indicators. Only twice during the last 20 years did civil servants receive salary adjustments short of the indicators. But the shortfall on each of these two occasions was subsequently made up by the Government. The first occasion was in 1974 when the economy was in recession and the Government short of funds. Despite the pay trend survey indicating that private sector employees were given salary adjustments of roughly between 8% and 9%, civil servants received no salary adjustment at all. However, the Government made up for the shortfall in 1975 when civil servants were given salary adjustments of about 13%, which was much higher than the adjustments of 3.5% to 4.5% received by private sector employees. The Government was evidently making up for the nil increase in 1974. The second occasion was in 1982 when civil servants received salary adjustments about 3% below the pay trend survey indicator. Consequently, for 1983, civil servants received salary adjustments slightly above the pay trend survey indicator. For 1985, the Government made up for the 2.7% shortfall in the 1983 salary adjustment. According to a recommendation made by the Standing Commission on Civil Service Salaries and Conditions of Service, the figure was arrived at on basis of the accumulated shortfalls in pay adjustments in previous years compared with the pay trend survey indicators.

It is clear from the above facts that the Government did make up for shortfalls in civil servants' salary adjustments, that is, shortfalls as compared with pay trend survey indicators. Civil servants and civil service unions firmly maintain that this has always been the Government's policy. Yet, for 1990 and 1991, the Government cut civil servants' salary adjustments on the ground of tight finances. The civil service associations all expected the Government to make up for the cuts as its financial position improved. But the Government declined to review the situation, therefore the dispute has dragged on until this day.

Madam deputy, I feel that setting up an independent Committee of Inquiry is a good way to settle the dispute expeditiously. The independent Committee of Inquiry was agreed upon in 1968, between civil service associations and the Government, as a mechanism for resolving disputes between both sides. Such a mechanism was used in the past to settle other disputes between the Government and civil servants. The nine major civil service unions are now suggesting that the present dispute be settled in the same way. So I hope that the Government will expeditiously set up an independent Committee of Inquiry to settle this dispute which has dragged on for years.

With these remarks, Madam deputy, I beg to move.

Question on the motion proposed.

DR DAVID LI: Madam deputy, we are often reminded, of late, of the importance of the rule of law, and of the Civil Service, to Hong Kong. But just as important is the Government's ability to recognize when and how to use its considerable discretionary power. For without a humane approach in the exercise of such discretionary power, the rule of law can become tyranny.

There is ample evidence that, in the past, the Administration has used its discretionary power to compensate civil servants for periods when they served Hong Kong by settling for less than the private sector. In 1976, for example, the Civil Service was awarded 8.86% more than any pay trend survey recommended because it had received no increase in 1975. In 1986, an extra 2.7% almost fully compensated civil servants for pay that was trimmed in 1983.

Past administrations recognized the need to remain competitive as employers to be able to attract and keep the calibre of personnel that the Civil Service requires, and compensated their employees for their dedication and loyalty to serving our community.

Today, however, when civil servants would like the Administration to reconsider what they believe were unfair shortfalls in their 1990 and 1991 salary adjustments, the Government has argued that these adjustments are not negotiable, and that each annual adjustment is a totally separate and independent exercise. How can that be true when, in 1976 and 1986, the Government

compensated the Civil Service for receiving lower increments in preceding years?

The Government's claim that the result of the pay trend survey provides a reference for civil servants' pay increases is true, but the operative word, at least in the past, appears to be "reference".

The Government also claims that the 1990 and 1991 salary adjustments took budgetary and economic conditions into account. But in both cases, the Government sadly miscalculated, at the expense of the Civil Service.

In 1990, the preliminary forecast of the economic growth was 2.4%. The actual figure was 3.2%, almost a percentage point higher. In 1991 the discrepancy was less, but the Government still underestimated the strength of the Hong Kong economy.

The Government's forecast performance was reversed in its budget predictions. In 1990, when the Government estimated a budget deficit, there was a slight surplus. In 1991, when a slight surplus was forecast, the Government recorded a whopping \$20 billion surplus.

One has to wonder whether the Civil Service was not made the victim of the Administration's old trick of improving the perception of its fiscal management by underestimating revenue at the same time as it clamps down on expenses.

There should really be no need for a Committee of Inquiry. What is needed is courage and compassion. The Administration should have the courage to admit that it miscalculated, and the Administration should show compassion by using its discretionary power to rectify the result of that mistake.

Because that may not happen, Madam deputy, I support the motion.

MR LAU WAH-SUM (in Cantonese): Madam deputy, disputes arise every year between the Administration and the Civil Service on pay adjustment. This is normal. However, the dispute now before us centres on the claim by the staff side for shortfalls in their pay adjustments in 1990 and 1991 while on the other hand, the Administration has all along held that as an employer (private and public sectors alike), it cannot possibly accept employees' claim for shortfalls in pay adjustments since each annual adjustment is a separate and independent exercise.

The present motion moved by Mr TAM Yiu-chung is to urge the Government to set up an independent Committee of Inquiry as requested by the staff side to solve the problem stemming from their shortfall claim. I support the motion but that does not mean that I support civil servants' claim for the shortfalls. I give my support because, given the current uncertain political

situation in Hong Kong, disputes between employers and employees should be kept to the minimum especially in the case of the Administration and civil servants which would directly undermine the efficiency of civil servants and hence adversely affecting Hong Kong. Thus, I hope the Administration would agree to the setting up of an independent Committee of Inquiry to resolve the matter which has dragged on for a few years. The objective of the Committee of Inquiry is not to review the Government's policy on pay adjustment but to review whether there are deviations in the implementation of the policy on pay adjustment. The committee should have an open mind and adopt an impartial approach based on the principle of fairness to consider arguments put forward by both parties on the issue and reach a fair judgement.

All along, Hong Kong has a very stable civil service. Thanks to the sincere co-operation between the Administration and our civil servants, Hong Kong was able to withstand several major political, economic and social upheavals in the past few decades. Hong Kong is now in the latter half of the transition period, a lot of significant issues which straddle 1997 need the urgent attention of the Administration. Under such circumstances, it is most important to maintain the high efficiency of the Civil Service. If the current dispute between the Administration and the Civil Service is not settled in a reasonable manner, the uncomfortable sentiment thus created among the civil servants would directly affect their efficiency and would also put a lot more pressure on the Administration. It would have some impact on Hong Kong as a whole, resulting in a lot of problems. Here I have to raise a related issue. As the rate of pay increase of civil servants is based on the pay trend in the private sector, which takes into account the increment, it is only reasonable that, after the pay trend survey is conducted, the factor of increment of civil servants has to be deducted before the pay trend is used as an indicator to adjust the pay. From 1988 onwards, the Administration has fixed the civil servants' average rate of increment at 1.2%. In the industrial and commercial sectors, it is generally considered that 1.2% is obviously lower than the actual rate of increment. As a matter of fact, the average rate of increment of civil servants is approximately 2.4% if calculated on the basis of weighted average index. As such, the private sector has considered that since 1988, the rate of pay increase of the public sector each year is 1% higher than that of the private sector. This is something which has to be taken into account.

Lastly, despite the clear stance of the Administration that it is not going to further discuss this claim for shortfalls, I am of the view that in the overall interest of Hong Kong, the Administration should have an open mind and agree to the setting up of a Committee of Inquiry with a view to ending the dispute once and for all. Both parties have to put in efforts and continue to work hard in their respective roles so as to ensure a smooth transition in 1997.

Madam deputy, with these remarks, I support the motion.

MR JIMMY MCGREGOR: Madam deputy, in my response to the proposal set out in Mr TAM's motion, I will use information and views, with which I agree, provided by the Hong Kong General Chamber of Commerce and the Employers' Federation of Hong Kong. These organizations have had a great many years of experience in the examination and comparison of public and private sector pay scales and overall remuneration packages. Their views are put together by highly experienced, indeed professional, committees and, where appropriate, endorsed by their governing bodies. The Government and the Civil Service have a good reason to listen carefully to what they say since their motivation is to find fair and reasonable solutions to remuneration comparisons and awards.

Both organizations believe that, over a period of time, civil service pay has risen consistently more each year than pay in the private sector. It is possible that the two years in question 1990 and 1991 did not conform to that pattern but taken over a longer period of five to 10 years the Civil Service has been comparatively better off in its pay and perks awards than the private sector. Only regular major studies of comparative benefits against comparative work responsibilities would disclose the general trend. It is true to say that pay increases for the Civil Service have kept up with inflation whilst additional benefits such as annual incremental increases, house allowances, education and travel allowances, among others, have certainly outstripped those in the private sector.

The security of employment provided by the Civil Service is, to say the least, a very considerable privilege which is not enjoyed by the private sector. Attractive pensions, with a commuted element, at the age of 55 is a luxury which at least 2.5 million workers out of a workforce of 3 million in Hong Kong do not at present enjoy. So once again the civil servant enjoys a degree of security after retirement which most of his private sector colleagues do not, at least at present.

The point has been made that the Government, like private sector employers, must have the right to determine pay increases for civil servants. There is an obligation on the Government to do so fairly and equitably but the Government must be able to take account of good times and bad times and cannot be compelled to guarantee salary increases which are not only indexed to inflation but which include increments and allowances which often add several percentage points to the inflation rate as take home pay.

The Hong Kong General Chamber of Commerce points out that the pay policy now being carried out by the Hong Kong Government is constituted on the basis that each annual salary adjustment is a separate and independent exercise based on considerations pertaining to the prevailing circumstances. In other words, it recognizes that there may be years in which some belt-tightening may be required, as in the private sector, which will not necessarily result in a correctional upward adjustment in good years. A professional study of Chamber of Commerce salaries against civil service salaries for jobs with equal

responsibilities last year showed very considerable differences, the civil service compensation in some cases being over 20% higher than the Chamber staff.

Hong Kong's Civil Service is dedicated, hard working, part of a highly successful community and, as a result, well paid and properly protected. For those who feel that they have a grievance on salary adjustments, there is an established appeal procedure. That stops with the Governor. It would be a very serious precedent indeed if this Council seeks to add a Committee of Inquiry to the appeal procedure, removing from the Chief Executive the right to finally decide on what is fair and reasonable, having considered all sides to a dispute. I will not be party to any such decision nor the establishment of any such precedent. I will therefore vote against Mr TAM's motion.

MR MICHAEL HO (in Cantonese): Madam deputy, over the past two to three years, civil service unions have locked horns with the Administration, with neither side giving way, over the issue of the shortfalls in salary adjustments. And it has become an annual event. In 1990 and 1991, the Government ignored the pay trend indicators in determining the salary adjustment of the civil servants and as a result, the actual pay increases for the two financial years were in total 3.52% below that of the pay trend indicators. That triggered off the dispute. Unfortunately, the Government has not taken any positive and effective measures to defuse the dispute which indeed reflects the dissatisfaction among civil servants.

Since then, around March each year when negotiations for annual salary adjustment were conducted, the civil servants would always go back to the 3.52% shortfalls. But each time, their request was turned down by the Government. The impasse over the issue between the Administration and the civil servants is really intolerable. The United Democrats hold that both parties should work out an effective solution to the dispute over salary adjustment so that the contention will not drag on year after year. To resolve the dispute through the setting up of an independent Committee of Inquiry is certainly a good idea.

As a matter of fact, staff associations have good grounds to seek compensation for the shortfalls in previous salary adjustments. First of all, in the past, the Government, in determining annual pay adjustment, usually took reference from the pay trend indicators. It should not ignore the indicators at will without giving staff associations sufficient and acceptable explanations. Secondly, although each pay adjustment is an independent exercise, there were cases in which the Administration compensated civil servants for pay that was trimmed in preceding years. Thirdly, the Government suppressed the pay rise of the civil servants in 1990 and 1991 on the ground of financial constraints. The Civil Service accepted the belt-tightening offer because of economic recession. But the economy has since long revived and the Government has had surplus for several financial years in succession. It is improper and

unreasonable for the Government to refuse to consider the civil servants' requests for making up the shortfalls.

Now I would turn to the ways the Government handles this salary dispute. Mrs Anson CHAN, the former Secretary for the Civil Service, submitted a report on the Hong Kong Government's implementation of International Labour Convention to the International Labour Organization in September last year. In section 19, Part V of the report, it reads:

"Disputes between the Government and the staff side are settled through consultation and continued dialogue. Where they cannot be resolved after full and proper consultation and after exhausting other existing administrative channels, the matter can be referred to an independent Committee of Inquiry after the 1968 Agreement made between the Government and the three main staff associations"

The report seems to highlight that the staff side may seek to resolve disputes through the setting up of an independent Committee of Inquiry. In reality, the report's statement misleads the world because it only tells part of the story. It is true that disputes between the Government and civil servants can be resolved through an independent Committee of Inquiry. But the vital missing piece of the jigsaw is that the Governor still has the power to veto the establishment of such an independent Committee of Inquiry. Moreover, the Government may use various excuses to turn down the request. In this connection, the idea of setting up of a Committee on Inquiry virtually borders on a castle in the air, so to speak.

It is indisputable that civil servants are very unhappy with the Government's pay adjustment offer. To mediate their dispute through an independent Committee of Inquiry is a rational and sensible way. Such a course of action is commensurate with the principle that it is the staff side's legitimate right to lodge an appeal on any pay dispute and both parties' views should receive a fair hearing before a sensible and equitable judgement is made.

I believe it is not an exaggeration to say that our Civil Service has done a good job. The United Democrats feel that we should treat civil servants' request in an equitable way. We hope to see an early establishment of an independent Committee of Inquiry to resolve this unsettled issue which has troubled us for several years.

Madam deputy, with these remarks, I support the motion.

MR FREDERICK FUNG (in Cantonese): Madam deputy, the disputes between civil servants and the Administration over salary adjustments have indeed been dragging on for several years. As both sides do not give way, there is still no sign for a settlement. The Association for Democracy and People's Livelihood (ADPL) and myself are very disappointed about it!

From the Administration's point of view, the matter has of course been settled because it basically does not think that there should be any compensation for the shortfalls in previous salary revisions. Admittedly the Administration has not specified in its policy that civil servants' salary increases at least have to be pegged to the prevailing pay trend indicator or the inflation rate. However, I think the Administration's insistence on its own position will be of no help to solving the problem, given that the staff side does not accept such a position and the rate of salary increase and the Administration has failed to reach any common understanding over the issue with the staff side. Worse still, it may develop into an interminable confrontation between the staff and the management and that civil servants will become demoralized and feel discontented. Should that be the case, the management side and the general public will certainly suffer as a result. It will be even more disastrous if such things happen during the transition period.

A positive approach should be adopted to tackle such a deep-seated dispute. The ADPL and myself believe that the only solution is to establish an independent Committee of Inquiry acceptable by all the three sides concerned, namely the Administration, the Civil Service and the public, and confer upon it full power to handle the matter. We support such a committee for three reasons. First of all, as the Administration itself also has an interest in this matter, it is absolutely unsuitable for the Administration to serve as the final arbitrator. Second, the merit of conducting an independent inquiry is to allow fair consideration of the staff side's grievances so that they would be more readily to accept an independent and fair arbitration. Third, if the Committee of Inquiry has an unequivocal decision on this matter, there certainly will be no more disputes arising from annual salary increases. For these three reasons, I hope the Administration would promptly accept this Council's views (I believe the proposal will be endorsed) and establish an independent Committee of Inquiry to tackle the problem concerning civil servant's remuneration.

With these remarks, I support the motion.

MR LAU CHIN-SHEK (in Cantonese): Madam deputy, before expressing my views on the solution of the dispute arising from the civil servants' pay claims by way of arbitration, I would first like to talk about their claim for compensating the 3.52% shortfall in the previous salary adjustments. It has been a long standing practice for the Administration to determine the annual salary adjustment of the Civil Service according to the level of the pay trend indicators in the private sector. Civil servants cannot disagree to such a rule laid down by the Administration, but the Administration can breach this rule at whim. In 1990 and 1991, in a joint effort with the business sector to buck the spiralling trend of salary increase, the Administration chose to breach this rule by suppressing the salary adjustments of the civil servants. The Administration took the lead by suppressing Civil Service pay rise at the expense of the civil servants' interests to enable the business sector to contain the salary increase in private sector. It is evident that the Administration's cutting down the salary

adjustment of the civil servants is not an honourable action. As the Administration has had huge surpluses in recent years, it should compensate its employees for the shortfalls in the previous salary adjustments. The compensation will also be helpful to workers of the private sector in demanding for more favourable salary adjustments.

Yesterday, this Council received a submission by the Employers' Federation of Hong Kong on today's motion debate. The submission has indeed confirmed my point raised just now about the joint effort between the Administration and the business sector to suppress salary increases. The federation is against any arbitration of the pay dispute. It requests that the decision on the civil servants' salary adjustment should rest wholly on the Administration. It also points out that there is evidence showing that the salaries and fringe benefits of many civil servants are better than their counterparts in the private sector. The federation is worried that any compensation for the shortfalls would build up inflationary pressures. I cannot agree to the federation's point of view. But as one's being dictates one's consciousness, it is understandable that employers should take such a stance. In the last few years, the joint effort of the employers of the private sector and the Administration in containing salary increases has been very effective to the effect that the levels of pay increase have dropped in four consecutive years. The ensuing impact has been particularly heavy to the workers of some low income brackets, as their already low income has become even lower and life has become even more difficult for them. Meanwhile, the economy of Hong Kong has been growing at high speed, but the growth has been beneficial only to the members of the federation. Now the workers are merely claiming the shortfalls in the previous salary adjustments in the hope of improving their lot. Yet the federation is still putting up a strong resistance. It is really deplorable. When will the workers see the end of their days of belt tightening?

Arbitration, as a means to resolve labour disputes between a government and its employees, is recommended by Article 8 of International Labour Convention (ILC) No. 151 and our Administration has undertaken to implement this convention. However, as it has all along refused to set up a body of arbitration to resolve the dispute caused by the claim of shortfalls in salary adjustments, the Administration has indeed failed to fulfill its obligation under the convention. Mrs Anson CHAN, the former Secretary for the Civil Service and the incumbent Chief Secretary, has said in the report submitted to the International Labour Organization (ILO) last October: "(Disputes) can be referred to an independent committee of inquiry" and the recommendations of which are binding to both parties. With this in mind, I earnestly hope that Mrs CHAN is as good as her words. Now the ILC which the Administration has undertaken to observe states that disputes between the Administration and the staff side can be resolved through arbitration. The Administration, however, is unwilling to do so when disputes arises. This is a failure on the part of the Administration to fulfill its international obligation. I can only come to one conclusion: the Administration is lying! If the Administration still refuses to resolve the dispute in question through arbitration, then the Hong Kong

Confederation of Trade Unions will definitely complain to the ILO that the Hong Kong Government is in breach of the ILC and has not revealed the complete true picture in its report submitted to the ILO.

Madam deputy, I so make my submission. Thank you.

MR FRED LI (in Cantonese): Madam deputy, Meeting Point supports the request made by civil servant staff associations urging the Governor to appoint a Committee of Inquiry to bring a real end to the present pay adjustment dispute between civil servants and the Government. The existing practice of setting the level of pay adjustment has been in force since the 1970s and has been working well. Under the present system, the Government takes reference from private sector's pay trend survey to adjust the pay of civil servants annually and conducts a comprehensive review on pay level once every few years. This practice is acceptable to both parties and was endorsed by the Committee of Inquiry into the 1988 Civil Service Pay Adjustment and Related Matters. Certainly, considerations have to be given to the Government's financial viability and the macro-economic implications for any pay adjustment. The long-term stability of the entire civil servants' pay structure and staff relationship, however, hinges on whether the Government attaches any importance to the results of the pay trend survey.

At the moment, staff associations are generally not satisfied with the scale of pay adjustment in 1990 and 1991 because the Government chose not to follow the pay trend indicators. They want the Government to make up the shortfalls. On the part of the Government, it has reiterated that each pay adjustment is an independent exercise with no shortfalls being carried forward from one year to another. However, according to information supplied by staff associations, the Government did make up such shortfalls in the past. It does not help much if each party sticks to its own argument and does not give ground. It would strain the relationship between the Civil Service and the Government and disturb social stability. Now no agreement is in sight. In this connection, the appointment of an independent Committee of Inquiry as a third party to mediate will be a practical and constructive approach. We urge the Government not to reject the proposal if today's motion is carried or passed. It is hoped that the Government will give the proposal a serious consideration.

Madam deputy, Members from Meeting Point support the motion.

MR HENRY TANG (in Cantonese): Madam deputy, dispute arises every year over the salary increase of civil servants. Although the percentages of increase in 1992 and 1993 have been quite high, civil servants are still criticizing the Administration for not having compensated them for the 3.25% shortfall in the 1990 and 1991 salary adjustments. This kind of discontent may drag on indefinitely to the disadvantage of the whole society of Hong Kong, so it is indeed necessary to bring a real end to this labour dispute as soon as possible.

Like their counterparts in the private sector, it is justifiable that civil servants should enjoy the fruits of our economic prosperity. But I hope that our civil servants can appreciate that there is simply no mechanism or precedent in the private sector of claiming the shortfall in previous salary adjustments. Every year, the level of salary increase is considered independently. Besides, the percentage of salary increase in the private sector is not necessarily pegged with inflation rate. Instead, it is largely determined by the performance of individual companies in the previous year. For trades suffering business setback, there may even be negative increase in salary in order to cut expenditure. However, for companies with good results, the percentages of increase may be above average as a reward to the staff for their concerted effort in attaining the success.

Madam deputy, our civil servants are already favourably remunerated. We should consider not only their pay levels but also their fringe benefits including housing allowances, non-contributory pension, job security and so on. These benefits as a package are much better than those offered in the private sector. For this reason, generally speaking, the private sector can hardly succeed in poaching serving civil servants. In 1990, the average salary increase for civil servants was as high as 15% and then in 1991 the inflation rate surged to 12%, reflecting that the high inflation rate could be traced to the excessively high increase of salaries. While the civil servants demand that their salary increase should equal to that of the private sector, employees in the private sector demand that their salary increase should not be less than that of the civil servants. Such attempts to overtake one another will only produce inflationary pressures and result in an endless vicious cycle.

Madam deputy, I agree that we need an efficient civil service of high morale and integrity, especially so in this stage, to serve the community and ensure a smooth transition in 1997. I therefore call on the Administration and the civil servants to learn from the private sector on how to resolve labour disputes harmoniously, and adopt an open and rational attitude to resolve the dispute between them.

Madam deputy, with these remarks, I support the motion.

MR HOWARD YOUNG (in Cantonese): Madam deputy, I have mixed feelings about the meaning and content of today's debate. On the one hand, I think that we need to reassure our civil servants and to understand their plight. Also we have to ensure that the Hong Kong Government acts as a good employer and maintain high civil service morale. But on the other hand, as a private corporation's employee and a representative of a functional constituency wholly composed of private corporations, I have heard a lot of comments about civil servants' terms of service.

Just now many Members (such as the Honourable Henry TANG) pointed out that the terms and conditions of service for civil servants are already very

favourable, including pensions and various perks. Many travel industry operators have told me that many civil servants among their clients are entitled to travel allowance. This kind of benefit is rare among private corporations. And even if there is, entitlement mostly goes to expatriate employees. Therefore, I can hardly agree if one is to say that civil servants are badly treated or that the Government has been harsh on them.

In the private sector, there is absolutely nothing such as compensation for shortfalls in previous pay adjustment. The Honourable TAM Yiu-chung said just now that the Government had compensated civil service for such shortfalls during the 1970s and 1980s, thus making the civil service pay rise higher than that of private corporations. I am not quite clear about this. But a freeze on salaries was not uncommon during the 1970s when private corporations were in financial difficulties. I have heard that some private corporations had given their employees two options: a 10% across-the-board salary reduction or a 10% cut in corporate staff size. In the end, the employees elected for a salary reduction in order to keep their jobs. When the economy upturns or significant profits are reaped, some corporations would give a pay rise at a rate higher than inflation in order to retain or reward their employees.

From the civil servants' point of view, they have grounds and justifications to make their current demand. I think that if the Government can follow its long-standing practice of taking reference from the prevalent market rates and ascertain that there are good reasons to give civil servants a pay rise higher than the inflation rate in a particular year, then I believe honourable colleagues and members of the Finance Committee will accept it as they did in the past. It is because the same practice is also adopted by private corporations. But I do not wish to see that a lower-than-inflation pay rise is invariably used as an excuse or a principle to claim compensation for pay rise shortfalls.

Madam deputy, all major political parties have expressed support for this motion. I hope that the Government would attach importance to the spirit of this motion when handling it, rather than concerning too much about its wordings. I hope that the Government would take some actions to impress civil servants that it is a good employer. I have no strong view as to whether or not the Government will set up a committee of inquiry or a working group, so long as the problem can be resolved.

The Honourable LAU Wah-sum said earlier that the Liberal Party supports this motion. I was not in Hong Kong when the party discussed this matter yesterday, otherwise I would have raised my objection to this motion. Besides, I did not have the time to consult my electorate's views about this matter in my constituency. But the Liberal Party charter stipulates that a member would be allowed not to toe the party line over a particular matter if the constituency to which he belongs has reacted strongly against it. From my past observations, I feel that my constituency does not consider civil servants' terms and conditions of service unfavourable. However, in order to express my

support to my party, I will vote in the party line albeit having strong reservations about the motion.

DR TANG SIU-TONG (in Cantonese): Madam deputy, given that the annual civil service pay adjustment involves billions of dollars of public purse, the Government must consider the rate of adjustment carefully. The public appreciate that the Government has a hard "housekeeper" role to play. But we do not wish to see the Government act as a "miserly plutocrat" or an "unscrupulous employer" denying civil servants of their due pay. The majority of Hong Kong's 180 000-strong Civil Service are highly efficient. They also contribute to a certain extent towards the territory's prosperity. They should therefore share the fruits of Hong Kong's success. The Government must give them their deserved share. I believe the public will not disagree to this point. During the latter part of the transition period, a stable civil service is one of the cornerstones for securing a smooth transition for Hong Kong. Therefore, we must forestall any possible problems that may dampen civil service morale or undermine civil service efficiency. Should such a problem arise, we must solve it.

The Government has been conducting annual pay trend surveys among private corporations since 1974. Although the Government has never made it a specific undertaking, civil servants and the public know it very well that the above survey is practically an important point of reference for the Government in its consideration of the rate for the annual civil service pay rise. The pay rise for civil servants is not based on individual performance. It is rather an across-the-board adjustment based on salary points. This method is of course not without flaws. But one must bear in mind that it is also impossible to adjust civil service pay on the strength of the evaluation of the individual performance of the 180 000 civil servants. In the absence of a better method, using the pay trend of private corporations as an indicator for considering civil service pay rise is after all an objective and manifest criterion. In both 1990 and 1991, the Government did not adopt the findings of the pay trend surveys. It adjusted civil service pay rises at a rate below that of the private sector, on grounds of inflation and tight finances. But it is obviously unfair of the Government to refuse to make up for previous shortfalls when its financial position improves. As the Government and civil servants have all along agreed that using the pay trend survey findings as a reference point is a fair and reasonable mechanism, then the Government should not deviate from the survey findings at will. Any such act will only give rise to incessant conflicts between the Government and civil servants. It is not at all a wise move by the Government to reject the setting up of an independent committee of inquiry which is a channel of resolving the problem reasonably.

Labour disputes have always been a matter of "both sides claiming to be on the right". There is no better way than to have an independent and impartial third party to arbitrate. And this also provides both sides with a way to back down with good grace. In petitioning the Legislative Council Complaints

Division, civil service associations expressed that they were prepared to accept the results of an independent inquiry. Should the Government decline to entertain their demands, it would only intensify the unnecessary misunderstanding between the Government and the civil service associations, damage the harmonious relationship between both sides and undermine social stability indirectly. I hope that the Government will listen to the opinions of civil service associations and Members of this Council, and appoint as soon as possible an independent Committee of Inquiry to study the related matters and to settle the dispute that has been dragging on for two years.

With these remarks, Madam deputy, I support the motion.

SECRETARY FOR THE CIVIL SERVICE: Madam deputy, on the face of it, what could be more reasonable than to support this motion? Where two parties to a dispute have reached apparent deadlock, surely the obvious way forward is mediation and compromise. A number of Members have spoken in this vein.

Why then does the Government not simply yield to the pressure? After all, a Committee of Inquiry would get the Government off the hook as well.

In dealing with these points, I hope to demonstrate that this issue is not anywhere near as clear cut as it seems at first sight. The Government is not motivated, as some have portrayed, by sheer parsimony or bloody-mindedness. We are not bent on confrontation or perpetuating a dispute. We are certainly not conspiring with the private sector to suppress wages.

On the contrary, we pride ourselves on being a very good employer, a fact which is recognized by the overwhelming majority of civil servants. We are guided by a strong sense of responsibility, to both our employees and the public at large. We want to preserve a system for dealing with civil service pay which, though no doubt not perfect, has stood the test of time and given us real stability. Let me, for a start, refresh Members' memories as to what this system is.

Existing policy

Existing policy on civil service pay provides that:

- (a) first, there should be broad comparability with the private sector;
- (b) secondly, in determining each year's pay adjustment, the private sector pay trend indicators should be used as a reference point. But other relevant factors, such as the economic situation, any budgetary constraints, the staff side's pay claims and public reactions, must also be taken into account;

- (c) thrirdly, each pay adjustment is an independent exercise determined on the basis of the prevailing circumstances at the time, with no pluses or minuses being carried forward from one year to another.

The Administration has consistently and fully complied with established policy on all these counts.

It is of course true that the 1968 Agreement between the Government and the three main staff associations of the Senior Civil Service Council provides for the appointment of a Committee of Inquiry, to determine matters on which agreement cannot be reached after full and proper discussion.

The provision, however, specifically excludes, among other things, matters of settled public policy. Since the annual pay adjustments have been determined entirely in accordance with the established and settled policy, it follows that they cannot be subject to review by a Committee of Inquiry under the terms of the 1968 Agreement. To ignore this logic would be wrong in principle and set a dangerous precedent for the future.

The "shortfall"

Let me now turn to the question of the alleged "shortfall". A number of Members suggested that the Government has made up such "shortfalls" in the past. This, I must say, is a matter of interpretation.

As I have said, the basic premise is that each pay adjustment is independent. Any deviation from the pay trend indicators in any one year is justified on the circumstances at the time. The staff associations, in making their pay claims, might have taken into account so-called "shortfalls" in previous years, but whether the Government was able to meet their requests was a decision based on the prevailing circumstances at the time.

For example, in both 1992 and 1993, salary adjustments for the more junior staff exceeded the corresponding pay trend indicators. This decision reflected our concern for the impact of inflation on the lower income groups and illustrates my earlier point about using the pay trend indicators as a point of reference only.

It is important to realize that existing policy provides for the flexibility to deviate from the pay trend indicators, where appropriate. As a prudent guardian of the public purse, the Government must maintain this flexibility. I do not think there can be a government in the world which would allow itself to be completely dictated to in an entirely mechanical way by trends in the private sector in determining the pay for its employees.

In the final analysis, the key question is whether civil servants have been treated fairly. Let me point out that over the past decade, civil service salaries have increased, on average, about 180%, or 30% in real terms. This compares

favourably with overall wage movements for workers in Hong Kong and gives the lie to the suggestion that civil servants have not benefitted along with the rest of the community from our overall economic development.

Recruitment and retention of staff have also been satisfactory. The overall vacancy position has remained stable at about 3% since 1991. This is indicative of the competitiveness of existing civil service salaries. Our wastage rates are also the envy of many private sector employers, indicating that civil servants do not feel dissatisfied with their lot.

Pay adjustment methodology

On the question of methodology, as Mr LAU Wah-sum and Mr McGREGOR have pointed out, there has been criticism that the existing mechanism for pay adjustment, particularly the increment deduction formula used in calculating the pay trend indicators, is unduly favourable to civil servants and is inflationary.

Whether we like it or not, this formula was recommended by an independent Committee of Inquiry, no less, and accepted by the Government and the Executive Council, in 1988. The Committee considered that the value of increments could not be equated exactly with merit pay because the two things serve different purposes.

From a practical point of view, a degree of discounting of the value of increments was also considered necessary because of the large number of civil servants, currently just over 50%, who had reached the maximum point of their pay scales. Since these staff are not eligible for annual increments, they would argue that there should not be any increment deduction at all. So there are at least two sides to the methodology question.

Committee of Inquiry

Against the background which I have outlined — the existing policy, the misconceptions about the so-called shortfall and the disputes over methodology — the Administration does not agree that a Committee of Inquiry should be appointed to review the staff side's pay claims. It would not be in the public interest, or even in the staff's interest, to go down that road. I cite five reasons.

One, as already explained, the existing terms of the 1968 Agreement specifically preclude matters of settled public policy from consideration by a Committee of Inquiry. It is not in dispute that it is settled public policy that each pay adjustment is an independent exercise. There is therefore no question of any so-called "shortfall" in previous years being made up in subsequent years.

Two, existing policy on civil service pay aims for broad comparability with the private sector and, I believe, we have achieved that objective. The

majority of civil servants are content with the pay adjustments in recent years and statistics show that we are able to recruit and retain the people we want. Neither is there any community support for the view that civil servants have been inadequately remunerated or unfairly treated.

Three, there is already an elaborate process for determining the annual civil service pay adjustment, involving the Standing Commission, the civil service unions, the Executive Council and the Finance Committee. There are adequate channels for representation of views to enable a balanced decision to be taken, with due regard for the interests of both civil servants and the community as a whole. Once a decision is made, after a long and painstaking process, we must stand by it.

Four, a Committee of Inquiry is justified only if there are major policy issues to be resolved. The last Committee of Inquiry was tasked to review the findings of the 1986 Pay Level Survey, the first ever such study, and the methodology for the annual civil service pay adjustment. The present dispute bears no comparison, in terms of substance and scale, to the problems leading to the appointment of a Committee of Inquiry in 1988.

Finally, it is wishful thinking to believe that the terms of reference of any Committee of Inquiry could be confined to the narrow wording of this motion. If a Committee of Inquiry were ever to be appointed, it could hardly avoid reviewing the existing methodology for the annual civil service pay adjustment which has been the subject of constant criticism by employers in the private sector and to which a number of Members have referred. As a starting point, the Committee would have to establish whether the alleged "shortfalls" in the 1990 and 1991 pay adjustments had resulted in civil service salaries lagging behind those in the private sector. A number of Members have said this evening that in their view the civil service package is very attractive. I leave it to Honourable Members to draw their own conclusions but would submit that at the least any further review would create considerable uncertainty in the Civil Service. Clearly, this would not be in the public interest.

Conclusion

In conclusion then, this seemingly rather innocuous motion would, if put into practice, open a veritable Pandora's box. We already have what is basically a very sound system for dealing with the complex and sensitive subject of civil service pay. We must not fool ourselves into thinking that we can tinker with one small part of that system in isolation. To do so runs the risk of reopening very many complicated and difficult issues, in the process threatening the stability which we currently enjoy. In other words, to quote a well worn but accurate aphorism — "if it ain't broke, don't fix it".

In any case there is simply no justification under the terms of the 1968 Agreement to hold a Committee of Inquiry.

For all of these reasons, Madam deputy, the *ex officio* Members will oppose this motion.

PRESIDENT'S DEPUTY: Mr TAM, do you wish to reply? You have 10 minutes 38 seconds left.

MR TAM YIU-CHUNG (in Cantonese): Madam deputy, I will not use up these 10 minutes because this may do harm to your health and burden you further. Any way, I am certainly going to make a reply. If not, it will not do justice to the Secretary for the Civil Service who cited five reasons to allege that a Pandora's box would be opened if my motion was carried. I think this is, to some extent, making a mountain out of a mole hill and would cause public panic. The civil service staff associations certainly know clearly why they have made these requests. If the setting up of an independent Committee of Inquiry will put them in an unfavourable position as described, I am sure they will not put forward such a proposal. I believe neither an individual nor an association will take such an insensible action. For this reason, the Secretary for the Civil Service is making an overstatement on that front.

Furthermore, I find all the five reasons cited by him do not hold water. For instance, where his first reason is concerned, he pointed out that there was an agreement made with the staff side in 1968 on the setting up of an independent Committee of Inquiry to deal with matters of settled public policy; however, very often no independent inquiry will be made into matters of settled policy. Yet, now the problem is that the staff side has found that the Government deviated from the settled policy. If so, they are entitled to ask for an independent inquiry.

In addition, the Secretary for the Civil Service also mentioned that civil service remuneration was already very high. There are also quite a number of Members airing the views that civil servants enjoy high pay, good service conditions, good benefits and sufficient job security. However, is this a common view? Do civil servants share this view? There are, of course, different opinions. This is not my intention to discuss in this motion debate whether their pay is high or low, or whether it is at a sufficient level. In fact, the purpose of the motion is as follows: since the civil servants' associations think that the Government has deviated from its settled policy with regard to salary adjustment for the years 1990 and 1991, they ask for the Government's reconsideration of adopting a mechanism as agreed upon by both parties in 1968 (such mechanism is not an instant invention but had been indeed employed) to see whether the Government has made any mistakes or whether the Government's arguments are justified. Now the staff side asks for an arbitration. In my opinion, if the Government trusts that it has done nothing wrong, why can the staff's request not be acceded to? Does the Government have no trust in itself? The Government is worried that other issues would come into play if an inquiry is to be carried out. In fact, when the Government

and the staff side go to arbitration, they will certainly talk about the main problems at issue in order to reach an agreement. They may also determine the scope of the arbitration. I believe that there is no need to worry about whether the scope of the arbitration will be too wide. The request for an arbitration now is much stronger than that in 1988. Of course, an arbitration is called for when there is strong request. It does not follow, however, that less strong request should be given less attention.

I think the spirit of this motion, instead of seeking to effect an immediate compensation for the shortfalls, is as follows: since the staff representatives think that their arguments are well-founded and that the fault lies with the Government, should we employ the mechanism as agreed upon by the Government and the staff side in 1968, whereby an independent Committee of Inquiry is appointed to serve as an arbitrator? As the staff side now has put forward such a request, should the Government reconsider the proposal of settling the dispute through the said mechanism? In addition, should the committee find that there is a need to further ascertain the methodology of civil servants' pay rise, I think the Government should state clearly the procedure and methodology adopted in salary revisions. It also behoves the Government to identify ways to work out a compromise with the staff side through this mechanism so as to avoid similar disputes in future.

Madam deputy, I have promised you that I would not speak for 10 minutes. Now I have already spent five minutes for my speech, so I think it is almost time to stop. I suppose the motion may be supported by Members and I hope that a division is not needed. Thank you, Madam deputy.

Question on the motion put and agreed to.

Adjournment and next sitting

PRESIDENT'S DEPUTY: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Thursday 13 January 1994.

Adjourned accordingly at three minutes past Nine o'clock.

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