

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 27 April 1994

The Council met at half-past Two o'clock

PRESENT

THE PRESIDENT

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

THE CHIEF SECRETARY

THE HONOURABLE MICHAEL LEUNG MAN-KIN, 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 MARTIN GILBERT BARROW, O.B.E., J.P.

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

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

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

IN ATTENDANCE

MR MICHAEL SUEN MING-YEUNG, J.P.
SECRETARY FOR HOME AFFAIRS

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

MR CHAU TAK-HAY, J.P.
SECRETARY FOR TRADE AND INDUSTRY

MR JAMES SO YIU-CHO, O.B.E., J.P.
SECRETARY FOR RECREATION AND CULTURE

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

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

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

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

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

THE CLERK TO THE LEGISLATIVE COUNCIL
MR RICKY FUNG CHOI-CHEUNG

THE DEPUTY SECRETARY GENERAL
MR LAW KAM-SANG

Papers

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Dutiable Commodities (Amendment) Regulation 1994 -----	226/94
Firearms and Ammunition (Amendment) Regulation 1994 -----	227/94
Firearms and Ammunition (Storage Fees) (Amendment) Order 1994 -----	228/94
Hotel and Guesthouse Accommodation (Fees) (Amendment) Regulation 1994 -----	229/94
Massage Establishments (Amendment) Regulation 1994 -----	230/94
Public Health and Municipal Services (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 3) Order 1994 -----	231/94
Trainee Solicitors (Amendment) (No. 2) Rule 1994 -----	232/94
Pleasure Grounds (Urban Council) (Amendment) (No. 2) Bylaw 1994 -----	233/94
Public Swimming Pools (Urban Council) (Amendment) Bylaw 1994 -----	234/94
Employees Retraining Ordinance (Amendment of Schedule 2) (No. 4) Notice 1994 -----	235/94
Employees Retraining Ordinance (Amendment of Schedule 4) Notice 1994 -----	236/94
The Hong Kong Institute of Education Ordinance (16 of 1994) (Commencement) Notice 1994 -----	237/94

Sessional Papers 1993-94

- No. 74 — Hong Kong Council for Academic Accreditation Annual Report 1992-93
- No. 75 — The Government Minute in Response to the Report of the Public Accounts Committee Dated January 1994
- No. 76 — Kowloon-Canton Railway Corporation Annual Report 1993
- No. 77 — Regional Council Revised Estimates of Revenue and Expenditure 1994-95
- No. 78 — Report of the Special Meetings of the Finance Committee on the Draft Estimates of Expenditure 1994-95
- No. 79 — Report of the Director of Audit on the results of value for money audits March 1994 Director of Audit's Report No. 22
- No. 80 — Revisions of the 1993-94 Estimates Approved by the Urban Council during the Fourth Quarter of the 1993-94 Financial Year

Oath

Mr Michael LEUNG took the Legislative Council Oath.

Addresses**Hong Kong Council for Academic Accreditation Annual Report 1992-93**

MR RONALD ARCULLI: Mr President, I have pleasure in presenting some of the main features and highlights of the Hong Kong Council of Academic Accreditation's (HKCAA) Third Annual Report.

Perhaps I could remind Members of the HKCAA's role and responsibilities during the year, namely, to validate degree programmes and review the general academic standards of Hong Kong's six non-university tertiary institutions; also to monitor and disseminate information on the development of higher education, quality assurance and academic standards at home and abroad; to develop links with accreditation bodies throughout the world and to advise the Government, other organizations and individuals on academic qualifications.

The HKCAA's 1992-93 Accreditation Programme continued to be dominated by Hong Kong's tertiary education expansion. The HKCAA carried out 56 degree validation exercises, an increase of 10 over the previous year. Nine programmes were proved unconditionally, 46 were recommended for approval with conditions and one was not recommended for approval. In addition 11 degree programmes were monitored with regard to conditions previously placed on them. During the year, the Open Learning Institute of Hong Kong submitted degree programmes for validation for the first time and the HKCAA conducted three extensive exercises to consider 17 programmes. The HKCAA also completed the validation of three degrees submitted by the Hong Kong Academy of Performing Arts.

The Council was pleased that during the year its development work with the three institutions with which it has had the longest association, namely, the two polytechnics and the Baptist College, reached its natural fulfilment with them being awarded accredited status by the Government.

The international dimension of the HKCAA's work continues to feature and in support of such work the HKCAA maintains an international register which expanded to number over 1 000 experts during the year. The HKCAA has also continued to administer the international network of quality assurance agencies in higher education which increased its membership to 52, representing 25 countries. The HKCAA has been active in maintaining and promoting its international links during the year through participating in conferences and visits to overseas educational institutions. In particular, the council continued to develop links with the PRC and as a result has been able to advise and inform the Government with regard to higher education and its evaluation in China. In March 1993, the Council received two delegations from the PRC, one comprising senior academics and educationalists from Shanghai and Beijing and the other from members of the Academic Degrees Committee of the PRC State Council. During the year the HKCAA published two extensive reports as a result of its liaison with China entitled, "Higher Education and its Quality Assurance in the People's Republic of China" and secondly "Quality Assurance and Tertiary Education in Hong Kong and the People's Republic of China". In its advisory role the HKCAA has continued to provide advice to the Government, other organizations and individuals. There was a considerable increase in this activity during the year.

Finally, I should like to report on the HKCAA's financial position for the year ending March 1993. The HKCAA is non-profit making and tax exempt. It is funded through charging fees approved by the Government for accreditation and related services. To take into account surpluses accumulated during 1990-91, the HKCAA budgeted for a deficit of \$2.65 million for 1992-93, but financial management was able to reduce this deficit so that the actual year end deficit was \$1.55 million.

Thank you Mr President.

The Government Minute in Response to the Report of the Public Accounts Committee Dated January 1994

CHIEFSECRETARY: Mr President, laid on the table today is the Government Minute responding to the 21st Report of the Public Accounts Committee on the accounts of the Hong Kong Government for the year ending 31 March 1993, and on the results of the value for money audits. The Minute sets out the action the Government has taken, or about to take, on the conclusions and recommendations contained in the report.

On 2 February 1994, Mr Peter WONG, the Chairman of the Public Accounts Committee, spoke in this Council and voiced concern about achieving further improvements in cost-effectiveness and efficiency in our public services. The Administration fully shares this concern.

Mr President, the Government appreciates fully the importance of the PAC's findings and recommendations, and will continue to work closely with the Audit Department and the Public Accounts Committee in the quest for more efficient use of public funds. I am confident that the measures we have taken, or are planning to take, will go a long way towards this end.

Kowloon-Canton Railway Corporation Annual Report 1993

FINANCIAL SECRETARY: Mr President, in accordance with section 14(5) of the Kowloon-Canton Railway Corporation Ordinance, I table the annual report and accounts of the Kowloon-Canton Railway Corporation for the year ending 31 December 1993.

The Corporation continued to maintain a strong financial position in 1993. Operating revenue stood at \$2,417 million, an increase of 12% over 1992. Including income from property development, the net profit for the year was \$1,313 million. A dividend of \$160 million was paid to the Government after fully taking into account the corporation's long-term cash flow requirements and investment needs, as well as the broader public interest.

At the end of 1993, the total assets of the corporation stood at \$7.8 billion, and borrowings at \$539 million. The year-end debt to equity ratio was 1:11.4. Cash generated by the operating divisions was sufficient to cover ongoing capital expenditure and debt repayment.

The Kowloon-Canton Railway (KCR) carried 206 million passengers in 1993, an increase of about 4% over 1992. Of these, 37 million travelled to and from Lo Wu, an increase of 6%. Through train traffic between Kowloon and Guangzhou rose by 7% to 2.9 million.

The Light Rail Transit System (LRT) carried 117 million passengers in 1993, an increase of 10% over 1992. The LRT service was extended to Tin

Shui Wai in January 1993. All 30 new light rail vehicles came into service during 1993, further expanding capacity. The programme to upgrade vehicle air-conditioning was completed during the year.

In the next 10 years, the corporation plans to invest \$6.4 billion in infrastructure and service improvements. Major projects include the final phase of the redevelopment of the Ho Tung Lau Rolling Stock Maintenance Centre to provide better maintenance and overhaul facilities for the KCR fleet; the refurbishment of passenger trains; the introduction of an Automatic Train Protection System to enhance train safety and frequency; the installation of noise barriers at 18 locations along the KCR; and the expansion and renovation of Kowloon Station to enhance services for through train passengers. This substantial investment clearly demonstrates the Corporation's continued commitment to improving its services.

The corporation has continued to operate successfully. I would like to thank the Chairman, the Board, and all staff of the corporation for their hard work and achievements in the past year.

Oral Answers to Questions

Vietnamese boat people

1. MR CHIM PUI-CHUNG asked (in Cantonese): *The approval recently given by the United States Congress to lift the economic blockade imposed on Vietnam will have a significant impact on the future development of Vietnam. Will the Government inform this Council:*

- (a) *whether the latest information has been conveyed to the Vietnamese boat people stranded in Hong Kong and how such messages will be put across;*
- (b) *whether consideration will be given to sending representatives of stranded boat people back to Vietnam to find out the latest situation there for the purpose of making a roundup report upon their return to Hong Kong, so as to encourage more boat people to return to their homeland; and*
- (c) *when the boat people problem is expected to be completely resolved?*

SECRETARY FOR SECURITY: Mr President, the lifting of the United States trade embargo has been widely publicized in the camps through the distribution of information bulletin and by UNHCR field staff.

UNHCR and ourselves have considered the possibility of inviting Vietnamese migrants, who have returned home, to come back to Hong Kong to brief the population in the camps on developments in Vietnam. However, because there would be practical difficulties in securing the services of suitable Vietnamese for this purpose, and because we had reservations about how such information would be received in the camps, this proposal has not been pursued.

Assuming that recent arrival and departure trends continue, the Vietnamese migrant problem is likely to be resolved in about two years' time.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, everyone in Hong Kong knows very well that the Vietnamese migrants issue is a problem that besets us, and which arouses grave concern over our economy and reputation. The Secretary mentioned in the second paragraph of his reply that they would consider inviting Vietnamese migrants, who had gone home, to come to Hong Kong again to brief those who were still here. My question is: Instead of inviting the returned Vietnamese to Hong Kong, is it possible to send representatives, from among those who are in the camps, to return to Vietnam to see for themselves the economic development back home and then come back to brief others, so that those who have little prospect for being admitted to other countries may decide in the light of the actual situation in Vietnam?*

SECRETARY FOR SECURITY: Mr President, we have not considered that proposal either. In practice, the state of people who have returned to Vietnam is widely publicized in the camps. Reports on families who have gone back are publicized both by UNHCR and by the European Community Programme. We do regularly consider, with UNHCR, how best we can publicize the message and promote voluntary repatriation. We are certainly prepared to consider this suggestion, but we have not yet tried it out.

MR MARTIN BARROW: *Mr President, would the Secretary not agree that UNHCR's counselling activities are totally inadequate, particularly as they have only three Vietnamese speaking counsellors available to counsel 26 000 people? If so, would he not consider arranging for the Hong Kong Government to initiate its own counselling activities?*

SECRETARY FOR SECURITY: Mr President, I suppose that we would always want more resources to be devoted to counselling. But having said that, I do not believe the resources devoted to this by UNHCR can be considered to be inadequate. Nor do I think that lack of information is the prime, or even a major, reason why more Vietnamese do not return home voluntarily. UNHCR has, in total, approximately 60 staff devoted to counselling in the camps. In addition, both CSD staff and, to some extent, other NGO staff also help in counselling; so, it would not be true to say that the Hong Kong Government

does nothing in this respect. Apart from individual and group counselling, there is a considerable amount of other resources devoted to promoting voluntary repatriation through the distribution of newspapers and magazines, through the regular information bulletins, through information rooms in the camps where videos, photo exhibits and other printed information and materials on Vietnam are available, and through regular workshops and seminars which both UNHCR and the European Community promote in the camps. Having said all that, I would repeat, as I said in answer to Mr CHIM's supplementary, that we are always anxious to receive new ideas about how to promote voluntary repatriation and we do discuss this regularly with UNHCR and welcome any suggestions of new initiatives that can be taken.

MR WONG WAI-YIN (in Cantonese): *Mr President, there was much optimism in the Secretary's reply in that he thought that the Vietnamese migrants problem was likely to be resolved in two years. But we understand that we have, at present, more than 20 000 Vietnamese migrants in Hong Kong, the majority of which have been stranded here for a long time, who have to face financial hardships on return to Vietnam. Recently, some Vietnamese used such threats as hunger strikes or even suicide to demonstrate their opposition against repatriation. How is the Secretary going to face such negative sentiments and what measures does he have to resolve this problem?*

SECRETARY FOR SECURITY: Mr President, I think what I meant by the third paragraph in my reply is that, if we assume that the rate of voluntary repatriation for the next two years is about the same as the last two years, then we would have returned all the Vietnamese to Vietnam in about two years' time.

It is true that part of the problem, in my opinion, is that many of the Vietnamese remaining in the camps have now been here for five or six years. In their own perception of Vietnam, they are perhaps caught in a time warp and they look at Vietnam as it was five or six years ago and not as it has been developed in recent years. That is one of the perceptions that we have to try to change. And I think as I said in my answer to Mr CHIM's question and also to Mr BARROW's supplementary, that is one of the main themes of our counselling in the camps: to try and get information across about the present state of Vietnam, about the sort of assistance which they will receive on return to Vietnam and also about the considerable amount of assistance available to people who return to Vietnam, both from UNHCR, from NGO's in Vietnam and through the very major European Community Programme.

PRESIDENT: Not answered, Mr WONG?

MR WONG WAI-YIN (in Cantonese): *Yes, Mr President, the Secretary has not answered my question. The thrust of my question is: In regard to recent*

attempts, for example hunger strikes or suicide by some inmates to demonstrate their reluctance to repatriation, how is the Government going to deal with such negative sentiments and are there any relief measures?

SECRETARY FOR SECURITY: Mr President, I think I have answered that question adequately. We have a major programme of counselling in the camps to try to promote voluntary repatriation.

MR JAMES TIEN: *Mr President, I think most of the Vietnamese refugees in Hong Kong came here mainly because of economic reasons and they probably feel that they could not get a good living or a job back in Vietnam. Since the lifting of the United States trade embargo, I know that a lot of manufacturers are now starting to consider setting up factories or manufacturing facilities in Vietnam. Would the Administration not consider serving as a matchmaker in a sense by discussing with the Vietnamese Government about the possibility of the industrialists from Hong Kong setting up factories there to employ these Vietnamese refugees that are stuck here? Because I would have thought that with them staying in Hong Kong for four to five years so far, they, through watching our television programme in Cantonese and other means, will have a certain kind of ability to relate to the Chinese management.*

SECRETARY FOR SECURITY: Mr President, certainly I do agree that economic considerations are one of the main reasons why people probably came to Hong Kong in the first place and probably why they are reluctant to go back. I do not think that it would be true to try to claim that people would go back necessarily if there was a very bright and immediate economic improvement in Vietnam. It is a poor country and there is a considerable amount of unemployment and that affects all people in Vietnam, not just those returning there from Hong Kong. I do agree that one of the things that we want to try to do is to explain more clearly to people the opportunities available when they return to Vietnam. Certainly one of the initiatives that we are considering is how we might, together with UNHCR, do this in conjunction with both businessmen in Hong Kong who have invested in Vietnam and owners of businesses in Vietnam.

MR MARTIN BARROW: *Thank you. Mr President, the Secretary has asked for new ideas. Would he inform us how often the refugee co-ordinator meets with the very knowledgeable NGO groups, including Refugee Concern, to discuss issues regarding the Vietnamese migrants and the encouragement of volunteers to return?*

SECRETARY FOR SECURITY: I do not have precise information on that, Mr President. The co-ordination and management of the NGOs is really a

matter for UNHCR rather than directly for the Hong Kong Government. I know that UNHCR does have very regular meetings with the NGOs. And the Refugee Co-ordinator has frequent, probably daily, contact with UNHCR and also frequent contact with many NGOs. But I do not have precise information on exactly how often regular meetings are held.

Imprisonment of a local travel agent in the Philipines

2. MISS EMILY LAU asked: *Regarding the imprisonment of local travel agent Paul AU in the Philipines for alleged drug trafficking offences, will the Administration inform this Council what the British and the Hong Kong Governments have done to secure his early release; why the attempts have so far been fruitless and whether further efforts will be made urgently?*

SECRETARY FOR SECURITY: Mr President, Mr AU was sentenced to life imprisonment for drug trafficking on 29 November 1991. He has appealed. The British Embassy in Manila has sought an early hearing and decision on his appeal. In addition, the British Minister of State for Foreign and Commonwealth Affairs, Mr GOODLAD, has raised Mr AU's case with the Philipines Ambassador in London in June 1993, and with the Philipines Solicitor General in Manila in August 1993.

The motion for reconsideration by the presiding judge was considered and dismissed in December 1993. The matter is now to go before the Supreme Court.

Due legal process in this case has not yet been completed. We will continue to seek an early hearing and decision on his appeal, and to give any other assistance we can to Mr AU.

MISS EMILY LAU: *Mr President, I am glad to learn that the Hong Kong and the British Governments will continue to seek an early hearing and decision on Mr AU's appeal. Will the Secretary please inform this Council whether he has any idea of the timing of the appeal, how many months or years Mr AU will have to wait and whether he has any information concerning his treatment in jail and his access to legal advice?*

SECRETARY FOR SECURITY: Mr President, no. I have no information on how long it will take before the appeal is heard. All I can say is that we have pressed, and will continue to press, for an early hearing and decision.

The British Embassy staff in the Philipines do visit Mr AU regularly. I believe that he has not been mistreated in prison. He has also had access throughout to legal advice. I think that he has employed his own lawyer.

MRS ELSIE TU: *Thank you, Mr President. It is now about three years since Mr AU was arrested. The case has been raised in June and August last year by the Foreign Office. But since the review was heard in December, which is five months ago, has there been any further representation, because it appears that the young man has been forgotten?*

SECRETARY FOR SECURITY: Yes, Mr President, as I indicated, we are continuing to press for an early hearing and decision on his case which is now due to go to the Supreme Court.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, actually another Hong Kong person called WONG Chuen-ming is also involved in Mr AU's case referred to by the Secretary. Should any action be taken, will that cover Mr WONG Chuen-ming? The Secretary has said in the third paragraph of his reply that the Administration will give any other assistance it can to Mr AU. What does "any other assistance" actually mean? If their families or other organizations petition the Hong Kong Government, will assistance be given and will pardon be sought from the Philippine President?*

PRESIDENT: There are two questions there, Secretary. The second part goes to the main answer, the first does not. Could you answer the second question or do you wish it put again?

SECRETARY FOR SECURITY: Thank you, Mr President. I have no information on Mr WONG I am afraid. I am not sure that the original question is related to Mr WONG.

I think the second part of the question also had two parts, Mr President. The first part asked what sort of assistance can be provided to Mr AU. As I have explained previously in this Council, consular assistance really breaks down into four main areas.

First, where there is a consular agreement the local authorities are obliged, if requested, to inform British consular officers of the arrest and detention of an individual and the consular officers will then inform the Hong Kong Government through the Immigration Department and the Immigration Department will then in turn inform the next of kin in Hong Kong.

Secondly, consular officers will give advice on local proceedings on the rights of persons arrested and the availability of legal aid. They will make every effort to ensure that such people are able to take advantage of legal aid if it is available and that they are brought to trial without unnecessary delay.

Thirdly, consular officers will visit British nationals imprisoned overseas and they will try to ensure that the conditions of detention, both before and after sentence, meet with acceptable standards.

And finally where someone requires repatriation, the consular officers will, if necessary, make the necessary arrangements for their repatriation.

I think the second part of this question related to whether Hong Kong could appeal. It would be quite improper for us to make any appeal while the judicial process is still going on.

MR HOWARD YOUNG (in Cantonese): *Mr President, the travel industry has set up long ago a committee in support of Mr Paul AU and Mr WONG Chuen-ming. It has been active in such work as fund-raising, providing legal representatives, visiting the two persons in prison and accompanying their families to visit them. If the committee approach the Administration for assistance in protesting the innocence of Mr Paul AU and Mr WONG Chuen-ming, will the Administration render help? Will the British Embassy and the British Minister of State for Foreign and Commonwealth Affairs, Mr GOODLAD, continue to take an interest and support the good work of the committee?*

SECRETARY FOR SECURITY: Mr President, what I would say is that in general we will try to assist in any way we can, but I am not at all sure that we have it within our knowledge or ability to try to prove Mr AU's innocence. I think that has to be done through his lawyers in the Philippines. Certainly I am aware of the efforts of the travel industry on behalf of Mr AU. I know that there has been very regular contact between them and the British Embassy in Manila. I am sure that the British Embassy will try to help all they can as they have done so far.

DR LEONG CHE-HUNG: *Mr President, will the Secretary inform this Council whether he has any information about the mental and physical status and well-being of both Mr AU and Mr WONG? After all they have been impounded for some three years.*

PRESIDENT: Are you able to answer, Secretary?

SECRETARY FOR SECURITY: Mr President, I do not have any specific information. I will try and find whether we have any recent reports from the Philippines and I will give a reply in writing. (Annex I)

DR CONRAD LAM (in Cantonese): *Mr President, can the Secretary inform this Council whether there are a lot of cases in which Hong Kong residents (such as Mr AU) were charged with drug trafficking offences? In general, will the Administration provide foreign governments with background information on residents charged with drug trafficking offences (irrespective of their innocence or not)?*

PRESIDENT: Was your question directed to similar cases in the Philippines or everywhere?

DR CONRAD LAM: *Everywhere.*

PRESIDENT: Are you able to answer, Secretary?

SECRETARY FOR SECURITY: Mr President, yes. As far as we are aware, there are 402 Hong Kong residents detained or serving sentences abroad. That includes both China and Taiwan and other countries. Of these, 16, as far as we are aware, are undergoing imprisonment in the Philippines. I have to say "as far as we are aware" because if people do not report the case or ask that it be reported to the British Consular authorities, it is possible that there are some cases that we do not know about. In all these cases we would, through the British Embassies and consulates abroad, seek to provide consular assistance wherever we can of the type that I mentioned in answer to a previous supplementary.

Music Office

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

- (a) the specific details of the three proposals on the running of the Music Office submitted to the Recreation and Culture Branch for consideration;*
- (b) when the contents of these three options will be announced to the public; and when the outcome of the Government's deliberations on the options will be published; and*
- (c) in what way the Music Office will be run?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, following the Arts Policy Review conducted last year, the Administration has decided to accept the recommendation to transfer the work of the Music Office to a non-government organization and has invited a number of interested organizations to submit proposals. The Hong Kong Academy for Performing Arts, the Tung Wah Group of Hospitals and the two municipal councils subsequently submitted formal proposals, the last of which reached the Administration at the end of January 1994. We are currently assessing these proposals and are discussing details further with the organizations concerned. It would therefore not be appropriate nor advisable for me to disclose the specific details of these proposals at this stage.

However, I would like to say that all these proposals broadly meet the basic criteria we set down as the basis for making the transfer. These criteria are:

- (a) The need to maintain the existing instrumental music training programmes at the present level and if possible to expand on them;
- (b) The need to maintain the existing music promotion activities at the present level, and if possible to expand on them;
- (c) The need to retain the existing regional music centres, and to open more centres wherever possible; and
- (d) The need to maintain a low and affordable fee structure for both the instrumental music training programmes and the music instrument hire scheme.

All the three proposals fulfil these basic criteria. However, from the submissions it is clear that some are stronger in providing instrumental music training and others are stronger in organizing music promotion activities.

We plan to make a recommendation to the Executive Council within the next few months. A public announcement including specific details of the successful proposal will be made once a decision is reached by the Executive Council. Whether the details of the unsuccessful proposals will also be disclosed would be a matter for consideration by the organizations concerned.

The aim of the Music Office is to promote wider interest and appreciation in music among young people of Hong Kong. This aim is achieved through the running of instrumental music training programmes and music promotion activities both locally at the grassroot level and overseas through exchanges and visits. We envisage that any non-government organization taking over the Music Office in future will continue to run the Office along similar lines. Indeed, the proposals from all three interested organizations show that they intend to continue running the Music Office on these lines.

MR MAN SAI-CHEONG (in Cantonese): *Mr President, no matter which proposal the Administration eventually adopts, it has to deal with the question of disbandment of the Music Office. I would like to ask: What will be the arrangements for the existing staff of the Music Office, and will there be changes to the terms of employment and fringe benefits of the staff?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, as a general rule if the officers of the Music Office, following its abolition, cannot be redeployed within the Civil Service, they will receive their full statutory entitlements which include enhanced pension and, where justified, ex gratia payments. However, whether these criteria will be applied in this case is a matter yet to be decided until a suitable organization is identified for taking over the Music Office because we will need to discuss with the successful organization on whether it would be prepared to take over some, if not all, of the existing staff of the Music Office.

MR FREDERICK FUNG (in Cantonese): *Mr President, the Secretary had said in this Council and in panel meetings that the annual funding of \$40 million to \$50 million for the Music Office in the past would continue to be allocated to the organization that took over it. But it is understood that the Central Government had told the two municipal council subcommittees who had the intention of running the Music Office that if they were to take over it, then the funding would not be allocated to them. I would like to know why the Administration has gone back on its words; does it expect the successful organization to substantially raise the tuition fees of students to recoup the \$50 million?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, what I stated previously in public about making available the existing funding for the Music Office to any non-government organization chosen to run the Music Office still stands. However, with regard to the fact that the funding will not be allocated to municipal councils, this is determined in the context of the rates financing arrangements between the Government and the respective councils on a triennial basis. Having regard to the overall rates revenue available, it is entirely a matter for the councils to determine their budgets and to allocate funds to different services according to their own priorities. Under this well established mechanism there could be no question of a separate subsidy for the funding of the Music Office to be made to the two municipal councils outside the context of rates financing arrangements. After all, the councils will only have to absorb the cost of providing the Music Office's activities for the triennium 1994-95 to 1996-97. For the next triennium, the Government will have to take into account the full funding requirements of the councils, including those activities arising from the taking over of the Music Office. In other words, the question of the funding for the Music Office will be part and parcel of the next triennium exercise.

PRESIDENT: Mr FUNG, not answered?

MR FREDERICK FUNG: *Not fully answered.*

PRESIDENT: What part has not been answered?

MR FREDERICK FUNG (in Cantonese): *Mr President, the Secretary has mentioned that the two municipal councils will allocate funds from the rates (a triennium exercise). To our understanding, no provision was made for this purpose when the two municipal councils discussed the rates financing arrangements with the Government.*

PRESIDENT: Yes, that goes beyond repeating your question. It really is pressing for a further answer and you are strictly not asking a supplementary to elucidate the main answer to the original question, Mr FUNG. I am sorry I have got to rule you out of order.

MR HOWARD YOUNG (in Cantonese): *Mr President, since the re-structuring of the Music Office was announced, many parents and even young children have come to the Complaints Division of the Legislative Council to raise their concerns. What concerned them most were: (a) the scope of service of the Music Office should not be scaled down and its quality not be lowered; and (b) the fees should not be raised too high. The Administration's reply just now indicated that the organizations that had submitted the proposals expressed their intention to run the Music Office along similar lines, but if it finds within the next two months that none of them could meet these requirements, will it review the re-structuring proposal or invite organizations that had initially expressed an interest to re-submit their applications?*

PRESIDENT: Are you able to answer that, Secretary?

SECRETARY FOR RECREATION AND CULTURE: Yes. Mr President, I think in my main answer I did make it very clear that all the existing three proposals fulfil the basic criteria, that is, to maintain the existing instrumental music training programmes at present level, to maintain existing music programme activities at present level, to retain existing music centres and to maintain a low and affordable fee structure. I said in my main reply that all of them do meet these basic criteria. What we need to assess in the next few months is their ability to improve on this basic standard. So in answer to the Honourable Howard YOUNG's question, I would say that the three

organizations would be able to meet the basic requirement and of the parents and students' expectations.

Wilkinson case

4. MRS SELINA CHOW asked: *Regarding the Attorney General's decision to seek only to have the defendant bound over in the WILKINSON case, bearing in mind the seriousness of the original offence charged, will the Attorney General inform this Council:*

- (a) on what basis was this decision made;*
- (b) what principles are used in guiding such decisions generally; and*
- (c) in how many cases of domestic violence in the past three years has he made such a decision?*

ATTORNEY GENERAL: Mr President, in answer to the first part of the question,

- (a) The facts read in court in Fanling Magistracy on 18 March 1994 in support of the order of bind over were these:

"The Defendant that is Mr WILKINSON and the victim were married in 1980. They came to Hong Kong in 1985 and lived in Hong Lok Yuen. From 1989 onwards, their relationship deteriorated, until 31 December 1992 when the Defendant left the matrimonial home.

On the evening of the 31 December 1992, a heated argument took place, during which physical blows were traded and the Defendant hit the victim, that is, Mrs WILKINSON, around the head. In the course of the fight, the Defendant lost control and picked up a small knife, which caused a cut to the victim's left hand. He also used his hands to apply pressure to her throat. At this juncture, the Defendant regained control of himself and phoned a consultant psychologist whom the parties had been using for counselling. This man, a Mr WHYTE, came to the house with his wife; he calmed the victim, and suggested to the Defendant that he should leave, which he did.

The victim reported the assault to the police some six months later."

Mr WILKINSON was bound over in the sum of \$20,000 for a period of 12 months.

Mr President, as has been explained to this Council in the past, it is not appropriate for me to give reasons for decisions made in relation to any particular prosecution. I can nonetheless confirm that in this case the Director of Public Prosecutions reached his decision only after an exhaustive examination of the case file, of the witness statements of Mrs WILKINSON, of Mr WILKINSON, and of others. Any such decision is not, of course, taken lightly. The Director of Public Prosecutions, in reaching his decision, was aware of all relevant factors. He considered the events leading to the incident, the incident itself, and the circumstances subsequent to the incident. In that exercise, regard was likewise had to the interests of the victim, to those of the accused, and to the wider public interest.

- (b) A decision to apply for a bind over is taken after a careful consideration of the facts of the individual case, the circumstances of the parties, and after due regard has been had to the public interest. It must, put simply, be appropriate to all the circumstances of the case. Regard is also had to the element of preventive justice contained in an order of bind over. The basic requirements when magistrates make such orders are: (1) there should be material before the court justifying the conclusion that there is a risk of a breach of the peace unless action is taken to prevent it; (2) they should make clear to the accused their intention to bind him over and the reasons for it; (3) they should obtain consent to the bind over from the accused; (4) before fixing the amount of the recognizance they should enquire as to the accused's means; (5) the binding over should be for a fixed period.
- (c) Turning to the third part of the question, the number of binding over orders known to have been issued in relation to cases of domestic violence recorded in the police database are as follows. I should add that these figures include bind overs imposed by a court in respect of persons who have been convicted of an offence.

<i>Year</i>	<i>Persons charged</i>	<i>Bind overs</i>
1991	149	27 (18.1%)
1992	120	17 (14.2%)
1993	193	27 (14.0%)

Mr President, I must emphasize that we do not take offences associated with domestic violence lightly. The case in question turned on its own facts and circumstances and should not be

regarded as setting any sort of precedent. There is no question of us going soft on domestic violence.

MRS SELINA CHOW: *Mr President, on page three of his reply, the Attorney General said that the Director of Public Prosecutions reached his decision only after an exhaustive examination of the case file, of the witness statements of Mrs WILKINSON, of Mr WILKINSON and of others. Now as there are two decisions in question, one of charging Mr WILKINSON taken in late 1993, and a subsequent U-turn of offering no evidence when the case came to court finally on 18 March, this year, can the Attorney General pinpoint when the exhaustive examination by the DPP took place and what factors caused the change of heart in between the two decisions?*

ATTORNEY GENERAL: Mr President, could I perhaps just clarify one point on a preliminary issue. The prosecution did not offer no evidence in this case. Offering no evidence would not be consistent with agreed facts, so it is not the case that the prosecution offered no evidence.

Could I just, Mr President, run through the chronology. The incident occurred on 31 December 1992. It was first reported to the police on 6 July 1993. Mr WILKINSON was charged with the offence of unlawful wounding on Christmas Eve 1993. That same day he pleaded not guilty to the charge and the trial was set on 18 March 1994. The review of all the circumstances was undertaken by the Director of Public Prosecutions shortly before the hearing date, in the course of March, and this led to the conclusion that as things stood at that stage the case could properly be disposed of by way of a bind over. This review in no way and no sense reflected upon the earlier decision to prosecute which was taken in the light of the circumstances as they then stood. The decision taken in March, shortly before the hearing, simply reflected the view of the Director of Public Prosecutions, an experienced and distinguished criminal lawyer, at a later date when additional factors had come to light which could not with reasonable diligence have been discovered when the original decision to prosecute was made.

Mr President, the Director of Public Prosecutions, indeed the prosecuting authorities generally, must keep an open mind in respect of decisions to prosecute and it is not uncommon for there to be changes to earlier decisions and I am sure that members of the community would expect the Director and the prosecuting authorities to act in that way.

MRS SELINA CHOW: *Mr President, I think that the Attorney General did not answer the second part of my supplementary question which was: What factors brought about the change of heart? He did mention additional factors in his answer. So could he elaborate on them?*

ATTORNEY GENERAL: Mr President, as I said in my main answer and consistent with the policy that I have discussed with this Council and my predecessors before me on many occasions, it is not appropriate for me to go into the questions of evidence concerning decisions to prosecute or not to prosecute. I have explained before that that is not consistent with public policy and I regret that I am not prepared to compromise that rule.

MR MOSES CHENG: *Would the Attorney General be able to explain, why the fact sheet presented to the Court showed that blows had been traded and the victim was only cut in her left hand when the victim has claimed in a written statement that she was beaten for three hours, threatened and cut with a knife and strangled until she lost consciousness and a doctor has certified that she has sustained heavy bruising to both eyes, bruising to her face, back, body and limbs, cut to her hand and throat, split lips, swollen neck due to strangulation and laceration to her face?*

ATTORNEY GENERAL: Mr President, the Director of Public Prosecutions was aware of the injuries sustained by Mrs WILKINSON. He had her statements for she made more than one, and he had photographs taken of her injuries. He was aware of the injuries sustained by Mrs WILKINSON. He was also, as I have said, aware of all the circumstances surrounding this case and took all factors into account. Can I repeat, Mr President, this was not a decision taken lightly. It was taken after the most exhaustive and anxious consideration of the case file and the decision reached to offer a bind over was one that was thought, in all the circumstances, to be appropriate to the circumstances of the case.

PRESIDENT: Not answered, Mr CHENG?

MR MOSES CHENG: *Mr President, with respect, I do not think that my question has been answered. I was asking the Attorney General to explain why there was a discrepancy between the facts contained in the fact sheet presented to the Court and those shown in the witness statement? I do not think that the Attorney General has answered that question.*

ATTORNEY GENERAL: The agreed facts read in the Court were drawn on the basis of the material contained in the case file and all the circumstances, Mr President.

MR RONALD ARCULLI: *Thank you, Mr President. In the third page of his answer, the Attorney General has said that in the exercise, regard was likewise had to the interests of the victim, to those of the accused and to those of the wider public interest. I can understand from the point of view of the accused*

why a bind over order would be in his interest but what I cannot understand is why it is in the interest of the victim or indeed in the wider public interest. Could he elaborate?

ATTORNEY GENERAL: I am afraid, Mr President, I am really not able to go beyond what I have already said in my main answer and that is that the Director of Public Prosecutions did indeed take into account the interests of the victim, those of the accused and the wider public interest. As I have explained this was not an easy decision. It was taken after anxious and careful consideration and not taken lightly. Of course, Mr ARCULLI is quite right, the interests of the victim is a factor to be taken into account in reaching a decision but the paramount factor is of course the public interest.

DR LAM KUI-CHUN: *Mr President, was this WILKINSON case accepted in the Attorney General's Chambers as a psychiatric problem or one of simple domestic violence? And in cases of violence similar to this one, what preventive measures does the Administration generally provide to protect the victims against another attack as mentioned in part (b) of the answer?*

ATTORNEY GENERAL: Mr President, the case was dealt with in the way in which I described. Mr WILKINSON was originally charged with unlawful wounding contrary to Section 19 of the Offences Against the Person Ordinance. You will see from the agreed statement of facts read in court that a consultant psychologist was involved. I repeat that all the relevant facts and circumstances were present before the Director when he made his decision.

Could Dr LAM please repeat the second part of his supplementary?

DR LAM KUI-CHUN: *Mr President, the second part of the question is, in cases of violence similar to this one, what preventive measures does the Administration generally provide to protect the victims against another attack?*

ATTORNEY GENERAL: Mr President, as I said in my main answer, a bind over order is, of course, preventive justice. The effect of the bind over is to require the defendant to keep the peace for 12 months on penalty of being punished by the loss of his recognizance.

MR MARTIN LEE: *Mr President, will the Attorney General please tell this Council whether Mrs WILKINSON was consulted before the decision was made by the DPP? It is because by that decision he has made it impossible, I believe, for Mrs WILKINSON to bring a private prosecution against Mr WILKINSON. And if she was not consulted beforehand, why not?*

ATTORNEY GENERAL: Mr President, it would be unusual for a victim to be consulted prior to a prosecution decision is made. There are no hard and fast rules but it would be unusual, certainly not the standard practice, for a victim to be consulted over prosecution decisions. After the Director of Public Prosecutions made his decision, but before the hearing, Mrs WILKINSON who was legally represented through her solicitors made oral and written representations to the Director which the Director considered before the case went to trial on 18 March. But having carefully considered those representations he was minded not to change his decision.

MR HENRY TANG: *Mr President, can the Attorney General justify and perhaps rectify how public interest is served by his decision when there is such widespread belief that justice has not been done in this case?*

ATTORNEY GENERAL: Mr President, an Attorney General is placed in an impossible position, as we have always recognized, by the constraints of public policy which I have already outlined balanced with the natural concern of Members of this Council and the community as to the contents of the prosecution file, but it has been my consistent policy that public interest dictates that the contents and evidence of a prosecution file should not be made available.

I am sorry, if I can take up a couple of minutes of the Council's time with your indulgence, Mr President, just to rehearse why that is so. Could I first refer to a letter which I wrote to the Chairman of the House Committee in May of last year dealing with the policy. I can go to the relevant passage dealing with the reasons why decisions to prosecute or not to prosecute or prosecution decisions should not be discussed. I said the reasons are these:

- (a) If the defendant has been prosecuted but acquitted, it cannot be in the interests of justice and fairness for that acquittal or its reasons to be debated in public.
- (b) If the defendant has been prosecuted and convicted, it would hardly be proper to discuss whether the conviction was correct or not. If the defendant felt he should not be convicted, he would appeal.
- (c) If criminal proceedings were not taken it would not be fair or just to discuss why the accused were suspected and the reasons for not prosecuting. To embark on such a course would be tantamount to a trial but it would not be in accordance with court procedures and it would not be confined to evidence admissible in court.

Mr President, at the risk of taking up more time, could I refer Members to what my predecessor, Mr Michael THOMAS, said in this Council on 25 March 1987, in relation to a not wholly dissimilar type of case. He said, "There are good reasons why any Attorney General does not normally explain

in public a decision not to prosecute in a particular case. It is rare for any public announcement to be made of that decision because it would reveal unfairly that someone had been under suspicion for having committed a criminal offence. And even where that fact is known, to give reasons in public for not prosecuting a suspect would lead to a public debate about the case and about his guilt or his innocence. The nature of the evidence against the suspect would have to be revealed. Then some might say that was proof enough of guilt and the suspect would find himself condemned by public censure. Mr President, in our legal system the only proper place for questions of guilt or innocence of crime to be determined is in a court where the accused has the right to a fair trial in accordance with the rules of criminal justice and the opportunity to defend himself. So Members will readily appreciate that it would be quite wrong for any Attorney General having decided that the issue should not proceed to trial in the courts to say anything in public that might be taken to indicate a belief in the suspect's guilt which might lead to a public discussion of that very question."

PRESIDENT: Not answered, Mr Henry TANG?

MR HENRY TANG: *Mr President, would you care to clarify or confirm what the Attorney General has said is consistent with Standing Orders in respect of public officers' accountability?*

PRESIDENT: I am not sure I understand your point. Is it a point of order, Mr TANG?

MR HENRY TANG: *Yes, Mr President.*

PRESIDENT: Sorry, what is the point of order?

MR HENRY TANG: *According to Standing Orders, I understand that public officers, when they come here to answer questions, wish to justify their accountability of certain issues. Can they then in this case, as it is already closed, seek to hide behind the veil of public interest and do not disclose certain details that we seek?*

PRESIDENT: There is no point of order here, Mr Henry TANG, because I have no powers, as I have said on a prior occasion, to direct an answer to a question. I can simply rule on whether a question conforms with Standing Orders but I have no powers of direction as regards the giving of answers. What I can and have done is to give Members an opportunity to repeat their

questions where they think that through inadvertence a question has not been answered but once that opportunity has been given that exhausts my powers.

Noise nuisance associated with the use of Hong Kong Stadium

5. MR FRED LI asked (in Cantonese): *Since the opening of the redeveloped Hong Kong Stadium, a total of over 180 complaints about noise nuisance to nearby residents have been received by the Environmental Protection Department (EPD) and the police. EPD said that before the opening of the redeveloped Stadium it had already pointed out to the Urban Services Department (USD) and Wembley International (HK) Ltd that it would not be suitable to hold large-scale concerts in the Stadium, but the advice was not heeded. Will the Government inform this Council why the EPD and USD did not inform Urban Councillors and the general public of such advice at an early stage?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, throughout the period of conception, design and construction of the stadium, its intended use as a multi-purpose venue caused consideration to be given to the noise problems associated with amplified music concerts. The Environmental Protection Department (EPD) were asked for advice on several occasions. The department advised that the use of the stadium for such a purpose would breach the Noise Control Ordinance. For example, when commenting on a 1991 Environmental Noise Assessment commissioned by the Royal Hong Kong Jockey Club, EPD advised the Urban Services Department, the Architectural Services Department, and the consultant, in May 1992, that the report was over optimistic about the noise impact. EPD therefore objected to the holding of amplified music concerts in the stadium.

The Urban Council decided to take up the management of the new stadium in July 1992 and appointed Wembley International to manage the stadium. Wembley International subsequently held a series of meetings with EPD to discuss the noise problem. An acoustics consultant firm was also commissioned by Wembley International to carry out a further Environmental Noise Assessment. This report, completed in December 1993, identified the same problems as the previous one.

EPD again advised the stadium management, in early February 1994, that noise from amplified music concerts would cause severe disturbance to nearby residents and that the management should therefore implement additional control measures to reduce noise levels to acceptable levels.

I understand that Wembley International reported the noise problem to the Urban Council Board of Governors responsible for policy and management of the stadium on 22 February 1994.

PRESIDENT: I think before I take supplementary questions I will need to suspend the sitting for a few minutes while I consult with Mrs TU and Mr Andrew WONG in my office.

Sitting suspended from 3.35 pm to 3.45 pm

THE PRESIDENT'S DEPUTY, MR ANDREW WONG, took the Chair.

DEPUTY: Order please. Members, to avoid possible misperception of conflict of interests, with regard to the fact the President is the Chairman of the Jockey Club and Mrs Elsie TU is the "representative" Member of the Urban Council, I shall take the Chair.

MR FRED LI (in Cantonese): *Mr Deputy, I have a follow-up question to raise. May I point out that the Secretary has not answered the last part of my question, that is: Why did the EPD and USD not inform Urban Councillors and the general public of such advice at an early stage? So will the Secretary supply an answer to that part of my question?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy, I think the responsibility of the Environmental Protection Department (EPD) is to implement and enforce the Noise Control Ordinance in this case and in the action that it took it did so. It dealt with the agencies which were planning and developing the stadium by providing timely advice and some detailed information in regard to how the development of the stadium would stand in relation to the Noise Control Ordinance. It also then, when the stadium had been completed and put into use, dealt with those directly responsible for managing the stadium and those responsible under the Noise Control Ordinance. I would submit that it is not for the EPD to issue general advice to parties less directly concerned and to the general public as to the impact of events likely to require enforcement under the Ordinance.

As far as the question relating to the Urban Services Department is concerned, as I said in the final part of my main answer, I understand that Wembley International reported the noise problem to the Urban Council Board of Governors responsible for policy and management of the stadium on 22 February 1994.

MR MARVIN CHEUNG: *Mr Deputy, will the Secretary please inform this Council in full and unambiguous terms what information concerning the noise problem was actually conveyed by Wembley International to the Urban Council's Board of Governors on 22 February 1994, and more specifically, whether this information included full details of the objections from the*

Environmental Protection Department and if not, what information was withheld and why was it withheld?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy, I am not privy to the detailed proceedings which took place between the manager of the stadium, Wembley International, and the Urban Council and its Board of Governors responsible for the stadium. I can seek the additional information which is asked, or it may be possible that my colleague, the Secretary for Recreation and Culture, may be able to assist here.

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy, I am afraid, like my colleague, I was not privy to that information because it was an internal meeting between Wembley International and the Urban Council and its Board of Governors managing the stadium, but in conjunction with my colleague, we could seek that information from the Urban Council.

MR MARVIN CHEUNG: *Can I ask for a written reply to my question please?*

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy, I think my colleague and I would seek the information and give a written reply. (Annex II)

MRS PEGGY LAM (in Cantonese): *Mr Deputy, now that this concert has caused severe noise disturbances to thousands of residents living near the Stadium, and that the public demanded that no concerts be held until the Government has come up with measures to deal with the problem, will the Administration listen to public view in this respect?*

DEPUTY: I am not sure whether the Secretary for Planning Environment and Lands or the Secretary for Recreation and Culture should answer this question.

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy, in answer to the Honourable Peggy LAM's question, I do not think it is for the Government to decide on the future management matter for the stadium. It was made very clear in the Memorandum of Administrative Arrangements which the Government entered into with the Urban Council way back in 1972, that once a facility is handed over to the Urban Council for its management, the Urban Council would have full autonomy in the management of that facility. And in this regard I understand from the Urban Council that they have given instruction to Wembley International not to accept any more bookings for pop concerts to take place in the stadium until this issue on noise pollution is resolved.

MR FREDERICK FUNG (in Cantonese): *Mr Deputy, we can see from the Secretary's reply that there are several important dates. The first was in May 1992 when the Environmental Protection Department commented on the Environmental Noise Assessment. The second was in July 1992 when the Urban Council appointed Wembley International to manage the Stadium, in other words, the Urban Council had taken up the management of the Stadium. The third was in December 1993 when Wembley International conducted another Environmental Noise Assessment and completed a report on that. The fourth was on 22 February 1994 when the Urban Council's Board of Governors started to discuss the noise problem. I think the point raised by Mr Fred LI which obviously has not been answered is that, since the EPD had given its comments on the report in May 1992, and that the Urban Council had taken up management of the Stadium in July 1992, why was the issue of noise problem not discussed until February 1994 (which was after one year and five months)? The Chairman of the Board of Governors said in his report that it was very difficult to carry out any improvement works by February 1994 when the official opening was on 11 March. May I ask why one year and five months had passed, yet neither the Urban Council nor the managing authority of the Stadium had been informed of the two reports on noise assessment?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy, I do not think that one should read into my answer the suggestion that there were only four dates on which anything happened during the period between 1991 and 1994. I have tried to be concise and to give the dates which were relevant to the question which was: What did the EPD do? As regards the question of what happened between Wembley International and its acoustic consultants on the one hand, and the Urban Services Department and the Urban Council on the other, I believe that we would have to set out a rather full diary of exchanges before we could explain precisely who said what to whom about what. I am prepared to try and provide fuller information but I am not sure that it would actually help elucidate EPD's role in this beyond the original question.

DEPUTY: You have already asked a very long question, Mr FUNG.

MR FREDERICK FUNG (in Cantonese): *Mr Deputy, may I ask the Secretary to provide a written reply to the points he has just noted down.*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: I am certainly willing to try and do that, Mr Deputy. (Annex III)

MR MOSES CHENG: *Thank you, Mr Deputy. In paragraph two, the Secretary was referring to the Government's handing over the management of the new stadium to the Urban Council. At that point in time, did the Administration advise the Urban Council about the noise problem or were these problems made known to the Urban Council then?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: I think it is a question again of how much the Urban Services Department, which as my original reply has said, was involved as long ago as 1991, has passed on to the Urban Council. I think this is a procedural matter between the Urban Services Department and the Urban Council. And I am sure there is a great deal of intercourse, if I can put it that way, between the department and the council. I should have to seek more information from the Urban Services Department to answer that question. (Annex IV)

DEPUTY: I have five more names and I propose to draw a line there because we are running on too long on this question.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr Deputy, the recent noise issue of the Stadium demonstrates once again that the EPD is a toothless tiger because the warnings and summonses issued to the Urban Council and the Stadium management in connection with noise disturbances were ignored, which was a blatant disregard of the law by the authorities. Can the Administration inform this Council how it is going to ensure that the advice of the EPD is given due regard and followed? If the Urban Council continues to breach the Noise Control Ordinance in its management of the Stadium, how is the Administration going to deal with it?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy, in the short term what the EPD will do of course is to enforce the Noise Control Ordinance, as it has sought to do in this particular case. In the medium to longer term, I think, as Members are probably aware, we are in preparation of the legislation of the environmental impact assessment. I believe that if we are able to bring this legislation forward, we would be able to deal with the sort of situation which has arisen rather more effectively than we have on this occasion.

MR TIK CHI-YEUN (in Cantonese): *Mr Deputy, can the Administration clarify whether the Urban Council's Board of Governors was aware of the noise problem before approving the recent concert? Did the Board approve it without knowing the noise problem, or did it do so knowingly? If it was the latter, who was at fault?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy, my colleague has kindly volunteered to answer questions on the Urban Council/Urban Services Department aspect of these questions.

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy, I think when Wembley International entered into discussion with potential hirers of the stadium, all these were done, I think, prior to the official opening of the stadium in March this year. As far as I understand, other than the most recent concert that was held last weekend, there have been no further fully committed pop concerts being hired but I would like to seek full confirmation from the Urban Council if the Honourable Member wishes to have a written reply. (Annex V)

REV FUNG CHI-WOOD (in Cantonese): *Mr Deputy, the EPD had warned the authorities concerned time and again that the Stadium was not suitable for concerts. Despite these warnings, concerts were held and were found to have breached the Noise Control Ordinance. Why had this happened? Were the warnings issued by the EPD clear enough, and how were they issued? Has the EPD, in dealing with the case, sought any advice from the Secretary for Planning, Environment and Lands? This is already the second incident (The first one involved the West Kowloon Reclamation when the EPD opposed to the progress of works which was far too fast. The works proceeded all the same, leading to a lot of fish being killed). Can the Secretary for Planning, Environment and Lands inform this Council what measures will be taken to prevent the recurrence of similar incidents?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy, I think the Environmental Protection Department is willing and frequently does extend advice to organizations, including government departments, whose projects may cause environmental problems. Of course, as Members are aware all public works programme items which come before this Council are required to have an environmental impact assessment included in the submission paper. As far as other organizations are concerned, where the EPD's advice is taken but ignored, then those involved must accept that they run the risk of enforcement under the Noise Control Ordinance and of course that is what the Noise Control Ordinance is there for.

MR PETER WONG: *Mr Deputy, we have heard of the rather sorry tale of the powerlessness of the EPD to enforce its recommendations in this case. Would it have made any difference if the entity was not a government body?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: I would like to say, Mr Deputy, at this point, that the question of the situation under the Noise Control Ordinance in this case is not yet closed.

MRS SELINA CHOW: *Mr Deputy, is the Government aware of an intention on the part of the Urban Council or any other party to apply for an exemption order under section 35 of the Noise Control Ordinance (NCO) to exempt the Hong Kong Stadium from the provisions of the NCO? And if such an application is received, will the Secretary recommend that the application should not be granted?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy, I am not aware of such an application being considered although it may well be under consideration because the recourse under the legislation exists and therefore those who are affected by the Noise Control Ordinance are free to consider seeking exemption under the Ordinance. As to the possibility of such an exemption being granted, that is a matter for the Governor in Council and at this stage I would not like to pre-empt the process which would make recommendations to the Governor in Council on the question, because the circumstances under which an exemption might be sought are not yet stated.

DEPUTY: Mr Fred LI, may I enquire whether you had asked your supplementary because after I came in, in the midst of confusion, I thought, you had already asked a question?

MR FRED LI (in Cantonese): *Mr Deputy, I would like to pursue my question which I think has not been answered. Was the Secretary for Recreation and Culture aware that the EPD had on a number of occasions opposed to holding amplified music concerts at the Stadium? If so, why had no attempts been made to prevent the noise problem that arose later?*

SECRETARY FOR RECREATION AND CULTURE: Thank you, Mr Deputy. I would like to say that my office was aware of the environmental assessment study done by the Royal Hong Kong Jockey Club's consultant in late 1991. And we were aware that the findings of that study were conveyed and discussed with the EPD and we were aware of the initial EPD views on that study. But all along in the course of discussion the information made available to my office was that these matters were under serious consideration by the EPD, the USD, the consultant architects and the contractors concerned and they were looking at various ways and means to deal with how to mitigate the problem. So all along in the course of the consideration my office was not aware of the fact that the mitigating factors could not be applied until we received the notification from Wembley in February 1994.

Display of banner

6. MRS PEGGY LAM asked (in Cantonese): *A pilot scheme on the control of display of banners was introduced in Wan Chai, and its positive effects on the environment and road safety in the district have been affirmed by the Wan Chai District Board. Will the Government inform this Council:*

- (a) *whether the scheme would be fully implemented; if so, what will be the staffing and financial commitments involved; if not, why not; and*
- (b) *if the above-mentioned scheme is further implemented, whether it would consider following the practice adopted by some large cities abroad, whereby the display of banners will only be allowed during election periods; if not, why not?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I shall answer this question as carefully as possible in order not to create another small constitutional crisis. *{Laughter}*

- (a) The Administration is still considering whether the pilot scheme in Wan Chai can be applied to other districts. The staffing and financial implications of doing so are that up to 28 staff would be required to implement the scheme throughout Hong Kong at an annual cost of \$5.8 million. Before reaching a decision on whether the scheme can be implemented territory-wide, we need to consider whether it can command priority for resources compared with other competing demands.
- (b) If the scheme is to be extended, we will certainly need to consider the terms on which it will be extended and any restrictions to be applied. Comparisons with other cities may be relevant, although widely differing practices probably apply.

MRS PEGGY LAM (in Cantonese): *Mr President, section 6(1) of the Crown Land Ordinance empowers the District Lands Officer to remove any banners or signboards displayed without permission. Will the Secretary inform this Council whether the law enforcement situation is satisfactory in bringing illegal display of publicity materials under control? If not, how is the Administration going to improve the situation?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I doubt whether the Administration will consider prohibiting the display of this kind of banner. I think these displays, particularly in relation to elections, have a legitimate place in the conduct of the community affairs. I

understand that the Boundary and Election Commission is currently working on guidelines for the display of materials relating to the 1994 district board elections. The Boundary and Election Commission will, I understand, be consulting the public on the draft guidelines when these are ready. The Administration will monitor the effectiveness of these arrangements and will consider revising arrangements for the control of publicity materials displayed after the elections.

MR MARTIN LEE: *Is the Administration satisfied that the Wan Chai District Board, which initiated or which urged the Government to initiate this pilot scheme on the control of display of banners and signboards, is aware that there is such a thing as the freedom of expression?*

PRESIDENT: Are you able to answer, Secretary?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I find that one quite difficult to answer. I think I might need to consult the Wan Chai District Board and provide an answer in writing. *(Laughter)*

MRS PEGGY LAM (in Cantonese): *Mr President, may I refer to paragraph (a) of the Secretary's reply in which it says, "..... at an annual cost of \$5.8 million. Before reaching a decision on whether the scheme can be implemented territory-wide, we need to consider whether it can command priority for resources compared with other competing demands". Was the Secretary saying that the implementation of the scheme would largely depend upon whether resources were adequate?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, as I said, we need to consider where the proposal that this activity should be extended territory-wide fits in with the other pressures and priorities for work to be undertaken by the Lands Department. I think Members will be well aware that there is considerable pressure permanently on the department to speed up land transactions, to speed up the provision of sites of all sorts of uses that the community requires, to speed up the resumption of land for public works projects and other projects urgently required in the territory and to undertake extensive land control activities in the New Territories. We will, therefore, in the coming resource allocation exercise need to consider where this particular potential bid for \$5.8 million fits with the other priorities of the sort that I have just mentioned.

Written Answers to Questions

Chinese language as promotion criterion

7. MR NGAI SHIU-KIT asked (in Chinese): *For certain grades of the Civil Service, an officer's standard of the Chinese language is one of the aspects to be assessed in his appraisal report and is also one of the factors to be taken into consideration for the determination of his suitability for promotion. Will the Government inform this Council:*

- (a) *whether the Civil Service Branch has provided to the relevant departments a set of objective standards for the fair assessment of their staff; if so, what standards are being provided and on what basis are they drawn up; and*
- (b) *how many local civil servants are having their standard of the Chinese language assessed by expatriate supervisors?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, broad indicators on assessment of language ability are in fact included in staff appraisal reports for the guidance of appraising officers. Civil Service Branch has not however supplied departments with grade-specific standards for assessing Chinese language. This is because departments and the relevant agencies are in the best position to set the assessment criteria in accordance with job requirements. For instance, Chinese Language Officers and Simultaneous Interpreters are assessed according to their fluency in delivery, speed and accuracy of interpretation/translation; Training Officers on their communication skills; and Calligraphists on their accuracy and output in Chinese typing.

Instances of civil servants having their standard of Chinese language assessed by expatriate supervisors who do not know Chinese are rare. In these cases, the appraising officer would normally consult colleagues who know Chinese and who have work contact with the appraisee on how the appraisee has performed. In accordance with usual civil service practice, the appraisal report is countersigned by another senior officer and reviewed by a more senior officer designated by the head of department or head of grade concerned. This provides opportunities for further views on the appraisee's performance.

Drug abuse by adolescents

8. MR TIK CHI-YUEN asked (in Chinese): *Regarding the problem of drug abuse by adolescents, will the Government inform this Council:*

- (a) *of the number of persons aged under 21 involved in abuse of drugs and medicines in the past three years, with a breakdown by districts;*

- (b) *of the number of inspections of dispensaries conducted last year, with a breakdown by districts; and*
- (c) *whether there are any specific plans to increase the frequency of inspections in order to eradicate the illegal sale of controlled drugs by dispensaries?*

SECRETARY FOR SECURITY: Mr President,

- (a) The numbers of persons aged under 21 reported to the Central Registry of Drug Abuse in the past three years were:

1991	1 405
1992	1 958
1993	3 028

The breakdown of those who provided information on their district of residence was:

<i>District</i>	<i>1991</i>	<i>1992</i>	<i>1993</i>
Hong Kong	257	393	490
Central and Western	49	93	74
Wan Chai	28	28	33
Eastern	50	107	218
Southern	130	165	165
Kowloon	468	594	969
Yau Tsim	28	24	41
Mong Kok	39	29	55
Sham Shui Po	88	107	123
Kowloon City	47	53	107
Wong Tai Sin	111	130	216
Kwun Tong	155	251	427
New Territories	650	929	1 498
Kwai Tsing	94	145	230
Tsuen Wan	83	99	153
Tuen Mun	218	274	424
Yuen Long	72	107	206
North	32	71	114
Tai Po	49	58	83
Sha Tin	77	113	176
Sai Kung	12	34	55
Islands	13	28	57

- (b) In 1993, 2 866 inspections were conducted at drug retail premises. The records of these inspections are not maintained by districts; a breakdown by region is shown below:

Hong Kong	849
Kowloon	1 359
New Territories	658

- (c) Plans are in hand to step up enforcement, to prevent illegal sales of controlled drugs, by increasing the frequency of test purchases and inspections of drug retail premises. We will increase the number of pharmacy inspectors from 11 to 14 and employ additional casual workers. The frequency of inspections will be further enhanced by more effective staff deployment and re-prioritization of activities in the Pharmaceutical Division of the Department of Health.

Government advisory boards and committees

9. MR TIK CHI-YUEN asked (in Chinese): *Will the Government inform this Council of the number of government advisory boards and committees set up in the past three years, and the proportion, as well as the actual number, of board and committee members who are elected members of the three-tier representative government?*

SECRETARY FOR HOME AFFAIRS: Mr President, 42 government advisory boards and committees were set up during the period from 1 April 1991 to 31 March 1994. These boards and committees have a total of 615 members, of which 453 are non-official members. Among these non-official members, 6%, or 27, are also elected members of the three-tier representative government.

Additional staff for Lands Department

10. MR ERIC LI asked (in Chinese): *In the 1994-95 Budget, the Financial Secretary has proposed to increase the Lands Department's staff by over a hundred in order to accelerate the processing of new land grants, land exchanges and lease modifications. Will the Government inform this Council:*

- (a) *when the additional staff will be recruited;*
- (b) *after the recruitment of additional staff, to what extent will the processing of applications for new land grants, land exchanges and lease modifications be expected to speed up as compared with the present;*

- (c) *whether a time limit will be set for the processing of such applications, if so, what the time limit is;*
- (d) *whether the time limit set for the processing of such applications will be stipulated in the "performance pledges" of the Lands Department as a commitment to the public; and*
- (e) *if the answers to points (b), (c) and (d) above are in the negative or uncertain, how the Government can convince the public that the provision of additional staff can really help speed up the supply of buildings and that the extra expenditure in this aspect is cost-effective?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) Staff will be recruited during 1994-95, starting as early as possible.
- (b) Means of speeding up transaction times are always being examined and we are confident that the additional staff will produce positive results. It is not possible to quantify the extent of improvement expected precisely as processing times vary considerably depending on the type and complexity of the individual cases.
- (c) No time limit will be set for processing modifications and land exchanges from application to execution, as they vary greatly in type and complexity and frequently involve aspects outside the control of the Lands Department. However, the following time limits relating specifically to lease modifications are proposed:
 - (i) A reply to an application for a lease modification, advising the applicant whether the case can be entertained or not and identifying the case officer, will be given within three weeks of receipt of the application.
 - (ii) In straightforward cases, a letter of offer setting out the basic terms including the premium payable, or a letter rejecting the application, will be issued within 26 weeks from receipt of the application.
 - (iii) Once acceptance of an offer has been received, the legal document in respect of straightforward cases will be issued for execution within 13 weeks of acceptance.
- (d) The time limits indicated in (c)(i), (ii) and (iii) above will be stipulated in the Performance Pledges of the Lands Department.

- (e) The Director of Lands is determined to ensure that the additional staff will help improve the processing of land transactions.

Prosecution of commercial crimes

11. DR HUANG CHEN-YA asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the number of prosecutions instituted by the Legal Department in respect of commercial crimes in the past three years and the nature of the offences; and*
- (b) *how many cases of prosecutions resulted in conviction; and how many cases were not proceeded with after prosecution had been instituted and what were the reasons for dropping the cases?*

ATTORNEY GENERAL: Mr President, commercial crime has no precise legal meaning but is generally understood to include a broad range of offences from forgery to corruption. For the purpose of this question, I take the enquiry to relate to the more serious offences prosecuted in the High Court and District Court in the years 1991, 1992 and 1993.

Those offences were mainly offences under the Theft Ordinance (the most common offences being those of theft, deception and false accounting), conspiracy to defraud, and offences of forgery under the Crimes Ordinance.

There were some other less common offences charged under Ordinances relating to particular financial or industrial sectors of the economy, such as the Securities Ordinance, Commodities Trading Ordinance, offences relating to false trade descriptions under the Trade Description Ordinance and offences under the Money Lenders Ordinance. The majority of these offences are prosecuted in the Magistrates Court.

The figures relating to High Court and District Court commercial crime prosecutions for the last three years (based on individual defendants prosecuted) are as follows:

	<i>Defendants prosecuted</i>	<i>Defendants convicted</i>	<i>Defendants acquitted</i>	<i>Defendants trial pending</i>	<i>Defendants who fled after charge</i>
1991	229	165	56	3	5
1992	226	128	79	14	5
1993	218	89	42	83	4

It should be borne in mind that these figures include some cases which were commenced outside the period (that is, prior to 1991) but concluded inside the period.

No statistics are kept on prosecutions which were instituted but which did not proceed to the conclusion of a trial. There are a variety of reasons why prosecutions are sometimes terminated, such as:

- (a) a witness either not appearing or not giving satisfactory evidence expected of him or her;
- (b) an important aspect of the evidence (usually a confession statement) being ruled inadmissible by the trial judge;
- (c) the court halting the proceedings prior to trial on the basis that to subject the defendant to trial would be wrong for medical reasons; or
- (d) new evidence or circumstances coming to light which make the prosecution unwarranted.

Disposal of beverage bottles

12. DR HUANG CHEN-YA asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the amount of waste in the form of glass bottles and metal containers generated by the consumption of beer in Hong Kong each year;*
- (b) *of the average cost involved in the disposal of such waste per year; and*
- (c) *whether the Administration will introduce legislation requiring the recycling of containers, or adopt other measures in order to reduce the volume of such waste?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) Over 90% of locally filled glass beverage bottles are recovered for reuse by the beverage industry; this represents nearly 50% of glass beverage bottles circulating in the local market. This recovery rate

compares favourably with overseas countries such as the United Kingdom (20%) and Canada (35%). The recovery rate of aluminium, commonly used for beverage cans, is also high (over 80%) compared with overseas countries such as the United Kingdom (40%) and the United States (40%).

- (b) The average cost of disposal for glass and metals is about \$70 per tonne and in 1992 about 146 000 tonnes of such wastes were disposed of.
- (c) The effectiveness and appropriateness of economic instruments, legislation and voluntary arrangements for encouraging and enhancing waste recycling will be examined in the Waste Reduction Study, which commenced in February 1994.

Concessionary fares by public transport

13. MR MOSES CHENG asked (in Chinese): *As concessionary fares presently offered by various public transport operators to the elderly are subject to different time and route restrictions, which are liable to cause confusion and inconvenience to the elderly, will the Government inform this Council:*

- (a) *whether discussions have been held with these public transport operators, so that concessionary fares will be offered to the elderly on all routes and at all service times; and*
- (b) *whether consideration will be given to the imposition of specific condition requiring the extension of concessionary fares for the elderly to all routes at all service times during future discussions between the Government and the public transport operators on the renewal of franchise?*

SECRETARY FOR TRANSPORT: Mr President, with a few exceptions, concessionary fare schemes provided by public transport operators for the elderly have no time or route restrictions. Details are attached. We have held discussions with the operators, and will continue to encourage them, to enhance their concessionary fare schemes as far as possible.

Concessionary fare schemes are offered by public transport operators on a voluntary basis. The Administration's contribution is through the waiving of annual licence fees and rentals. We have no intention to make concessionary fare schemes a condition of franchise renewal since this would make such schemes mandatory and, as such, could give franchisees justification to seek higher fares so as to recoup the revenue foregone.

Concessionary fares for senior citizens

Ferry

- Star Ferry - Free travel for passengers aged 65 or above on all three Star Ferry services.
- Hong Kong and Yaumati Ferry - Half fares for passengers aged 65 or above from 10:00 am to 4:00 pm between Mondays and Fridays (except public holidays). Excluding deluxe class, hoverferry and new town services.

Rail

- KCRC/LRT - Half fares for passengers aged 65 or above, both single-ride and stored value tickets.
- MTR - About half fares for passengers aged 65 or above using Senior Citizen Common Stored Value Ticket. No discount on single-ride tickets or southbound trips made between 8:00 am to 9:00 am from Mondays to Fridays.

Bus

- Kowloon Motor Bus - Half fares for passengers aged 65 or above on all services, except airport services.
- China Motor Bus - Half fares for passengers aged 65 or above, from 10 am on weekdays and all-day on Sundays and public holidays, on all services except:
- (a) air-conditioned services;
 - (b) cross harbour services; and
 - (c) Island Eastern Corridor services.
- New Lantao Bus - Half fares for passengers aged 65 or above between Mondays and Saturdays (except public holidays) on all New Lantao Bus services.

- Citybus - Half fares for passengers aged 60 or above on Hong Kong Island routes; half fares for passengers aged 65 or above on cross harbour routes jointly operated with Kowloon Motor Bus.
- Hong Kong Tramways - Half fares for passengers aged 65 or above.

Waste paper recycling

14. REV FUNG CHI-WOOD asked (in Chinese): *With regard to the policy of recovery of waste paper, will the Government inform this Council:*

- (a) of the quantities of waste paper which could have been recovered but eventually discarded as a result of the closing down in recent years of a number of waste paper recycling firms; and of the cost involved in the disposal of such discarded waste paper;*
- (b) of the statistics showing the quantities of the waste paper that have been imported into and exported from the territory and whether it can explain the reasons for the phenomenon that local waste paper has been exported for recycling overseas while waste paper recycling manufacturers in the territory have to import waste paper as manufacturing materials from overseas, thus raising the cost of operation;*
- (c) whether any study has been conducted to examine the difficulties in running the business of recovering and recycling waste paper in the territory; and*
- (d) whether any administrative measures or plans for providing financial assistance will be adopted in order to promote the industry of recovering and recycling waste paper, thus reducing the total quantities of discarded waste paper in the territory?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) As far as we are aware, no local waste paper recycling firms have closed down in recent years. The recovery rate of waste paper in Hong Kong was around 55% in 1993, a rate which is high compared with developed countries. Locally recovered waste paper is either recycled at one of the four waste paper recycling plants in the territory, or exported for recycling overseas. The quantity of waste paper recycled locally has increased by nearly 70%, from 150 000 tonnes in 1990 to 247 000 tonnes in 1993, while the amount of

waste paper exported for recycling has dropped by nearly 30% from 540 000 tonnes to 383 000 tonnes over the same period.

- (b) 57 000 tonnes of waste paper were imported in 1993 while 383 000 tonnes were exported. Because the quality and nature of some categories of imported waste paper is higher, a certain amount of imported waste paper is used in two of the four local recycling plants to enhance the quality of paper produced.
- (c) No such study has been conducted. The difficulties of operating a waste paper recycling and recovery business will be examined in the Waste Reduction Study, which commenced in February 1994.
- (d) We have adopted the following administrative measures to encourage waste paper recovery:
 - (i) comprehensive guidelines on how to initiate and organize waste paper separation and collection programmes in residential buildings and office premises have been issued; and
 - (ii) a telephone hotline service (835 1233) to provide the public with specific advice and assistance on how to set up a waste separation programme and lists of waste paper collectors and recyclers has been introduced.

So far over 90% of government departments, more than 220 public housing estates and 400 private organizations/companies have organized their own collection scheme to separate waste paper from other wastes for recycling. These voluntary waste paper separation schemes have reduced the cost of waste paper recovery and are contributing to the competitiveness of the local waste paper industry.

The effectiveness and appropriateness of using economic instruments such as financial assistance to promote and encourage waste recovery and recycling activities will also be examined in the Waste Reduction Study. In the meantime, we are planning to introduce charging for the disposal of privately collected waste at landfills to encourage waste producers to reduce waste generation.

Drug addiction treatment centre

15. DR LAM KUI-CHUN asked: *Section 3(2) of the Drug Addicts Treatment and Rehabilitation Ordinance (Cap. 326) provides that the Governor, on the application of an owner of a place, may by order declare the place to be an*

addiction treatment centre for the detention, custody, treatment, care and rehabilitation of addicts. Will the Administration inform this Council:

- (a) of the criteria adopted for declaring a place to be an addiction treatment centre;*
- (b) whether it is aware that some institutions are performing the functions of an addiction treatment centre without having applied to become or been declared to be addiction treatment centres; if so, should these institutions be required to apply for such declaration in order that they are not regarded as operating illegally; and*
- (c) in order to provide flexibility to the operator as well as to cater for possible change in the addresses of the centres, whether consideration will be given to amending the Ordinance so that, instead of declaring a particular place to be an addiction treatment centre, legitimate institutions offering such services are so declared?*

SECRETARY FOR SECURITY: Mr President,

- (a) Applications to declare a place an addiction treatment centre are considered on their individual merits; there are no laid-down criteria.
- (b) We are aware that some institutions are performing functions similar to those of an addiction treatment centre, without having applied to become, or been declared to be, addiction treatment centres. The Drug Addicts Treatment and Rehabilitation Ordinance does not preclude the operation of such institutions; they are not operating illegally.
- (c) We are reviewing the Drug Addicts Treatment and Rehabilitation Ordinance and will take into consideration this suggestion.

Overtime work

16. DR CONRAD LAM asked (in Chinese): *According to the 1986 By-census carried out by the Census and Statistics Department, 66.4% of those who were still in employment at the age of 60 or above had to work more than 45 hours per week on average. The situation of overtime work was quite serious among women employees aged 60 or above as the average weekly working hours of 20 000 of them far exceeded the limit prescribed by the Employment Ordinance. Will the government inform this Council:*

- (a) whether such working conditions have changed recently; if so, what the details are;*

- (b) *what measures are there to deal with the problem of overtime work of elderly people; and*
- (c) *how the Government is going to enforce the law to safeguard the interest of the elderly women who have to work overtime?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) According to the result of the General Household Survey conducted by the Census and Statistics Department in the first quarter of 1993, 65.5% of the employed persons aged 60 and over worked 45 or more hours per week. Of these, 67.8% of the male employed persons and 57.3% of the female employed persons worked 45 or more hours per week.
- (b) At present, there is no ILO convention regulating the working hours of elderly people. The same approach is also adopted in Hong Kong. Nevertheless, the number of hours of work of women employees in industrial undertakings is governed by the Women and Young Persons (Industry) Regulations under the Employment Ordinance. All female employees are covered, irrespective of age, as long as they are employed in industrial undertakings. Under this Regulation, female employees shall not work more than eight hours in a day and 48 hours in a week, though restricted overtime work is permitted.
- (c) Employers of industrial undertakings have to report to the Commissioner for Labour if the working hours of their female employees exceed the limit prescribed by the Women and Young Persons (Industry) Regulations. Regular inspections to industrial undertakings are conducted by the Labour Inspectorate to ensure compliance.

Juvenile crime

17. DR TANG SIU-TONG asked (in Chinese): *According to statistics released by the police on 14 March 1994, the number of criminal cases involving youngsters below the age of 21 in 1993 has shown a 4.9% increase over that of 1992. Will the Government inform this Council of:*

- (a) *the age group with the greatest number of young and juvenile delinquents as revealed in the 1993 figures; how it compares with the situation in the past two years;*

- (b) *the respective number of young and juvenile delinquent cases (classified by the nature of crime) in each district and the districts that have shown a rising trend in young and juvenile delinquency; and*
- (c) *specific measures which the police and other government departments have in hand to curb the upward trend of young and juvenile delinquency?*

SECRETARY FOR SECURITY: Mr President,

- (a) The age group 16 to 20 accounted for 57% of the total number of people aged under 21 arrested for crime in 1993. In both 1991 and 1992, the same age group accounted for about 54% of total arrests of young persons.
- (b) A summary of criminal cases in the past three years involving young people in each police district and by type of offence is attached. (Enclosure)

Between 1991 and 1993, Wong Tai Sin, Kwai Tsing and Tai Po police districts showed an increase each year in the number of criminal cases involving people below the age of 21.

- (c) The extent of juvenile crime is a cause for concern, and particularly the involvement of students in crime. To tackle this, the police have dedicated School Liaison Officers who visit schools, deliver lectures on crime prevention and maintain close contact with school social workers and teachers to deal with delinquent students. District Police Commanders also deploy additional resources to the vicinity of schools whenever necessary.

Apart from the police, the Social Welfare Department subvents Children and Youth Centres to provide services to youngsters. It also subvents Outreaching Social Work Teams, helping young people in need to integrate into the community. The department will introduce in 1994-95 to a new community-based treatment programme to provide structured training to young people at risk, to stimulate their interest in school or in work, and to develop their social skills.

Concurrently, the Education Department has issued guidelines to, and is providing in-service training courses for, school discipline teachers, to help them deal with delinquent students and students who are involved in triad activities in school.

The Police Superintendent's Discretion Scheme helps rehabilitate offenders under the age of 17 by giving Police Superintendents the discretion to caution, instead of prosecuting young offenders; aftercare service to these young offenders will be provided by both the Police Juvenile Protection Section and family services centres of the Social Welfare Department.

The Fight Crime Committee has commissioned a study into the social causes of juvenile crime. This research is expected to be completed in the middle of this year, and it should suggest some new initiatives which we might take to tackle the problem of juvenile crime.

Enclosure

Number of Detected OVERALL CRIMES
Involving Juveniles and Young Persons

<i>Police district</i>	<i>No. of detected cases</i>		
	<i>1991</i>	<i>1992</i>	<i>1993</i>
Central	212	208	209
Wan Chai	402	336	435
Western	447	371	549
Eastern	822	698	698
Wong Tai Sin	600	603	686
Sau Mau Ping	839	726	557
Kwun Tong	572	479	717
Yau Tsim	568	540	595
Mong Kok	520	425	393
Sham Shui Po	730	797	673
Kowloon City	706	562	593
Airport	29	12	9
Tai Po	353	412	823*
Frontier/Border	338	397	52*
Yuen Long	571	546	595
Tsuen Wan	782	735	736
Sha Tin	1 011	1 085	996
Kwai Tsing	533	561	690
Tuen Mun	1 073	1 054	1 080
Marine	162	136	126
CCB	5	2	1
Total	11 275	10 685	11 213

* As from June 1993, Sheung Shui Division was transferred from Frontier District to Tai Po District, and Frontier District was renamed Border District. Care should be taken when comparing figures of these districts.

Number of Detected SHOP THEFTS
Involving Juveniles and Young Persons

<i>Police district</i>	<i>No. of detected cases</i>		
	<i>1991</i>	<i>1992</i>	<i>1993</i>
Central	46	57	56
Wan Chai	80	79	117
Western	80	73	78
Eastern	194	134	184
Wong Tai Sin	132	105	129
Sau Mau Ping	143	99	78
Kwun Tong	63	45	87
Yau Tsim	85	98	103
Mong Kok	77	35	55
Sham Shui Po	72	99	76
Kowloon City	67	95	85
Airport	3	4	5
Tai Po	87	91	208*
Frontier/Border	56	64	1*
Yuen Long	73	94	116
Tsuen Wan	177	182	189
Sha Tin	234	205	233
Kwai Tsing	52	73	74
Tuen Mun	277	262	217
Marine	2	11	4
CCB	0	0	0
Total	2 000	1 905	2 095

* As from June 1993, Sheung Shui Division was transferred from Frontier District to Tai Po District, and Frontier District was renamed Border District. Care should be taken when comparing figures of these districts.

Number of Detected MISCELLANEOUS THEFTS
Involving Juveniles and Young Persons

<i>Police district</i>	<i>No. of detected cases</i>		
	<i>1991</i>	<i>1992</i>	<i>1993</i>
Central	43	46	42
Wan Chai	55	60	46
Western	86	63	78
Eastern	99	85	73
Wong Tai Sin	75	79	69
Sau Mau Ping	73	82	62
Kwun Tong	57	60	63
Yau Tsim	71	91	81
Mong Kok	49	51	41
Sham Shui Po	82	91	69
Kowloon City	98	69	80
Airport	5	1	1
Tai Po	77	111	182*
Frontier/Border	87	120	5*
Yuen Long	106	87	94
Tsuen Wan	87	86	72
Sha Tin	164	166	166
Kwai Tsing	50	54	70
Tuen Mun	143	116	144
Marine	30	18	9
CCB	0	1	0
Total	1 537	1 537	1 447

* As from June 1993, Sheung Shui Division was transferred from Frontier District to Tai Po District, and Frontier District was renamed Border District. Care should be taken when comparing figures of these districts.

Number of Detected ROBBERIES
Involving Juveniles and Young Persons

<i>Police district</i>	<i>No. of detected cases</i>		
	<i>1991</i>	<i>1992</i>	<i>1993</i>
Central	8	12	8
Wan Chai	26	24	26
Western	32	45	30
Eastern	107	81	48
Wong Tai Sin	47	49	75
Sau Mau Ping	74	104	57
Kwun Tong	63	43	75
Yau Tsim	35	40	71
Mong Kok	98	61	34
Sham Shui Po	98	108	81
Kowloon City	83	51	65
Airport	0	0	0
Tai Po	22	47	81*
Frontier/Border	26	21	5*
Yuen Long	78	53	43
Tsuen Wan	62	68	58
Sha Tin	162	120	103
Kwai Tsing	73	61	91
Tuen Mun	75	90	97
Marine	2	8	2
CCB	0	0	0
Total	1 171	1 086	1 050

* As from June 1993, Sheung Shui Division was transferred from Frontier District to Tai Po District, and Frontier District was renamed Border District. Care should be taken when comparing figures of these districts.

Number of Detected WOUNDINGS & SERIOUS ASSAULTS
Involving Juveniles and Young Persons

<i>Police district</i>	<i>No. of detected cases</i>		
	<i>1991</i>	<i>1992</i>	<i>1993</i>
Central	16	16	9
Wan Chai	26	23	24
Western	34	22	51
Eastern	60	48	45
Wong Tai Sin	65	46	51
Sau Mau Ping	67	65	76
Kwun Tong	46	37	51
Yau Tsim	34	46	63
Mong Kok	37	20	28
Sham Shui Po	34	51	40
Kowloon City	31	25	46
Airport	0	1	0
Tai Po	19	22	55*
Frontier/Border	13	20	2*
Yuen Long	43	44	33
Tsuen Wan	48	27	46
Sha Tin	75	61	64
Kwai Tsing	80	51	62
Tuen Mun	88	69	80
Marine	31	14	11
CCB	0	0	0
Total	847	708	837

* As from June 1993, Sheung Shui Division was transferred from Frontier District to Tai Po District, and Frontier District was renamed Border District. Care should be taken when comparing figures of these districts.

Number of Detected UNLAWFUL SOCIETY OFFENCES
Involving Juveniles and Young Persons

<i>Police district</i>	<i>No. of detected cases</i>		
	<i>1991</i>	<i>1992</i>	<i>1993</i>
Central	9	16	13
Wan Chai	24	19	25
Western	31	27	26
Eastern	77	79	35
Wong Tai Sin	15	42	56
Sau Mau Ping	59	73	46
Kwun Tong	69	43	134
Yau Tsim	20	12	10
Mong Kok	28	26	18
Sham Shui Po	22	85	45
Kowloon City	101	47	25
Airport	20	1	0
Tai Po	7	7	16*
Frontier/Border	29	11	0*
Yuen Long	24	32	31
Tsuen Wan	29	25	41
Sha Tin	31	207	78
Kwai Tsing	28	32	68
Tuen Mun	29	103	88
Marine	3	5	11
CCB	0	0	0
Total	655	892	766

* As from June 1993, Sheung Shui Division was transferred from Frontier District to Tai Po District, and Frontier District was renamed Border District. Care should be taken when comparing figures of these districts.

Number of Detected BURGLARIES
Involving Juveniles and Young Persons

<i>Police district</i>	<i>No. of detected cases</i>		
	<i>1991</i>	<i>1992</i>	<i>1993</i>
Central	4	5	10
Wan Chai	18	10	24
Western	36	19	51
Eastern	36	18	41
Wong Tai Sin	19	49	42
Sau Mau Ping	37	36	25
Kwun Tong	22	25	49
Yau Tsim	14	13	18
Mong Kok	13	16	14
Sham Shui Po	43	26	38
Kowloon City	27	22	21
Airport	0	0	0
Tai Po	18	25	11*
Frontier/Border	15	18	9*
Yuen Long	26	28	58
Tsuen Wan	49	20	43
Sha Tin	56	69	29
Kwai Tsing	30	45	53
Tuen Mun	45	44	71
Marine	34	13	25
CCB	0	0	0
Total	542	501	632

* As from June 1993, Sheung Shui Division was transferred from Frontier District to Tai Po District, and Frontier District was renamed Border District. Care should be taken when comparing figures of these districts.

Passenger departure tax

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

- (a) *of the reasons why the Financial Secretary has proposed a reduction in the airport passenger departure tax for the current financial year but not the departure tax payable by passengers travelling via local ferry terminals including the Macau Ferry Terminal and the China Ferry Terminal and so on; and*
- (b) *of the estimated revenue collected from the departure tax payable by sea passengers at present and the impact on the general revenue if such departure tax is to be reduced?*

SECRETARY FOR THE TREASURY: Mr President,

- (a) There is no departure tax for passengers leaving Hong Kong by sea equivalent to the Air Passenger Departure Tax on passengers departing by air. There is an embarkation fee payable by the owner of a ferry vessel in respect of each passenger embarking on the ferry vessel at a terminal. It is a fee based on the investment in providing and operating the marine ferry terminal facilities.
- (b) The estimated revenue from embarkation fees for 1994-95 is around \$288 million. The Administration considers that there is no case to reduce the current fee level which has not been adjusted since January 1993.

Hong Kong residents imprisoned in Thailand

19. MRS ELSIE TU asked: *Will the Government inform this Council:*

- (a) *Whether it is aware of the number of Hong Kong residents currently serving prison sentences in Thailand, and of the longest period any of them have remained in Thai prisons; and*
- (b) *how many Hong Kong residents have been transferred from Thai prisons to Hong Kong prisons in the past five years?*

SECRETARY FOR SECURITY: Mr President,

- (a) There are at present 117 Hong Kong residents serving prison sentences in Thailand. Of these, the longest serving prisoner has been in prison in Thailand since May 1979.
- (b) Thirteen prisoners have been transferred to Hong Kong prisons in the past five years.

First Reading of Bills

INLAND REVENUE (AMENDMENT) BILL 1994

DUTIABLE COMMODITIES (AMENDMENT) BILL 1994

GAMBLING (AMENDMENT) BILL 1994

SALE OF GOODS (AMENDMENT) BILL 1994

SUPPLY OF SERVICES (IMPLIED TERMS) BILL**UNCONSCIONABLE CONTRACTS BILL****CIVIL AVIATION (AIRCRAFT NOISE) (AMENDMENT) BILL 1994****ESTATE DUTY (AMENDMENT) BILL 1994****STAMP DUTY (AMENDMENT) BILL 1994****BUSINESS REGISTRATION (AMENDMENT) BILL 1994****MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 1994**

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

Second Reading of Bills**INLAND REVENUE (AMENDMENT) BILL 1994**

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

He said: Mr President, I move that the Inland Revenue (Amendment) Bill 1994 be read the Second time.

The Secretary for the Treasury and I will be introducing six Bills this afternoon to give effect to some of the revenue-related proposals in this year's Budget. This is the first in the series. As these proposals have been fully covered in my Budget speech and the Second Reading debate on the Appropriation Bill 1994, we shall keep our introduction to the Bills brief.

The Bill now before Members seeks to make some major concessions in respect of salaries tax and corporate profits tax with effect from the 1994-95 year of assessment.

Clauses 2, 4 and 5 introduce a new allowance in respect of dependent grandparents resident in Hong Kong for whom no dependent parent allowance is claimed.

Clause 6 of the Bill reduces the top marginal tax rate from 25% to 20%.

Clause 7 of the Bill amends the Fourth Schedule of the Ordinance in order to increase substantially various salaries tax allowances and to set the level of the new dependent grandparent allowance. Specifically, the basic allowance and the married person's allowance will go up by about 28% to \$72,000 and \$144,000 respectively, while allowances for dependent children, dependent parents and single parents will be increased by about 18%.

As I indicated in my Budget speech, the combination of these salaries tax concessions will result in reduced tax bills for 1 130 000 salaries taxpayers; and another 420 000 taxpayers will fall out of the tax net altogether.

Clause 8 of the Bill reduces the corporate profits tax rate from 17.5% to 16.5%, thus restoring it to the pre-1992 level. This measure is intended to enhance Hong Kong's competitiveness as a regional business centre.

We estimate that the total cost to general revenue of the concessions covered by this Bill will be \$4.8 billion in 1994-95 and \$30.7 billion up to 1997-98.

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

DUTIABLE COMMODITIES (AMENDMENT) BILL 1994

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to amend the Dutiable Commodities Ordinance."

He said: Mr President, I move that the Dutiable Commodities (Amendment) Bill 1994 be read the Second time.

This Bill has two main purposes. First, it introduces a full *ad valorem* duty system for alcohol — a simpler and fairer system than the old one. Under the proposal, all alcoholic beverages and other ethyl alcohol products will be classified into three broad categories for duty purposes by reference to their alcoholic strength and ingredients. The duty charged, being *ad valorem* in nature, will be commensurate with the value of a product. This rectifies an anomaly under the old system whereby the duty payable on a cheaper product was higher relative to its cost than a product at the upper end.

The new system is also more clearly non-discriminatory and compatible with the GATT principles of non-discrimination and national treatment. We have now done away completely with the previous distinction between European-type and Chinese-type liquors. Moreover, the proposal to calculate *ad valorem* duty on the export price of an imported product and the ex-manufacturer price of a local one will have the effect of creating an even more level playing field for these two types of products. We are in discussions with the local beer industry to ensure that this will in fact be the result.

As a result of the proposed reform measure, a broad range of alcoholic beverages at the cheaper end of the market will enjoy a duty reduction. Products at the higher end of the market will be required to pay more in duty. It seems to us fairer than the previous system.

The Bill before Members also seeks to increase the specific duty on hydrocarbon oils by 8.5% in line with inflation. I should reiterate that this is intended merely to maintain the real value of the duty. Failure to do so would only add extra pressure on our congested roads.

The introduction of a full *ad valorem* duty system for alcoholic beverages and ethyl alcohol is revenue neutral in overall terms. The adjustment to the specific duty on hydrocarbon oils will not affect our revenue forecasts since they are not increases in real terms.

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

SALE OF GOODS (AMENDMENT) BILL 1994

THE SECRETARY FOR TRADE AND INDUSTRY moved the Second Reading of: "A Bill to amend the Sale of Goods Ordinance."

He said: Mr President, I move the Second Reading of the Sale of Goods (Amendment) Bill.

This Bill, together with the Supply of Services (Implied Terms) Bill and the Unconscionable Contracts Bill which I will move later today, seeks to implement recommendations made by the Law Reform Commission for the better protection of consumers.

At present, the Sale of Goods Ordinance provides that in contracts for the sale of goods, there should be an implied condition that the goods are of merchantable quality. The basic criterion for assessing merchantability is that the goods must be reasonably fit for the purpose for which goods of that kind are commonly bought. The Amendment Bill seeks to provide four additional criteria to better define merchantable quality. They include the appearance and finish of the goods, their freedom from defects, durability and safety.

We believe that these four additional criteria for assessing merchantable quality represent a fair summary of what a buyer can reasonably expect with regard to the quality of the goods. Once introduced, they will enhance the awareness of suppliers as to their obligation to ensure the merchantability of their goods. They will also provide guidelines to consumers and the Court in deciding whether any particular goods are of merchantable quality.

The Bill also provides that, in a consumer contract, if the consumer has not been offered a reasonable opportunity to examine the goods, he is not deemed to have accepted the goods by the mere signing of an acceptance note. We hope to discourage the practice among sellers of treating the acceptance note signed by a consumer as reflecting acceptance of the goods.

With the proposed amendments, we hope to provide clearer guidelines as to the rights and obligations of the parties to a contract for the sale of goods.

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

GAMBLING (AMENDMENT) BILL 1994

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

He said: Mr President, I move the Second Reading of the Gambling (Amendment) Bill 1994.

The Bill deals with two separate aspects of the Gambling Ordinance. First, mahjong playing as social recreation in licensed restaurants and clubs; and secondly participation in foreign lotteries promoted, conducted and managed outside Hong Kong.

Since the Gambling Ordinance was last amended in 1977, mahjong playing amongst friends in licensed restaurants and premises of social clubs, which are basically lawful societies sanctioned under the Societies Ordinance, has been allowed.

After the amendment of the Societies Ordinance in 1992, societies are no longer required to register with the Commissioner of Police. The registration requirement under the original Ordinance was replaced by a notification requirement which no longer has any bearing on the legality of a society. As such, there is no way to tell whether a society is a lawful society for the purpose of the Gambling Ordinance.

The Clubs (Safety of Premises) Ordinance was enacted in 1991 to regulate the safety of club premises. The licensing regime under this Ordinance requires the *bona fides* of clubs to be verified and properly established. As such it provides a better objective criteria in this particular respect than the amended Societies Ordinance. It is, therefore, proposed to amend the Gambling Ordinance so that lawful gaming is permitted in licensed restaurants or in clubs licensed under the Clubs (Safety of Premises) Ordinance.

To further regulate the operation of mahjong playing in licensed clubs and restaurants, it is proposed that management or employees of such establishments shall not be allowed to participate in mahjong game played by clients on the

premises. This is to prevent the operators from making profit in so doing. Clause 3 of the Bill amends section 3 of the Ordinance to achieve the above-mentioned purposes.

Regarding lotteries, Hong Kong residents at present can lawfully participate in local Mark Six Lottery and the foreign lotteries from those countries specified in the Fourth Schedule to the Gambling Regulations. The Fourth Schedule comprises 10 countries. It was made in 1977. The intention has been that more countries would be added onto the Fourth Schedule as and when necessary. However, in practice, it has not proved possible to devise objective criteria to determine which countries should be included in the Fourth Schedule to the exclusion of the others. We propose to repeal the Fourth Schedule so that all foreign lotteries would be put on an equal footing and would be subject to control under the Gambling Ordinance. We also propose to fine tune existing arrangements for Hong Kong residents to participate in foreign lotteries promoted, conducted and managed outside Hong Kong.

Clause 2 of the Bill amends the definition of lottery to include foreign lotteries which will be made subject to the control of the Gambling Ordinance. Clause 4 amends Section 11 of the Ordinance so that it shall not be unlawful to buy a ticket or to be in possession of a ticket in a foreign lottery. Clause 5 removes the offence of advertising a foreign lottery in a publication imported into Hong Kong. It is not considered appropriate and practicable to censor such publication for such a purpose.

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

SUPPLY OF SERVICES (IMPLIED TERMS) BILL

THE SECRETARY FOR TRADE AND INDUSTRY moved the Second Reading of: "A Bill to consolidate and amend the law with respect to the terms to be implied in contracts for the supply of services."

He said: Mr President, I move the Second Reading of the Supply of Services (Implied Terms) Bill.

This Bill is based on recommendations made by the Law Reform Commission. It seeks to codify some common law principles regarding contracts for the supply of services.

Under the Bill, a supplier of services is obliged to provide those services with reasonable care and skill and within a reasonable time. On the other hand, the buyer is required to pay a reasonable charge. We hope that with the codification of these common law principles, there would be greater clarity and overall consistency in their application.

Parties to non-consumer contracts will be allowed to waive or vary these statutory obligations by mutual agreement. By so doing, we hope to strike a balance between protecting consumers and minimizing interference with commercial transactions.

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

UNCONSCIONABLE CONTRACTS BILL

THE SECRETARY FOR TRADE AND INDUSTRY moved the Second Reading of: "A Bill to empower courts to give relief in certain contracts found to be unconscionable."

He said: Mr President, I move the Second Reading of the Unconscionable Contracts Bill.

We believe that there is a need for legislation to protect consumers from unconscionable contract terms. The Bill seeks to empower the Court to rewrite or strike down unconscionable terms in consumer contracts. It provides judicial guidelines for the Court in determining unconscionability and in exercising its powers.

We believe that the Courts are in a position to grant the necessary relief to consumers, after taking into account the circumstances in which a consumer enters into a contract and the nature of that contract. Under the Bill, the Courts will have the following powers:

First, to refuse to enforce the contract;

Second, to enforce the remainder of the contract without the unconscionable part; and

Third, to revise, alter or limit the application of any unconscionable part of the contract.

The judicial guidelines for determining whether a contract term is unconscionable include:

First, the relative strengths of the bargaining positions of the consumer and the seller;

Second, whether the consumer was required to comply with conditions that were not reasonably necessary for protecting the legitimate interests of the seller;

Third, whether the consumer was able to understand any documents relating to the supply of the goods or services;

Fourth, whether the consumer experienced undue influence, pressure, or any unfair tactics against him; and

Fifth, the amount for which, and the circumstances under which, the consumer could have acquired identical goods or services from another seller.

There will be a one-year grace period after enactment of the Bill to enable the business community to consider their use of contracts in the sale of goods and supply of services to consumers and to make any necessary changes.

We hope that the enactment of this Bill, together with the Sale of Goods (Amendment) Bill 1994 and the Supply of Services (Implied Terms) Bill which I have just moved in this Council, will help strengthen the bargaining position of small consumers.

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

CIVIL AVIATION (AIRCRAFT NOISE) (AMENDMENT) BILL 1994

THE SECRETARY FOR ECONOMIC SERVICES moved the Second Reading of: "A Bill to amend the Civil Aviation (Aircraft Noise) Ordinance."

He said: Mr President, I move that the Civil Aviation (Aircraft Noise) (Amendment) Bill 1994 be read the Second time.

The Civil Aviation (Aircraft Noise) Ordinance specifies provisions to control the emission of noise by aircraft using our airport. Under this Ordinance, only subsonic jet aircraft in possession of recognized noise certification, or other documentary evidence indicating compliance with the noise control emission standards specified in Chapter 2 of Annex 16 to the Convention on International Civil Aviation, are permitted to land or take off at our airport at Kai Tak.

In line with measures adopted in a number of other territories, notably the countries of the European Union and in accordance with guidelines issued by the International Civil Aviation Organization (ICAO) we intend to implement a progressive phasing out of the older and more noisy models of aircraft from operating to or from Hong Kong. The Bill before Honourable Members proposes amendments to the principal Ordinance and its subsidiary legislation which, among other things, will enable the Governor to require aircraft using our international airport to comply with the more stringent standards. In practice, only newer and more modern aircraft types can meet these specifications.

The more stringent provisions to be provided for in the amended Bill will be applied immediately to Hong Kong registered aircraft. While all aircraft currently on the Hong Kong register are able to comply with the proposed more stringent standards, introduction of compulsory compliance is considered necessary. As other countries tighten their noise control legislation, owners of older aircraft which do not meet the more stringent standards may seek out territories or jurisdictions where they can continue to register such aircraft. The proposed amendment will ensure that Hong Kong does not become a potential dumping ground for older, noisier aircraft.

In due course, the stricter noise control standards specified in the Bill will be extended to all foreign registered subsonic jet aircraft using our airport. In accordance with ICAO guidelines this second phase of implementation will take effect from a date after April 1995.

Currently some 10% of the aircraft operating at Kai Tak on a regular basis do not meet the standards we intend to set. We believe that application of the provisions in this Bill will bring about a progressive reduction in the noise disturbance caused by aircraft operating at the airport.

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

PRESIDENT: Secretary for Treasury, you have four Bills to move. If you wish, you can progress right through them.

ESTATE DUTY (AMENDMENT) BILL 1994

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

He said: Mr President, I move that the Estate Duty (Amendment) Bill 1994 be read the Second time.

The Bill before Members adjusts the schedule of asset values for assessing estate duty so as to reduce the impact of the tax on relatively small estates. The exemption level for estate duty will be raised from \$5 million to \$5.5 million and the rates of duty payable on estates valued between \$5.5 million and \$7.5 million will be reduced.

In addition, the Bill introduces three other concessions. Clause 3 increases the exemption limit for gifts made by a deceased person within three years before the date of death from \$100,000 to \$200,000. Clause 4 excludes the value of the matrimonial home when determining the aggregate value of an estate for duty purposes. Finally, clause 5 increases the allowance for funeral expenses incurred in Hong Kong from \$10,000 to \$50,000.

The estimated cost of these measures to general revenue will be \$85 million in 1994-95 and about \$425 million up to 1997-98.

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

STAMP DUTY (AMENDMENT) BILL 1994

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

He said: Mr President, I move that the Stamp Duty (Amendment) Bill 1994 be read the Second time.

This Bill seeks to adjust the rates of stamp duty payable on lower and medium-value flats. For properties with a value not exceeding \$500,000, a fee of \$100 will be payable. Above this level, stamp duty will be charged according to a sliding scale, subject to marginal relief. The threshold at which the 2.75% rate begins to apply will be raised from \$1.5 million to \$3 million. We estimate that some 100 000 properties will benefit from this tax concession. The cost of this measure to general revenue will amount to about \$810 million in 1994-95 and \$3.9 billion up to 1997-98.

The Bill also seeks to make a technical amendment. To facilitate the delivery of notices under the Stamp Duty Ordinance, clause 2 of the Bill empowers the Commissioner of Inland Revenue to issue such notices by ordinary mail other than registered mail.

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

BUSINESS REGISTRATION (AMENDMENT) BILL 1994

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

He said: Mr President, I move that the Business Registration (Amendment) Bill 1994 be read the Second time.

The Bill seeks to double the business registration fee from \$1,000 to \$2,000. This proposal has the beneficial effect of broadening our tax base and thus contributing to the stability of our revenue.

To provide relief to business with a small turnover, the Bill also increases the levels below which payment of business registration fee is exempt. A business will be exempt from the fee if its average monthly sales do not exceed \$15,000; or where the business consists of rendering services, if its average monthly receipts do not exceed \$4,000.

Clause 6 empowers the Financial Secretary to revise minor fees and penalties payable under the Ordinance. In line with the usual practice, we shall table subsidiary legislation giving effect to future fee revisions before the Legislative Council.

Similar to a proposed amendment to the Stamp Duty Ordinance which I moved just now, clause 7 of the present Bill empowers the Commissioner of Inland Revenue to issue notices under the Business Registration Ordinance by ordinary mail other than registered mail.

The increase in business registration fee will generate additional revenue of \$700 million in 1994-95 and \$3.4 billion up to 1997-98.

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

MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 1994

THE SECRETARY FOR THE TREASURY moved the Second Reading of: "A Bill to amend the Motor Vehicles (First Registration Tax) Ordinance."

He said: Mr President, I move that the Motor Vehicles (First Registration Tax) (Amendment) Bill 1994 be read the Second time.

The Bill seeks to exempt electric vehicles registered within three years from 1 April 1994 from first registration tax. Electric vehicles are currently more expensive than fuel-engined ones because of high development costs and low production levels. To underline the Government's resolve to promote environmentally friendly uses, the proposed exemption seeks to make electric vehicles more attractive by reducing their initial purchase cost. We hope that this will provide an impetus for more wide-spread use of these environmentally-friendly vehicles on our roads.

We shall assess the benefits of this concession towards the end of the three-year period to see whether it should be extended.

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

BEDSPACE APARTMENTS BILL

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

Question on Second Reading proposed.

MR JAMES TO (in Cantonese): Mr President, a fire broke out in a bedspace apartment at Nam Cheong Street several years ago. This incident has aroused widespread concern about the safety of these apartments. The Bill before us today seeks to establish a licensing scheme to regulate the fire and building safety of bedspace apartments (or the so-called "caged accommodation"). The scheme is to be administered by the Secretary for Home Affairs constituted as the Bedspace Apartments Authority. Upon enactment of the Bill, an exemption period of up to two years will be given to enable the Authority to inspect all existing bedspace apartments and to advise the operators in writing on the improvement works required for licensing purpose and to enable the operators to carry out such works.

In order to comply with the licensing requirements, some bedspace apartments will have to reduce the number of existing bedspaces. In this connection, the Administration estimates that about 400 bedspaces will have to be given up, and the affected lodgers will be displaced and will need to be rehoused. The Administration will ensure that all displaced lodgers would be assisted in rehousing.

The Social Welfare Department will assist those affected lodgers aged 60 and above and the disabled through compassionate rehousing, residential care facilities for the elderly or hostels for single persons.

Those displaced lodgers not within the Social Welfare Department's purview will be eligible for admission into the singleton hostels established by the City and New Territories Administration (CNTA).

A Bills Committee, of which I am the Chairman, was set up last year to study the Bill. The Bills Committee has received representations from the Sham Shui Po District Board's Working Group on Bedspace Apartments, the Society for Community Organization, the Kei Oi Social Service Centre and other concerned groups. The Bills Committee held 11 meetings and met with representatives of the above bodies and with some representatives of bedspace apartment operators and lodgers.

The major points of concern made by the representatives and the issues raised for discussion with the Administration by the Bills Committee are grouped as follows:

- (1) More efforts should be made by the authorities concerned to advise the bedspace apartment lodgers of the details and the requirements of compassionate rehousing and other social welfare assistance schemes so that they could make full use of such services. Publicity should be stepped up so that qualified lodgers could submit their applications and be rehoused as soon as possible.
- (2) The Government should build new annexes to public housing blocks or renovate flats in public housing estates to increase the provisions

of public housing units for single persons in the urban area. Open areas on the ground floor of urban public housing estates should be used to build more units and additional land should be made available to the Housing Authority or the Housing Society to provide more accommodation for the elderly. The number of single person hostels in each district should be in proportion to the number of bedspace apartment lodgers affected by the Bill.

- (3) All hostels or staff quarters accommodating 12 persons or more should be subject to legislative control. Hostels accommodating up to 11 persons should be subject to regular inspection by the Fire Services Department.
- (4) Effective measures should be taken to freeze the number of existing bedspace apartments. New bedspace apartments and hostels set up after the two-year grace period should be partitioned into small bedrooms to enhance privacy and sense of security of the lodgers. Such apartments had proved to be attractive to the lodgers. The minimum living space for each bedspace apartment lodger should be specified and only those bedspace apartments meeting the requirement of the minimum provision of living space could be granted licences. Voluntary agencies should be encouraged to provide outreach services for the lodgers.
- (5) The implications of the introduction of the proposed legislation, for example, rent increases and the forced eviction of some of the lodgers should not be solved by the landlords and operators themselves. The Administration should rehouse all the existing lodgers in bedspace apartments.
- (6) The Administration should consider purchasing some of the existing bedspace apartments for the introduction of the improvement measures.
- (7) The special needs of the lodgers should be taken care of. Most of these people are old and weak, without any stable income and lacking family support. To rehouse them from the urban areas to the rural districts would land them in great difficulties. They would find the transportation fees high and the community support service insufficient. The Government therefore should try its best to rehouse them in the urban areas.
- (8) The Government should consider introducing a scheme of rent subsidies to the existing lodgers who would remain in the bedspace apartments after the implementation of the licensing controls on bedspace apartments to meet the increased rent.

Of the 11 meetings of the Bills Committee, the Administration has participated in nine of them. Most of the discussions were concentrated on the necessary improvements related to the fire and building safety requirements of bedspace apartments. An agreement has finally been reached on the following principles between the Bills Committee and the Administration:

- (1) Although the CNTA does not have its own resources to resolve the rehousing problems, efforts will be made with the assistance of the Housing Department and the Social Welfare Department to rehouse about 1 600 of the existing 3 200 lodgers. The Administration undertakes that no one will be rendered homeless as a result of the implementation of the licensing scheme.
- (2) At present, the CNTA has already obtained the information and personal particulars of about 80% of the existing lodgers in the bedspace apartments. Efforts will continue to be made to gather the information of the remaining 20%. Lodgers who are established to be living in bedspace apartments on 1 January 1994 will be covered by the rehousing exercise mentioned in subparagraph (1) above. Lodgers who are not included in the register, but who can produce reasonable evidence, that they were living in bedspace apartments on the cut-off date of 1 January 1994, will be eligible for consideration for rehousing.

In the course of the clause-by-clause examination of the Bill, the following areas of concern were raised and amendments to the Bill agreed by the Bills Committee and the Administration will be introduced at the Committee stage:

- (1) Clause 26 of the Bill empowers the Authority to suspend appeals against decisions of the Authority to the Appeal Board. The Administration explained that it aimed to cater for circumstances whereby any suspension of the Authority's decision would impose a threat to public safety. Members suggested that unless there was immediate threat to public safety, the normal appeal procedures should be allowed. The Administration agreed to move an amendment to this clause to spell out more clearly the circumstances under which such power was to be exercised.
- (2) New clause 30A — Members were concerned that security of tenure provisions in the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) would render it impossible for operators of bedspace apartments to comply with safety requirements under the proposed licensing scheme. The Administration agreed with the concern of Members and proposed a new clause 30A to deal with cases where bedspaces had to be removed in compliance with conditions imposed by the Authority. The application of the relevant provisions conferring security of tenure on tenants under the Landlord and

Tenant (Consolidation) Ordinance would be excluded under such circumstances.

- (3) Clauses 32(4) and 34(5) — The Administration proposed and Members agreed that the proposed penalties for breach of conditions in the certificate of exemption, would be reduced by half to reflect the relative gravity of the offences under these clauses and those of operating a bedspace apartment without a licence under clause 5.

Apart from the necessary amendments arising from discussions mentioned above, the Administration has also agreed to some minor and technical amendments including clearer definitions for "bedspace", "bedspace apartment", "flat" and "rental agreement" and so on and also a consequential amendment to the Hotel and Guesthouse Accommodation Ordinance to exclude its application to premises under the control of this Bill. The above proposed amendments will be moved by the Administration and myself later at the committee stage.

With the enactment of the Bill and the introduction of the licensing scheme, it is hoped that bedspace apartment lodgers will have safer homes to live in and those displaced will receive early rehousing assistance through the relevant departments of the Administration.

Mr President, I would like to take this opportunity to thank Members for sparing their time in participating in the lengthy meetings and for the efforts they have made in gathering the necessary information. I would also like to thank the authorities concerned which finally agreed to rehouse half of the number of the caged bedspace apartment lodgers.

With these remarks, I commend the Bedspace Apartments Bill to the Members on behalf of the Bills Committee.

MR LEE WING-TAT (in Cantonese): Mr President, what is the time limit on speeches for the Second Reading debate?

PRESIDENT: There is no recommendation by the House Committee limiting length of speeches, Mr LEE, so any Member has the full 15 minutes within Standing Orders.

MR LEE WING-TAT (in Cantonese): Mr President, I would like to talk about the background and the spirit of the Bedspace Apartments Bill. The Bill will be read the Second and Third time in this Council today. The official responsible for the Bill is the Secretary for Home Affairs. One cannot help but ask: Why should the problem of caged bedspace apartments be dealt with by the Secretary for Home Affairs and not the Secretary for Planning, Environment and Lands?

The answer is shown by the Government's approach to this problem. The Government thinks that it is neither a housing issue nor a re-housing issue but an issue involving the fire and building safety of the bedspace apartments. Essentially, the Bill does not seek to solve the housing problem of bedspace apartment lodgers.

During the first several meetings of the Bills Committee, Mr LO Chi-wai, a representative of the City and New Territories Administration (CNTA), reiterated (at least 10 times) that the purpose of the Bill was not to deal with the re-housing of bedspace apartment lodgers but to make improvements in the areas of fire prevention and building safety.

I think the Government's policy on this issue is wrong. I urge the Government to undertake a comprehensive review of its policy towards bedspace apartment lodgers, including the re-housing of these lodgers. Why do I say that Government's policy is wrong? One reason is that the Government has never put bedspace apartment lodgers on the waiting list for re-housing. At present, only squatters, residents of temporary housing areas or residents affected by redevelopment clearance are eligible for re-housing. They will be re-housed gradually. Those who are not on the waiting list will not be re-housed no matter how appalling their living conditions are. Under the Housing Authority's housing allocation policy, priority will be given to those people who fall into the category of "committed demand."

From newspaper and media reports, we all know how wretched the living environment of bedspace apartment lodgers is. There is no partition between the bed spaces. The lodgers have no privacy at all. The so-called living space is one deck of a triple-deck bunk bed fenced off with wire meshes. That is why we call these people "caged lodgers". Their living conditions are slightly better than street sleepers. There are now between 4 000 and 6 000 such lodgers in Hong Kong. However, neither the Housing Authority nor the Government has ever given any thought to re-housing them. Meanwhile, the Housing Authority allocates over 5 000 public housing units to civil servants annually. How very fortunate these civil servants are compared with the bedspace apartment lodgers! There is a world of difference between these two groups of people insofar as the housing benefit is concerned.

The Housing Authority has made an upward adjustment of 8.5% when revising this year's income limit for applicants. But property prices and rents in the private sector have surely gone up by more than 8.5% in this period. We often hear officials of the Housing Authority say that the income limit must not be raised sharply because of insufficient resources. Or else, more people will become eligible for public housing and the Housing Authority will not be able to cope with the increasing demand. Well then, why can we not commit more resources and build more units to re-house these people? The Government is actually resorting to the method of keeping the demand low. It is bringing supply and demand in balance by keeping the waiting list shorter than it should be. The bedspace apartment lodgers are the most neglected of all!

Some bedspace apartment lodgers often tell me that their re-housing prospect depends mainly on who the developer will be. If the developer happens to be the Land Development Corporation or the Housing Society, then they will probably be re-housed in the nearby rental flats or in far-away rental flats owned by the Housing Authority. If the developer happens to be a private one, who has no obligation under existing law to find alternative accommodation for evicted tenants, the affected lodgers will normally be paid a few thousand dollars — or, if he is lucky, \$10,000 — in compensation. However, it is difficult for them to find a bed space in a nearby location with the same rent as before. Some of them will end up sleeping in the street.

Honourable Members, can we continue to tolerate the existence of the bedspace apartments? Can we continue to tolerate the appalling living conditions in which 10 to 20 bunk beds are placed close to one another? Has the Government taken a square look at the problem? Does the Government not consider it to be disgraceful? The Government said in his policy address that all hill-side squatter huts would have disappeared by 1995-96. By the end of 1996, there will be no more people living in hill-side squatter huts. Why did he not also promise to solve the problem of bedspace apartments by 1997? Why has the Secretary for Planning, Environment and Lands not said anything about the problem?

When the Bill was being scrutinized, I stressed on several occasions that the Bill only served the purpose of "patching" and it would not fully solve the problem. I suggested that the Government should consider solving the problem of bedspace apartments in the same way as it did in the case of the hill-side squatter huts. I remember that the Housing Department had conducted a large-scale registration of hill-side squatter huts in 1984-85. Then the number of squatter huts was frozen. A 10-year plan was drawn up and all hill-side squatter huts would be cleared gradually. By the end of 1996, there will be nobody living on these dangerous slopes. Why can the Government not deal with the problem of bedspace apartments in the same way?

I suggest that the Government should, first of all, register all of bedspace apartment lodgers in the territory. The City and New Territories Administration (CNTA) has in fact already done so. This is a step towards freezing the number of bedspace apartment lodgers. Next, all registered lodgers will be put on the Housing Authority's waiting list. Thirdly, these 4 000 to 6 000 lodgers should be re-housed by and by, with priority given to elderly singletons, the mentally ill, the disabled, the senile and the destitute.

We often say proudly that Hong Kong ranks tenth in the world's strongest economy. We are spending \$200 billion to build a new airport. The Government spends more than \$100 billion annually. Why are we hesitant and indecisive about the problem of bedspace apartments? Why are we tolerating the continuation of the problem? I hope that the Government will give some thought to whether we should make policy changes to cause this disgraceful problem to disappear.

Mr President, lastly, I would like to talk about the problem of resources. The Government reiterates that it does not have sufficient resources. But the truth is not so. The reclamation projects in West Kowloon will yield 323 hectares of land. One-third of this will be reserved for the construction of the West Kowloon Highway and related projects. But only 13.25 hectares, or 4%, will be for the construction of public housing. How can we solve the problem of over-crowded living conditions in Mong Kok, Yau Ma Tei, Tsim Sha Tsui and To Kwa Wan when the supply of land is so little? The redevelopment of the Kai Tak Airport site and the Kowloon Bay reclamation projects will yield 570 hectares of land by the year 2000. Again, a small portion, only 44 hectares, will be made available to the Housing Authority for the construction of public housing. I would like to ask the Secretary for Planning, Environment and Lands if this is the correct approach to solve the problem? When the Government sells land to private developers, does it think of those who are living in the bedspace apartments and tenement buildings with only wooden board partitions between cubicles? They have no privacy at all. Does the Government care about the needs of these people? With these 13 hectares and the subsequent 44 hectares of land, we can probably build 40 000 public housing units which, compared with the acute shortage of housing, are like a drop in the ocean. I urge the Government to raise sharply the proportion of land made available for the construction of public housing in the two said locations. I also hope that the Secretary for Planning, Environment and Lands will allow the Housing Authority and the Housing Society to use their discretion to raise housing density so that more units may be built on the same acreage of land.

As far as I know, the Government has recently made some positive moves. A working group led by Mr HUI Yin-fat has identified four or five small plots of land for building homes for elderly singletons. This will solve the housing problem for 7 000 of them. But I would like to tell the Government that 50 900 homes of this kind will be needed between 1994-95 and 1998-99. What are we to do about the housing problem for the other 40 000-plus elderly singletons? I very much hope that the Government will do some careful thinking. Whom should our housing and land policies serve? Property developers or people with pressing housing needs?

When the Government unveils its measures against property speculation in June/July, I do not want to hear it say how it is helping private developers to build more homes. I want to hear it say that it is taking practical steps to help those who are living in a wretched environment — for example, those living in bedspace apartment — to move into public housing.

SECRETARY FOR HOME AFFAIRS: Mr President, I am grateful to the Honourable James TO and his colleagues on the Bills Committee to study the Bedspace Apartments Bill for their wise counsel and the time they have spent in examining the Bill.

The Bill introduces a statutory licensing regime to regulate the fire and building safety of bedspace apartments. Bedspace apartments are premises which comprise bedspaces and which cater for the needs of people who are less well-off and hence opt for a more basic type of accommodation which is more affordable. The living conditions in these apartments have often been overlooked and occupants are exposed to greater fire and safety risks. Upon full implementation of the licensing scheme, occupants will live in vastly less overcrowded conditions which also meet both the fire and building safety standards.

As mentioned by both the Honourable James TO and the Honourable LEE Wing-tat, Members of the Bills Committee have spent considerable time in discussing the re-housing of bedspace apartment lodgers. I would like to confirm to this Council that the Government will continue to assist lodgers of bedspace apartments with re-housing in public housing or hostels and that no one will be rendered homeless as a result of the implementation of this scheme. The Social Welfare Department is responsible for processing applications for compassionate re-housing and admission into welfare institutions. Those lodgers who are outside Social Welfare's purview may apply for admission into singleton hostels of the City and New Territories Administration. We will step up publicity to make sure that lodgers are fully aware of the way of assistance offered. Due mainly to government efforts the population in bedspace apartments has now decreased to 3 020 compared to 4 000 in 1990-91. The Government has committed to assist about half of the existing lodgers to be re-housed either in public housing or welfare institutions or hostels. At the end of the day, we do see the number of lodgers in bedspace apartments which are fully licensed and renovated to conform to our standard of fire and building safety being reduced to around 1 600.

Members of the Bills Committee have given meticulous attention to the scrutiny of the Bill, as a result some Committee stage amendments will be introduced later on. I wish also to thank the Law Draftsman for his unfailing support without which this legislative process would have taken much longer to complete.

Mr President, I recommend the Bedspace Apartments Bill to Honourable Members.

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

Bill read the Second time.

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

WASTE DISPOSAL (AMENDMENT) BILL 1993

Resumption of debate on Second Reading which was moved on 27 October 1993

Question on Second Reading proposed.

MR ANDREW WONG (in Cantonese): Mr President, the Livestock Waste Control Scheme enacted in 1987 prohibited livestock keeping in the urban areas in Hong Kong and Kowloon and in the new town areas and laid down a phased control scheme providing that livestock farmers who operate in the Control Areas must comply with the specified discharge standards and regulations relating to waste disposal. Besides, farmers are entitled to a capital grant and to a low-interest loan to meet the costs for the installation of waste disposal facilities. The farmers who decided to close their operation would be entitled to an *ex gratia* allowance.

Due to the objections from farmers of the livestock trade, the authority concerned agreed that the controls would be implemented only in the areas covered by the first stage of the Scheme's first phase, namely Tolo Harbour, Mui Wo and Angler's Beach, and not in other Control Areas until a review of the Scheme was completed. The review was completed in 1993 and the revised Scheme includes the following four points:

- (1) a farm licensing scheme is to be introduced to improve control over livestock keeping;
- (2) the Prohibition Areas are to be expanded to avoid situation of incompatible land uses. However, existing livestock farms in operation will be exempted from this requirement and allowed to continue their operation. These areas will be called Restriction Areas. In other words, there will be three kinds of areas, namely Prohibition Areas, Restriction Areas and Control Areas;
- (3) the discharge standard for Biochemical Oxygen Demand and Suspended Solids Discharge (BOD:SS) will be improved in phases with a view to attaining the ratio of 50:50; and
- (4) the level of capital grant will be increased substantially to assist farmers to install waste treatment facilities.

The Waste Disposal (Amendment) Bill 1993 and the Public Health (Animals and Birds) (Amendment) Bill 1993 provide for respectively the strengthening of control over livestock farms, livestock waste disposal and

regulation of the livestock trade. These two Bills have only dealt with points (1) and (2) above, namely the licensing system and the expansion of the Prohibition Areas. The third point, that is, the phased improvement of the discharge standard, can only be provided for by the rules to be submitted to this Council (that is, subsidiary legislation). As regards the fourth point, the Finance Committee of this Council has already approved last year the increase of capital grant for the installation of basic waste treatment facilities. The rate for pig farmers, for example, has been increased from \$120 per sq m to \$225 per sq m.

These two Bills were submitted to this Council on 27 October 1993, and a Bills Committee composed of eight Members was subsequently formed to examine the Bills. The Committee started its work on 8 December and have convened nine meetings, of which seven are with the Administration, and visited three livestock farms. The Committee has also examined 10 representations submitted by representatives of pig, chicken, dairy cattle and racing pigeon farmers and had meetings with them. As the chairman of the Bills Committee, I would like to take this opportunity to express my gratitude to the Committee Members for the time and effort they spent on the discussion. I must also thank the Administration for its co-operation and all the relevant bodies for their views and participation in the scrutinizing work of the Committee.

Mr President, I will now briefly outline the main points discussed by the Bills Committee.

First, on the licensing system, a major issue that has been discussed thoroughly. Under the proposed licensing system, all livestock farmers are required to apply to the Director of Agriculture and Fisheries, according to a schedule to be laid down by the prospective rules, for livestock keeping licences. A licence will be issued if the Director is satisfied that a proper waste treatment system capable of attaining the appropriate discharge standard has been installed and other licensing conditions have been complied with. To enable farmers to gain experience in operating the new treatment facilities effectively, they will be allowed to meet the 50:50 discharge standard in phases over a three-year period from the granting of licence. In technical terms, the BOD:SS discharge standard for all farms will be set initially at 250:250 milligrams per litre. This standard will then be revised to 100:100 and ultimately to 50:50.

Certain bodies consider that the proposal for the licensing system should be withdrawn and should not be implemented. They consider that the various waste treatment systems such as the pig-on-litter method are not cost-effective and the 50:50 discharge standard is difficult to comply with. These bodies worry that if the licensing system is approved and implemented in its proposed form, the livestock trade will suffer a very heavy blow and most of the farms will have to be closed. They have suggested that the authority concerned should unconditionally grant licences to all the existing farmers and give them a grace period such that they can gradually improve their waste treatment systems.

The Administration has explained that the pollution caused by untreated livestock waste emitting from the existing livestock farms is equivalent to that caused by one million people, and this kind of livestock waste is one of the main sources of organic pollution in Hong Kong. The proposed licensing system can effectively ameliorate the situation, while farmers can freely choose to use any type of waste treatment system. Private farms may not necessarily use the pig-on-litter method as they may choose to use the dry muck-out method or other combined methods. The demonstration project on private farms has already proved the technical feasibility and the attainability of the required 50:50 discharge standard. Although many farmers think that they may not be able to attain the required standard due to the technical difficulties and low cost-effectiveness, the phased implementation of the Scheme in a three-year period will give farmers sufficient time to acquire the experience for operating the waste treatment systems. It is difficult to predict now the Scheme's impact on the livestock trade, but the Administration is quite optimistic that the farms concerned can adapt to the new control measures, and predicts that after the implementation of the licensing system, about 1 300 of the 4 000 existing livestock farms will continue to operate. To facilitate the monitoring of the progress, the Administration has agreed to submitting a background report to the Environmental Affairs Panel of this Council before implementing the Scheme and submitting a progress report every six months after the implementation of the Scheme. If it is considered that the matters concerned have implications on the economy or agricultural development, the reports will also be submitted to the Economic Services and Public Utilities Panel of this Council.

After detailed consideration of the views of the organizations concerned and the response of the Administration, most of the Members of the Bills Committee concluded that it is necessary to implement the licensing system in order to effectively control pollution caused by livestock waste.

As regards the waste collection service, the Bills Committee and some organizations are concerned that in the future, livestock farmers may have to pay for the waste collection service which has all along been provided free of charge by the Administration. The Administration explained that it is preparing to contract out this service to private operators and the contractor may or may not charge a fee. Any proposal of fees charging is subject to approval by the Director of Environmental Protection who has to be satisfied that the fee proposed is reasonable. Although the Waste Disposal Ordinance has provision for the licensing of waste collection service and a franchise may be granted pursuant to these provisions, the Administration has promised not to grant any franchise on livestock waste collection. Therefore, farmers can freely choose their own service providers, like those who are willing to pay for the waste collected. Usually, farmers will be paid for the chicken waste collected from their farms. To facilitate monitoring, the Administration has agreed to brief the Environmental Affairs Panel after having collated the detailed information of the charges and services of the waste collection contractors. The Bills Committee was satisfied with the Administration's explanation.

The Bills Committee has also discussed the *ex gratia* allowance and the capital grant. Some organizations opined that the capital grant should be increased to the level of the *ex gratia* allowance. The Administration explained that while the capital grant is calculated on the basis of the costs for installing the necessary waste treatment systems, the *ex gratia* allowance is based on past profits. Due to the difference in the methods and bases of calculation and the principle of payment, it will not be appropriate to set the payments at the same level. Moreover, the capital grant has recently been increased substantially. As mentioned earlier, the rate of capital grant for pig farms, for example, has been increased from \$120 per sq m to \$225 per sq m. After some discussion the Bills Committee decided not to further consider this matter during the examination of the Bill. However, when the occasion arises, like when the relevant subsidiary legislations are submitted to this Council for deliberation, this matter may be brought up for discussion again.

The Bills Committee has also examined two complaints, one relating to cattles and the other to racing pigeons. The representative of a dairy complained to this Council that as the definition of "livestock" does not include dairy cattle, operators have to be subject to the control of a more stringent 20:30 discharge standard under the Water Pollution Control Ordinance. And they are not entitled to the *ex gratia* allowance if they leave the trade. Quite the opposite, the representatives of pigeon racing activities considered that racing pigeons should not be regarded as livestock. They should instead be regarded as farmhouse livestock and exempted from control. The Administration has replied that the main objective of the Livestock Waste Control Scheme is to tackle pollution caused by pig and poultry farms. Cattles are already subject to control by the Dairies Regulations under the Public Health (Animals and Birds) Ordinance. So the definition of "livestock" under the laws for control of livestock waste does not include cattle. As regards racing pigeons, the Administration explained that despite public complaints against the environmental and noise nuisances frequently caused by racing pigeons in urban areas, it is prepared to increase the number of racing pigeons allowed to be kept in premises in Prohibition Areas and Control Areas from the existing 10 (over which a licence is required) to 20. At present, anyone who keeps more than 10 racing pigeons without a licence will be prosecuted, but the ceiling will be increased to 20. Since this matter is outside the ambit of the Bill, the Administration will follow up by way of subsidiary legislation. Most of the Members of the Bills Committee were satisfied with the explanation and the arrangement.

The Bills Committee also noticed that farms in Restriction Areas (under the new definition, areas are divided into Prohibition, Restriction and Control Areas) must have been in continuous operation of livestock keeping in order to be qualified for a written authorization for continuing to keep livestock. The Restriction Areas will gradually become Prohibition Areas, but existing farms will be allowed to continue to operate. The Bills Committee was concerned that the 12-month qualifying period is too long and inflexible. However, the Administration explained that in order to enforce the policy that all the livestock

farms in Prohibition Areas are existing rather than new ones, the 12-month requirement is necessary to ensure that only those which have really been operating there are allowed to continue with their operation. In enforcing this requirement, the Director of Environmental Protection will take account of objective evidence in its evaluation of whether or not the farm in question has been in continuous operation for 12 months. But the transfer of ownership is not a point of consideration. Even if the ownership has been transferred, as long as the farm has been actively and continuously operating for 12 months, it will be granted a written authorization for continuing with its operation. The Bills Committee was satisfied with this explanation.

The Bills Committee also discussed the notification system. Clause 13 of the Bill empowers the Director of Environmental Protection to issue notices and any other directions he thinks fit, requiring the livestock keepers concerned to improve specified steps or facilities. The Bills Committee was concerned that in determining whether a pollution problem was in urgent need of mitigation, the Director of Environmental Protection may be subjective and has no criteria to help his judgement. The Administration explained that in invoking that particular provision, the Director of Environmental Protection must make sure that his directions are urgently needed to solve some imminent pollution problems and his decision must be reasonable. It is therefore necessary to set up a notification system to ensure that before pollution arises the authority concerned will have already requested the farm concerned to make improvements. The Director of Environmental Protection is vested with the necessary powers to take effective preventive measures to solve the problem immediately even before instigating any prosecution. Most of the Members of the Bills Committee, with the exception of Rev FUNG Chi-wood, were satisfied with the explanation.

Finally, clause 20 of the Bill provides that the parties concerned may on the basis of certain reasons appeal against the Director's refusal of granting the written authorization or the orders in his notice. In this connection, the Bills Committee was concerned that clause 20(b), which imposes a limitation on the grounds for appeal, may be unfair to farmers. The Administration has explained that this particular provision is necessary to prevent abuse of the appeal system. Abuse of the appeal system will handicap the enforcement of the Ordinance to the effect that the Director's orders will not be complied with. Experience has shown that it is not uncommon that the appeal system is exploited to delay compliance with such orders. Most Members of the Bills Committee, again with the exception of Rev FUNG Chi-wood, were satisfied with the explanation. Rev FUNG Chi-wood will move at the Committee stage amendments to clauses 20 and 13 which are not supported by the Bills Committee.

With these remarks, Mr President, I support this Bill and the next.

MR PETER WONG: Mr President, the uncontrolled outpourings of animal waste are daily contaminating our rivers in the northern New Territories, posing an eye sore and a threat to health. The Honourable Andrew WONG has given a clear report of the work of the Bills Committee and I fully support the decisions taken as the only viable solution to the problem at this stage. I regret that I cannot support Rev FUNG's amendment because I have seen in many pollution cases, specially with noise, that we do need to give the EPD sufficient power to prevent imminent breaches of environmental standards.

However, we have a large number of petitioners from the Hong Kong Livestock Industry Association gathered outside and they are obviously not happy with the decision. What have we learnt from the exercise? Please bear with me whilst I quote from an article by Mr Kenneth SILVERSTEIN in the March 1994 *American City and County*, and I quote: "The city, New York City, learned how to handle its water problem the hard way. In mid-1990 to avoid having to build a new \$7 billion filtration system that would have cost \$400 million annually to operate, New York drafted a document restricting agricultural land use. The agricultural community fought the plan, arguing that uniform and inflexible regulations were unworkable and undesirable. In December 1990 city and state regulators convened a group of local farmers, environmentalists, government organizations, state representatives and technical advisers to find an alternative to a mandatory set of rules and regulations. The city now provides incentives including cost-sharing, supplemented by a reasonable mix of state and federal funds to farmers who participate in the watershed programme. It will finance continuing education and professional training, and spearhead efforts to bring together conflicting parties. The total cost of the programme was \$3.4 million to finance demonstration projects, attend farms, and \$75,000-\$100,000 per farm for capital improvements. "I believe this farm-by-farm approach is tentatively accepted by the farm community in the watershed area as a much preferred alternative to a traditional top/down standard setting enforcement penalty system of regulations," says Mr Richard MAGUIRE, Commissioner of Agriculture and Markets for New York State. And because these programmes and actions originate at the local level the opportunity for success is greatly enhanced. Mr MAGUIRE says the city is on target to achieve its goal of 85% participation in the programme by farmers."

In Hong Kong the Administration has adopted the traditional top/down approach to the problem. It decided in its own wisdom the best, quickest and most cost-efficient solution, and hoped to impose it by passing this Bill. Of course the traditionalist farmers will be suspicious of any regulatory control and natural scepticism will naturally turn to opposition and confrontation when farmers' concerns are not fully and sympathetically addressed and their own natural leaders do not come out in support of the proposed solution.

I would ask that the Administration re-thinks the way it carries out its implementation strategy. If the Government wants agreement and co-operation it needs the advance involvement of those who will later have to carry out the

programme. We can no longer assume that in a democratic society the public or any particular sector will automatically agree that the Administration knows best. The best way forward is for the executive-led Government to decide on the goals, proposed strategies and get the concerned parties involved in making the final implementation decisions.

Mr President, with these words I support the resumption of debate of these two Bills.

REV FUNG CHI-WOOD (in Cantonese): Mr President, I will be moving two amendments. Firstly, the Waste Disposal (Amendment) Bill 1993 empowers the Director of Environmental Protection (DEP) to serve notices on farmers, telling them to improve waste discharge facilities on or before a specified date. If a farmer fails to comply with such a notice, he will be prosecuted. It does not matter that his farm is no longer causing pollution by then. This, I feel, is unreasonable. The fact that the farm is no longer causing pollution means that the farmer has already improved his waste discharge facilities, even though he may not have done so in a way as specified by the Environmental Protection Department (EPD). Furthermore, DEP can serve a notice in respect of any farm which he deems to be a potential or a likely source of pollution. A farmer can be prosecuted simply for failing to comply with such a notice even though his farm may never have been an actual source of pollution. This, I feel, is too harsh.

Mr President, the amendment that I will be moving is intended to save from prosecution the farmer who has been served with a notice but whose farm is no longer causing pollution after the lapse of the notice period. I mean, in other words, that where a farm is found to be a source of pollution, EPD should give the farmer a chance. A notice should be served on him, asking him to ameliorate the situation. If, after the lapse of the notice period, he is found to have done so, he should then not be punished. Still less should any farmer be punished who neither has caused pollution before nor is causing pollution now. Furthermore, where DEP deems it necessary to effect change to a certain waste discharge facility, he does not even have to ask for it by serving a notice. He can immediately ask for it by making it a condition of licence. The Bill empowers DEP to impose new conditions on licensees at any time. If a farmer fails to adhere to any of the conditions, his licence can be revoked and then he must stop operating at once.

Thus, the intent of the first amendment that I will be moving is to save from prosecution the farmer who has been served with a notice but whose farm is no longer causing pollution by the time the notice expires. It will make things fairer. To put it more plainly, a farmer should not be prosecuted unless he has been served with a notice and unless his farm is still causing an excessive level of pollution by the time the notice expires.

The second amendment that I will be moving concerns appeals where notices have been served. The Bill provides that a farmer served with a notice may appeal if one of three conditions is fulfilled: First, if the notice is about something not within the scope of the Bill; second, if there is irregularity in the form of the notice or in the way the notice is issued; and third, if the notice is served on the wrong person. Mr President, all these three conditions are clearly cases of administrative error. Where there is administrative error, appeal is of course in order. But a farmer cannot appeal against a notice if he wants to dispute a requirement specified therein. Farmers may have a better idea. They may think that a requirement is impractical or too costly to be within their means and there is a better alternative. They should be given an adequate right of appeal in these circumstances.

Thus, the second amendment that I will be moving is to delete from the Bill the provision stipulating that a farmer can appeal against a notice served on him only if one of three conditions is met. The intent here is to enable farmers to appeal against the requirements and specifications contained in the notices, just as they can appeal against conditions of licences. There is no reason why farmers should be deprived of their right to appeal against the content and substance of the notices in respect of which they feel aggrieved.

I must note, as Mr Andrew WONG has just noted, that the amendments that I will be moving have not been agreed to by the Bills Committee. I would like to draw Members' attention to the fact that the amendments that I will be moving have not been discussed by the Bills Committee. The final meeting of the Bills Committee was, unfortunately, held in a hurry. It did not have enough time for fully discussing an idea that I mooted, which was to dispense with the system of notices. Not enough discussions had been held on the mooted idea. Nor had I attempted to find out what the Administration's view would be. So I just made the proposal. I said at the time that I might have to call for dispensing with the system of notices. Of course, Members attending the meeting did not agree. Four Members were present, including myself. After mature deliberation and discussion, I have decided to move the two amendments.

I must also point out that the Bill's provisions concerning the licensing system give EPD very extensive powers. A licence will be issued only if DEP is satisfied with the waste discharge facilities of a farm. What may be satisfactory to DEP? We do not have an objective standard. If a farmer fails to satisfy DEP that his waste discharge facilities are up to standard, he will not get a licence. Then he will have to stop operating his farm. The Government has said again and again that the purpose of licensing and control is not to force farmers out of business but simply to improve the waste discharge situation. But farmers are very worried about the conditions of licences. There are no objective standards. There is a lot of disagreement on what is the best waste discharge method, particularly saw dust pig sties. Waste discharge standards may be too draconian to meet. This will drive many farmers out of business. Even now, no mutual trust exists between the farmers and government officials. Later on, when licences are issued, there is bound to be even more arguments. I urge EPD not

to impose excessively strict controls on farmers in the environmental protection and waste discharge areas, but rather to watch if farmers are observing the waste discharge standards. If a farmer is observing these standards, then EPD should be less particular about what kind of facility he may be using. If a farmer's facility does not meet waste discharge standards, then he can and should be prosecuted.

After the licensing system is put into effect, if a farmer finds that he is not being treated fairly, he should be able to seek help from Legislative Council Members. I will be asking this Council's Environmental Affairs Panel to follow up on this matter. Furthermore, while the licensing procedure will allow for appeal, the present Ordinance provides that farmers may appeal only to the Governor. Such an appeal channel is evidently unsatisfactory. Farmers should be able to appeal to a special appeal committee. The Government has promised the Bills Committee that it will make a change here. I hope that the change will be made before the licensing system comes into effect.

Lastly, I would point out that there are lots of problems with how EPD deals with the disposal of animal and poultry waste. I will give four examples. First, a model farm programme was carried out from 1989 to 1990. I have read the reports and talked to the officials concerned and the farmers. I feel that the programme's results are unsatisfactory in many ways. Farmers have reacted strongly. But the Government has denied that there is any problem. Farmers have thus lost their trust in the Government.

Secondly, the Government says that it is practical to raise pigs in saw dust pig sties. It says that some farms have used this method successfully. Members of the Bills Committee paid a visit to one of them. They found many problems. Saw dust could not effectively break down pig excreta. It just turned black and foul-smelling. The environment in saw dust pig sties constitutes cruelty to animals. I have raised questions about this again and again. To this day, the Department of Agriculture and Fisheries has failed to provide me with the name of a single farm which uses the saw dust method effectively. I want to pay a visit to such a farm to find out whether the method is feasible. I am most disappointed with the officials' behaviour. Are Members being deceived?

Thirdly, EPD at first promised to relax the numerical limit on the raising of race pigeons from 10 to 100. Later, it went back on its words and prosecuted farmers who raised race pigeons. These farmers are now appealing. The case is still pending court decision. The Government has now agreed to relax the numerical limit to 20. The Government has gone back on its words before. It has lost credibility with the public.

Fourthly, the Government does not count cattle as belonging to the category of animal and poultry. Cattle farms do not receive compensation like pig farms and chicken farms. This is bad policy. The waste discharge standards for cattle farms are as stringent as those for any other industry. Cattle farmers simply cannot remain in business. Some are already out of business. Others are

facing frequent prosecutions. One cattle farmer complained to me that he had been looking all over Hong Kong for a consultant firm which would solve the waste discharge problem for him. None of the major consultant firms in Hong Kong dared take up his offer of business. They have no confidence that they can attain the 50:50 waste discharge standard required by the Government. The farmer then turned to EPD for help. He was told to do whatever the law says. Why is cattle farming so different from pig farming or chicken farming? I ask the Government to explain the difference to the public. Actually, what happened was that government officials forgot about cattle farming at the beginning. That was probably because there were so few cattle farmers. Nor did the officials know at first that race pigeons were being raised in Hong Kong. After they made the discoveries, they failed to take timely remedial action. This is really disappointing. The policies made in this way are probably tainted or even defective.

Mr President, I am strongly in favour of a clean environment. I believe that farmers, too, support environmental causes. But the livelihood of farmers should be taken into consideration when the Government makes decisions about the control of animal and poultry waste. Farmers are worried about the fate of their farms. They are worried that many farms will be forced out of business by the Government's licensing system. I understand their worries. So I hope that the licensing system will be approved and implemented in such a way as will fully take into account farmers' worries. In addition, together with Mr Andrew WONG, I feel that there should be more infrastructural facilities so that those farmers who want to solve the waste discharge problems and plan to spend money for this purpose may have the support of an adequate infrastructure.

At a meeting of the Bills Committee, I made a proposal to change the licensing system into a system to issue a licence to every livestock farmer. I suggested that there should be no licensing condition stipulating that a licensee must have facilities satisfactory to DEP. My suggestion was not supported by Members. Therefore, I have no alternative but to move two amendments in the hope of better safeguarding farmers in this regard. If my motions are not passed, Members from the United Democrats of Hong Kong will abstain from voting during the Third Reading of the Bill. We will abstain in view of officials' poor track records and the fact that the Bill's provisions are too draconian.

MR LAU WONG-FAT (in Cantonese): Mr President, it is absolutely right to stress the importance of environmental protection. But as with the pursuit of democracy, we should not act with undue haste. We must take account of the various needs of the community and strike a balance among them. Otherwise we shall be acting at the expense of people's livelihood and this will adversely affect the stability and peace of society.

The Waste Disposal (Amendment) Bill 1993 is one which has not taken into consideration the actual circumstances. I say so because the Government places a lot of emphasis on achieving environmental protection, but has failed to offer any proper and reasonable arrangement by way of care for the livestock farmers who are being seriously affected. It is therefore perfectly understandable that the affected farmers should show strong reaction to the Bill recently.

The Bill provides that farmers are required to be licensed before they are allowed to keep livestock in a Livestock Waste Restriction Area. But the licensing condition is such that the farmers must comply with the 50:50 discharge standard as set out by the Environmental Protection Department. According to the farmers, it is not feasible, whether technically or financially, to comply with the said standard. The requirement to comply with such a standard is asking for too much. The licensing system is stifling the livestock industry in Hong Kong and the situation indicates once again that the Government is working behind closed doors to formulate measures which affect the public. People affected are not adequately consulted, nor have the proposed measures been studied in great depth. In attempting to force through its policy by way of legislation, the Government will naturally arouse public discontent and create disputes.

As for the Government's intention to control the discharge of farm wastes, farmers in the New Territories have shown positive response by participating in a number of trial schemes to reduce the discharge of farm wastes and minimize pollution. The pity is that such schemes do not tie in with the actual needs of Hong Kong and as a result prove to be a failure. Even so, the farmers are still prepared to co-operate with the Government and keep on looking for a feasible solution to pollution.

Mr President, livestock farming is a legitimate business and all along made its contribution to the economy and people's livelihood of Hong Kong. We cannot simply eliminate this industry just on the pretext of environmental protection. To many farmers, raising livestock is the only means for them to earn a living. Since many industries in Hong Kong are being relocated to China, it is not easy for them to change employment even if they have wanted to. The proposed licensing system is in effect depriving them of their means to earn a living. There is a human side to the enforcement of law too; therefore environmental protection should also be pursued in a reasonable and justified manner. I think the Government should shelve the licensing system for the time being and continue its dialogue with the farmers to find out a practical as well as feasible means which will allow the livestock farming business to go on and which can at the same time address the issue of environmental protection.

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

MISS EMILY LAU (in Cantonese): Mr President, I rise to speak in support of the Waste Disposal (Amendment) Bill 1993 and also the Public Health (Animals and Birds) (Amendment) Bill 1993 next following on the Order Paper.

A scheme for controlling animal and poultry waste was launched in 1987. Some people objected to it. So it was decided to implement the scheme in phases. Meanwhile, we saw many streams in the New Territories becoming more and more polluted. We also saw serious damage done to the natural environment. I believe that this is intolerable to anybody who has the overall interests of the community at heart. I also believe that the Government is partly to blame for the serious damage done to our natural environment. Mr President, today, seven years later, I hope that this Council will be more decisive. I hope that this Council will pass the Bills and enable the Government to move effectively to control pollution due to animal and poultry waste. Some farmers are criticizing the Government. They say that the Government's proposals will have the effect of forcing them out of business. As Mr Andrew WONG has noted just now, the Government itself acknowledges that the licensing system, when put into effect, will reduce the number of farms, now 4 000, by at least half. In other words, about 1 300 farms will remain in business. Personally, I of course believe that, after the licensing system comes into effect, it will be harder for somebody to operate as a livestock or poultry farmer. But I do not agree with the farmers' criticism that the Government proposals are not feasible at all.

Mr President, we must pay a price to save Hong Kong's environment and the price will be fewer farms in Hong Kong. Speaking for myself, I believe that I am willing to pay this price. Mr WONG just now also said that some farms, after re-equipping themselves, have successfully met the Government's environmental standards. In the course of scrutiny of the Bills, Members on the Bills Committee attempted to visit these successful farms. At first, we ran into some difficulties. Reportedly, some farmers were afraid to let us look at the farms. I was very shocked by it. Hong Kong is a place where the rule of law prevails. Why were some people afraid even to let Legislative Council Members take a look? Were they being intimidated or was there some other reasons? In the end, we successfully visited some farms. I hope that the news that I heard was not true. But I hope even more that the Government will not wince and beat a retreat when some people say that they are very angry or even when they threaten to use force. I believe that, if the Government beats a retreat, the public will be very disappointed.

A Member said just now that there are many farmers demonstrating outside. We know that many farmers are stridently vociferous in their objection. But Bills going through this Council are often very controversial. Members must find a balance. I believe that there will always be disagreement. But I also believe that, if anyone should express his dissatisfaction with intimidating words or with threats to use violence, this Council and the general public would not tolerate him.

Mr President, Mr Andrew WONG said a minute ago that the Bills Committee did not endorse the Rev FUNG Chi-wood's proposed amendments. The Rev FUNG explained that his amendments were not discussed at any of our seven meetings. Yes, we held seven meetings. I believe that, if any Member or any person belonging to any party had an amendment to suggest, he could suggest it openly and the Bills Committee would then study and discuss it. And the Government could have the opportunity to respond to it. If, after discussion, nobody wanted to support the amendment, then clearly that was that. It was not until we had finished reviewing the Bills that he put forward his amendments. Even those who would want to support his amendments would feel powerless now. I believe that all Members on the Bills Committee know the simple rules. When a Member suggests an amendment, it is by no means certain that his suggestion will be endorsed. By laying it before the Bills Committee, he at least gives the Bills Committee and other Members ample time to study his suggestion and to the Government to respond to it. Then we can decide whether we want to support the proposed amendment. A slip of paper is only now being circulated, telling us that amendments will be moved. Where do we find the time to study it? Mr President, in view of this, I personally cannot support the Rev FUNG's proposed amendments. Nor do I quite understand their details.

Lastly, Mr President, I believe that all Members know that the streams in the New Territories are now badly polluted. I regret very much to note that Mr LAU Wong-fat is linking the environmental issue to the issue of democracy. I believe that sometimes certain things do not have to be politicized. Everybody surely agrees that our environment is very badly polluted and that the community has already paid a heavy price for this. I am therefore calling on all Members and on the Government to move at once to save our environment.

With these remarks, I support the Bills.

DR TANG SIU-TONG (in Cantonese): Mr President, the purpose of the Waste Disposal (Amendment) Bill 1993 is to introduce a licensing system to ensure that the facilities and the operation of the livestock farms meet the requirements of the Administration. The farmer must comply with the conditions set out by the authority before a licence will be issued. The authority may also revise the conditions of the licence at any time after the application is approved. The objective of having a licensing system is to conduct a registration of all the livestock farmers in the territory with a view to effectively controlling the source of pollution and reducing the level of pollution of the rivers caused by livestock waste. However, in attempting to achieve this objective, the Government should also take into consideration the practicality of the new measures in order that the farmers may continue with their life-long business on which they depend for their livelihood.

The livestock industry thinks that it is downright impossible to achieve the 50:50 discharge standard as set out in the licensing condition. Even if this is

technically feasible, the cost involved will be extremely high, and the experimental farms run by the Government have also proved that it is very difficult to meet such stringent standard. Therefore, it is unfair on the part of the Government to require the farmers to meet such a standard. The alternatives proposed by the farmers, such as screening, sedimentation and discharge procedures are proved to be successful in improving the environment. Unfortunately, the Government rejected their proposals on the ground that it was difficult to assess the results of these methods. However, it has been learned that such methods work very well in Taiwan. I think the Government is very unreasonable as far as its attitude is concerned. In implementing such a scheme in such haste, even before the effectiveness of the experiment is confirmed, the Government is, as the Honourable Rev FUNG Chi-wood said just now, not only creating troubles for the public, but is also irresponsible. We cannot help suspecting that the ultimate aim of the licensing system is not to help the farmers improve their operating environment, but to drive them out of their business indirectly.

The Government has also entrusted the Environmental Protection Department with extensive power which may impose very stringent conditions. This will cause great disturbances to the farmers. It is because the farmers may not have the financial resources to install the facilities as set out in the notices issued by the Environmental Protection Department. Moreover, owing to the lack of professional knowledge, they may not know how to prevent pollution effectively. The Government should try, as far as possible, to help them install the necessary facilities so that they can continue with their business. The Government should not, under the pretext of enforcing control, impose draconian measures which would cost the farmers their jobs and leave the farmers and their families in a state of poverty. If we employ the high-handed tactics of introducing legislation, thus forcing the farmers to comply with the harsh licensing conditions, the society will be in turmoil. Moreover, it is everybody's right to struggle for survival. If the Government really thinks that the pollution caused by livestock waste is so serious that there is no remedy, then it should simply tell the farmers to close down their business and give them reasonable compensation and assist them to switch their jobs. The Government should not be so hypocritical and drive the farmers to the wall under the guise of a licensing system.

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

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I am grateful to the Honourable Andrew WONG, the convenor of the Bills Committee on the Waste Disposal (Amendment) Bill 1993 and the Public Health (Animals and Birds) (Amendment) Bill 1993, and to the other members of the Committee, for supporting the Bills. In the course of the Bills Committee's deliberations, a number of issues and concerns raised by Members and by the livestock farmers were discussed and I would like to address these today.

Mr President, as I said when introducing these Bills to this Council six months ago, over a wide area of the New Territories our rivers and streams are grossly polluted by livestock waste. By any standard, the extent of this pollution — as well as the time it has taken us as a community to deal with it — reflects poorly on us. Sympathetic and concerned though we may be towards the farmers affected who are being asked to adjust their operating practices therefore, I believe we are nevertheless now ready to face our problem fair and square. We cannot delay any longer without posing the question — do we intend to do anything at all? Surely we do.

I note that, and this is not surprising as environmental problems are difficult the world over. I note that there are Members and other members of the public who would frequently say the Environmental Protection Department and the Government are not doing enough about environmental problems. There are members of the public and Members of this Council who say the Environmental Protection Department and the Government are going too fast and they are imposing standards which are too high, too difficult. I can understand both those points of views. I am puzzled, however, to find that the same two views are held by Members of this Council at the same time. How are we to motivate our young and dedicated civil servants to carry out their task to protect our environment? In recent days, members of the Civil Service had been faced with the ultimate insult as a result of carrying out their duties faithfully and trying to formulate policies and system which will serve this community in its environmental endeavours. I think it is time we gave these people some support and we gave some clear indications that we do want our environment to be improved and that we are prepared to tackle our serious environmental problems.

Licensing conditions

The objective of the licensing scheme we are proposing is to ensure that livestock wastes are properly disposed of and that introduction of the arrangements to achieve this begins as soon as possible. Under the proposed phased programme, all livestock farmers will be required to apply for a livestock keeping licence. The main qualification to obtain this licence will be the installation of an environmentally acceptable livestock waste treatment system on the farm. At the time of application, the applicant will be asked to specify the treatment system; and a licence will be granted upon satisfactory installation of the system.

Waste treatment systems

There have been questions about the feasibility of the waste treatment methods. Mr President, our scheme allows farmers to choose whatever treatment method they prefer, so long as the system they choose is environmentally acceptable and can meet the legal requirements. We have recommended several treatment methods to farmers to consider. One of these is pig-on-litter. This has been successfully demonstrated at the Agricultural and

Fisheries Department's pig farm in Ta Kwu Ling. It has also been operated successfully by a number of commercial farms for several years. In addition, other treatment methods recommended by the Environmental Protection Department have been shown to be workable with regard to the discharge standard. Members of the Bills Committee who visited three commercial farms in March saw for themselves how the recommended systems comply with the required standards.

To help farmers take up acceptable treatment methods EPD has published technical guidelines. Farmers can use these guidelines to help them decide which system to use, based on their own farm conditions and operating practices. Staff from AFD and EPD are prepared to assist farmers if necessary. I would like to emphasize that farmers are free to choose the type of waste system most suited to their farms — the only requirement is that the proposed method should achieve the required discharge standard.

Discharge standard

There have also been questions about the discharge standard under the Waste Disposal Ordinance, which is set at a level of biochemical oxygen demand (BOD) not exceeding 50 milligrams per litre, and a suspended solids (SS) content also not exceeding 50 milligrams per litre — referred to as the 50:50 standard. In our discussions with the farmers, and over the last two years — and we have extensive discussions with the farmers — they have asked for more time to meet the discharge standard. In response, Mr President, we propose a phased programme whereby a farmer will have three years to achieve the 50:50 standard. The standard will start at the exceedingly unsatisfactory level of 250 milligrams per litre for both BOD and SS and will be revised to the only slightly better standard of 100:100 and then ultimately to 50:50 in two subsequent phases. This will give farmers three years to gain experience in operating the new treatment facilities. I believe this to be a more than reasonable grace period. I would describe it as an excessively generous grace period.

Financial assistance

We have also tried very hard to assist farmers financially, whether or not they wish to stay in the livestock business. Those who do not wish to continue business can apply for an *ex gratia* allowance. Those who wish to continue business in an environmentally acceptable manner have access to capital grants and low interest loans to cover the cost of installing their treatment systems. The level of grant has been increased to reflect market costs.

Farmers who wish to continue on a "try-and-see" basis can, within a year of receiving a capital grant, opt out and apply for the *ex gratia* allowance. And those who opt out and receive the *ex gratia* allowance and then decide to come back into the business, will also be allowed to re-start — as long as they install

an acceptable waste treatment system on their farms, obtain the required licence and comply with all the provisions of the law.

Mr President, this is a very extensive package of assistance in various forms, and it would be very difficult to improve upon it, given that such assistance is not available to other industries when they are required to meet even more stringent environmental standards and to do so more quickly.

Prohibition and restriction areas

Prohibition Area and Restriction Area

Another outcome of our consultations with farmers, was a revision to our original proposal to extend livestock waste Prohibition Areas to avoid incompatible land uses in newly developed areas and high grade recreation areas. We have now agreed that existing farms which have been continuously used for livestock keeping for at least 12 months will be allowed to continue in business provided the farmers meet the discharge standards. These areas will be called Restriction Areas.

Collection service

At present, the Government provides a free livestock waste collection service to farmers. This means the taxpayer rather than the industry — or the polluter — pays. We will therefore be contracting the service out to cut down the cost. Farmers have expressed concern about how the new collection service will operate. This service, I would like to stress, will not be a monopoly. Farmers are free to choose their own service providers. We have undertaken to report to the Environmental Affairs Panel on the details of the collection service when the contractor has been appointed.

Progress report

In addition to the report just referred to, and to enable Members to monitor the progress of the scheme, we have agreed a Bills Committee suggestion that a background report should be submitted to the Environmental Affairs Panel before implementation of the licensing scheme, and every six months thereafter on its progress. Where economic issues are involved, we will also bring the matter to the attention of the Economic Services Panel. We are also preparing a pamphlet for distribution to farmers to explain in detail the licensing scheme, the application procedures, the appeal provisions and so on.

Pigeons and cattle

In the course of our consultations, we received a request from one group to be exempted, and from another group asking to be included within the scope of the Livestock Waste Control Scheme. Owners of racing pigeons want to be exempted from control in the urban areas. However, the noise and waste generated by racing pigeons in urban areas is an environmental nuisance, as

evidenced by the number of complaints EPD has received from the public. In the interests of the wider community, therefore, controls on the keeping of racing pigeons in the prohibition areas is therefore necessary. It is our intention, however, to raise the number of birds allowed in premises inside these areas from 10 to 20. Owners of dairy cattle want to be included. However, as this trade is already controlled under the Dairies Regulations of the Public Health (Animals and Birds) Ordinance, we do not see the need to expand the control scheme to include cattle. Since the suggestion that they should be included seems to be to enable them to relax the environmental standards applied to their dairies, then I think that decision not to include them in the scheme is extremely valid. Why should we tolerate a reduction in existing standards of existing controls? Why should we add further to our very serious pollution problem by reducing the standard in relation to cattle?

Public consultation

Mr President, the licensing scheme we propose today has gone through careful deliberation and extensive consultation — involving the Environmental Affairs Panel of this Council among others. Since the scheme was proposed nearly three years ago in 1991, we have discussed it, in great detail, with a number of groups representing the trade, namely, the Livestock Waste Disposal Consultative Committee, the Livestock Subcommittee of the Advisory Committee on Agriculture and Fisheries, the Joint Committee of Agriculture and Livestock Keeping Association, the New Territories Chicken Breeders Association, the Hong Kong (NT) Poultry-Culture (Geese and Ducks) Mutual Association, as well as the Hong Kong Pig Farm Association which was only formed in January this year. Many of the farmers' suggestions have been incorporated into the scheme now proposed. And I would submit that those who are opposing the scheme are not the vast majority of the livestock farmers.

Impact on the livestock trade

It is not uncommon that when new environmental requirements are imposed, those affected are pessimistic about the impact on their business. However, the impact is very often overestimated. Experience shows that, once they face up to them, industries can meet the new requirements without too much difficulty. This was the situation when we imposed controls on percussive piling, on water discharge standards, and on the quality of industrial fuel oil. In this case, we have devised an extensive package of measures to help the farmers adjust and we have consulted them long and extensively on the terms of the package.

Committee stage amendment on notification

The intention of section 15(G) in clause 13 is to enable a preventive approach, that is, to stop pollution before it happens, to be adopted without having to resort to prosecution. This is a more effective enforcement strategy for abating serious pollution problems. Similar provisions already exist in the

other environmental legislation. Mr President, before this clause can be invoked and an abatement notice issued, the Director of Environmental Protection must genuinely hold the opinion that pollution is imminent. If the Authority cannot take action until pollution occurs, destruction of the environment will just continue. This would defeat the purpose of this provision and our overall aim. We cannot agree to the proposed amendment therefore.

Committee stage amendment on appeal.

The provisions under section 24(4) under clause 20(b) are to guard against abuse of the appeal system to delay taking abatement measures to stop pollution. Similar provisions exist in the Noise Control Ordinance. This proposed Committee stage amendment is also therefore not acceptable.

Mr President, as I have said — and many others have said before me — the pollution of our countryside and watercourses in the New Territories due to outdated methods of disposing of livestock waste is a major problem which we have wrestled with for a long time. We now believe we have a fair and effective solution to hand which takes account of the community's and the farmers' interests to the fullest extent possible. We now ask for co-operation and support to help us start to end the blight.

Implementation of the livestock waste control scheme and introduction of the legislative amendments proposed will help deal with one of our most serious pollution problems, will enable us to clean up our rivers and streams in the New Territories, and will achieve the benefits of better water quality in our coastal waters.

Thank you, Mr President.

Question on the Second Reading of the Bill put.

Voice vote taken.

MISS EMILY LAU: Mr President, I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Will Members please proceed to vote?

PRESIDENT: If there are no queries, the result will now be displayed.

The Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr Martin LEE, Dr David LI, Mr PANG Chun-hoi, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW, Mrs Peggy LAM, Dr LEONG Che-hung, Mrs Elsie TU, Mr Peter WONG, Mr Albert CHAN, Mr Moses CHENG, 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 Eric LI, Mr Fred LI, Mr MAN Sai-cheong, Mr Steven POON, Mr Henry TANG, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Miss Christine LOH, Mr Roger LUK, Ms Anna WU and Mr James TIEN voted for the motion.

Mr LAU Wong-fat, Dr TANG Siu-tong and Mr Alfred TSO voted against the motion.

THE PRESIDENT announced that there were 44 votes in favour of the motion and 3 votes against it. He therefore declared that the motion was carried.

PUBLIC HEALTH (ANIMALS AND BIRDS) (AMENDMENT) BILL 1993

Resumption of debate on Second Reading which was moved on 27 October 1993

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

Bill read the Second time.

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

INSURANCE COMPANIES (AMENDMENT) BILL 1993

Resumption of debate on Second Reading which was moved on 19 May 1993

Question on Second Reading proposed.

MR PETER WONG: Mr President, a Bills Committee of which I was elected Chairman was set up in November 1993 to study the Insurance Companies (Amendment) Bill 1993 and the Insurance Companies (Amendment) (No. 2) Bill 1993.

With your leave, I would speak to both of these Bills now. The first Bill, the Insurance Companies (Amendment) Bill 1993, seeks a three-fold amendment to the Insurance Companies Ordinance — firstly, to delegate from the Governor in Council to the Insurance Authority the power to approve certain minor operational arrangements; secondly, to ensure that the authority is notified and can, where appropriate, intervene when an ailing insurer is about to cease operations in Hong Kong or is subject to liquidation or similar proceedings whether within or outside Hong Kong; and thirdly, to impose additional solvency margin requirements on long term insurers.

The provisions proposed in the Bill are acceptable to the insurance industry and members of the Bills Committee.

As the Bill was originally gazetted on 7 May 1993, consequential amendments have become necessary upon the enactment of the Insurance Companies (Amendment) Ordinance 1993 on 9 July 1993.

Briefly, the Insurance Companies (Amendment) Ordinance 1993 amends the Insurance Companies Ordinance by adding three new classes of long term business, viz Classes G, H and I. Classes G and H apply to retirement scheme management business with or without a guaranteed capital or return respectively whereas Class I applies to contracts of insurance providing retirement benefits through insurance. The Ordinance requires three separate funds or accounts to be maintained by the insurer for each of Classes G, H and other classes of long term business, that is Classes A to F and I, and exempts Classes G and H from the solvency margin requirement, so, consequential amendments to the Bill are necessary. They are supported by the Bills Committee.

Let me now turn to the No. 2 Bill. The purpose of the Insurance Companies (Amendment) (No. 2) Bill 1993 is to add a requirement to the Insurance Companies Ordinance that all insurers must maintain assets in Hong Kong equal to 80% of their liabilities for general insurance business plus a solvency margin known as the "relevant amount", which is determined under section 10 of the Ordinance and is based on the amount of premium income.

The Bills Committee has held four meetings with the Administration and has met with the representatives of the Hong Kong Federation of Insurers twice.

The main areas of concern are:

(a) *Investment vehicles*

The federation was of the view that the requirement to maintain assets in Hong Kong equivalent to 80% of the insurer's liabilities for general insurance business would restrict legitimate investment choices. They also felt that there were few investment vehicles in the local market which were suitable for general insurers because of the volatility of the stock market of which property formed a large

proportion and that the US dollar/HK dollar interest rates were below inflation. The Administration was however of the view that more than adequate investment opportunities were available since the launching of the Exchange Fund Bills programme in 1990, the Government bond programme in 1991 and the Exchange Fund Notes programme in 1993. The Administration recognized that there might be fluctuations, as with other major markets all over the world, they did not consider that this would handicap the market's ability to provide sound investment opportunities for the insurers. The explanation and clarification provided by the Administration were accepted by the federation and the Bills Committee.

(b) *Acceptance of letters of credit or bank guarantees and investments in unit trusts for the purpose of the asset value requirements*

The federation suggested and the Administration agreed that a letter of credit or bank guarantee would be acceptable if it was enforceable exclusively by the Insurance Authority. Investments in unit trusts would also be admitted if they met the criteria of ready realizability in Hong Kong. Suitable Committee stage amendments would be introduced.

(c) *Bonds and other securities evidenced by certificates*

The Bill required a certificate to be held in Hong Kong to qualify as an investment in securities for the purposes of the local asset requirement. The federation considered that in the sophisticated trading environment of today, the insistence on certificates would severely limit the choice of safe investment vehicles because the trend worldwide was towards paperless transactions and evidence of title. The Administration emphasized that as the purpose of the Bill was to offer adequate protection to local policy holders, the test for the acceptability of the paperless transaction would be based on the requirement that such investments could readily be realized in Hong Kong. Hence, shares which would be transferable and registrable only at a register in Hong Kong or shares which would be ordinarily traded in Hong Kong and for which the certificates were kept in Hong Kong would be recognized as Hong Kong assets. The Administration's view was accepted by Members.

(d) *Reinsurance*

The federation was concerned that a *bona fide* insurer might be tempted to reinsure more than was appropriate simply to evade the local asset requirement. The Administration proposed to introduce an amendment to ensure that the level of asset-matching should be no less than 80% of the net Hong Kong liabilities, after deduction of reinsurance recovery. In the event that reinsurance premiums were

greater than 50% of the gross premium income, the insurer would be required to maintain local assets to match the greater of the following:

- (i) 80% of net liabilities; or
- (ii) 40% of gross liabilities.

The Insurance Authority would also be empowered to exempt, upon application by an insurer, the requirement to match 40% of the gross liabilities to cater for circumstances where over 50% reinsurance had been arranged for *bona fide* reasons, for example, where the risk was so substantial that the insurer was unable to retain a greater proportion.

(e) *Coverage of Hong Kong business under the Insurance Companies Ordinance (ICO)*

In the course of the deliberation, Members queried whether insurance policies underwritten in Hong Kong, but with the locality of the insured property overseas, would fall within the present definition of Hong Kong business under the Insurance Companies Ordinance. The Administration consulted their legal adviser on the relevant provisions in the ICO on the scope of Hong Kong business and advised that the legislative intent of the present definition was to cover those insurance risks, in relation to any direct business, which were underwritten and arisen in Hong Kong. It therefore did not include those insurance business underwritten in Hong Kong but with the locality of the insurer property overseas. Having regard to Members' concern on the wider scope of "insurance business carried in or from Hong Kong" under section 265(1)(e) of the Companies Ordinance, the Administration agreed to revise the definition of "Hong Kong insurance business" under the Insurance Companies Ordinance to narrow the difference in the application of the term under both legislation.

(f) *Insurance business on a "fund" accounting basis*

In the marine hull and aviation insurance business for which the liabilities would take a longer time to materialize, the liabilities were usually accounted for on a "fund" basis. The "fund" would normally be left open for a period of three years before it was closed and the profit or loss taken. In order to ensure that those insurers on a "fund" accounting basis would also be required to maintain local assets to match 80% of the "fund", the Administration proposed and Members agreed that reference to circumstances under which liabilities were accounted for on a "fund" basis would be included in the Bill.

(g) *New Ninth Schedule*

The new Ninth Schedule was originally proposed to require an annual reporting relating to compliance with the proposed local asset requirement. Members noted however that the Administration might have difficulty, under manpower resources constraint, in policing the requirements under the Bill in full scale. Members suggested that consideration should be given to strengthening the returns as regards signatories and to include into the legislation a requirement for the returns to be audited.

Having reviewed the new Ninth Schedule, the Administration proposed that it should become Part 9 of the Third Schedule instead. The annual reporting requirement under the new Ninth Schedule was similar to the report of Hong Kong business under Part 8 of the Third Schedule. By inserting the new Ninth Schedule as Part 9 of the Third Schedule, it would have the advantage of enabling the Insurance Authority to modify its requirements under section 17(2).

To address Members' concern about the reliability of information contained in Part 9 of the Third Schedule, the Administration agreed that the Statement of Assets and Liabilities under this Part should be audited by the auditor of the insurer. For consistency, a similar auditing requirement would be extended to returns required under Part 8 of the Third Schedule which related to the reporting of the underwriting results of an insurer's Hong Kong general insurance business.

Suitable amendments to the Bill to reflect the agreement reached on the above points will be introduced by the Administration at the Committee stage.

Mr President, these two Bills when enacted will provide greater security for holders of insurance policies. The protective requirements stipulated in the Bills are, in fact, common features of other jurisdictions, and are in general acceptable to the insurance industry.

With these remarks, I recommend the Insurance Companies (Amendment) Bill 1993 and the Insurance Companies (Amendment) (No. 2) Bill 1993 to Honourable Members.

SECRETARY FOR FINANCIAL SERVICES: Mr President, with your leave, I also ask to address both Bills as the previous speaker did. Mr President, these Bills refine certain provisions in the Insurance Companies Ordinance. With the objective of introducing enhanced requirements to ensure that greater protection is provided to policy holders in Hong Kong, particularly in the event of insolvency of an insurer.

I like to express my gratitude to Mr Peter WONG and members of the Bills Committee for their careful consideration of the Bills, particularly the No. 2 Bill. I also like to express my appreciation to the professional and trade organizations for their valuable advice. The amendments to be moved at the Committee stage are the product of continuing dialogue between the Administration, the insurance industry and the Committee over the past few months. The amendments have resulted in much improved Bills.

The first amendment Bill proposes to strengthen the requirement for an insurer to notify the authority of liquidation proceedings, of the appointment to the liquidator or receiver or of proceedings to enforce payment, so as to enable him to intervene early if the insurer is ailing. The Bill also proposes to enable regulations to be made to enhance the solvency margin requirement for long term insurers.

The industry has indicated its support for the proposed amendments. Even so, Committee stage amendments are necessary because the Bill was introduced before the enactment last July of the Insurance Companies (Amendment) Ordinance 1993, which exempted retirement schemes business from the solvency margin requirement. The amendments therefore are purely consequential.

The second amendment Bill seeks to provide greater protection to direct insurance claimants, particularly where the insurer is involved in cross-border insolvency proceedings. A general insurer will be required to maintain in Hong Kong assets of a value no less than 80% of the next liabilities arising from his Hong Kong business plus the solvency margin calculated on his Hong Kong business. Similar requirements are common to many overseas jurisdictions.

The Bill would, to some extent, restrict an insurer's investment choice. However, against this we must balance the benefits of greatly improved protection of policy holders' interests. As insurers already maintain a certain portion of their assets in Hong Kong to meet operational needs and for prudent financial management, the proposed level of asset matching at 80% should not impose an undue burden.

In determining whether an investment is a Hong Kong asset, physical location and ready realizability in Hong Kong are the key factors. However, in response to the representations by the insurance industry, the Committee stage amendments will enable an insurer to produce a letter of credit or other commitment issued by a bank in favour of the Insurance Authority instead of maintaining assets in Hong Kong. This should give insurers sufficient flexibility to ensure balanced, prudent investment decisions. To prevent an insurer from circumventing the local asset requirement by excessively reinsuring his business, an insurer who reinsures more than 50% of his gross premiums will be required to maintain assets to match either 80% of his net liabilities or 40% of his gross liabilities, whichever is the greater.

The Bills Committee has identified other issues requiring clarification. I am pleased to be able to respond to them positively. The Committee has expressed concern that liabilities arising from policies underwritten in Hong Kong but covering property or policy holders residing overseas would not be afforded protection by the Bill. The Administration has therefore agreed to extend the definition of "Hong Kong" insurance business" to include business underwritten in Hong Kong irrespective of the location of risk or residential status of the policy holder. The proposed amendment constitutes a significant improvement to the Bill.

To address the Bills Committee's concerns that the statement of local assets and liabilities to be submitted by an insurer may be unreliable, the Administration has agreed that such information should be audited by an auditor appointed by the insurer.

Having regard to representations made by the industry, the Administration has agreed to allow insurers a grace period of 12 months from enactment of the Bill to enable them to comply with the new requirements.

Mr President, with these remarks, I commend to Members the Insurance Companies (Amendment) Bill 1993 and Insurance Companies (Amendment) (No. 2) Bill 1993.

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).

INSURANCE COMPANIES (AMENDMENT) (NO. 2) BILL 1993

Resumption of debate on Second Reading which was moved on 30 June 1993

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

Bill read the Second time.

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

Committee Stage of Bills

Council went into Committee.

BEDSPACE APARTMENTS BILL

Clauses 1, 4, 5, 7 to 9, 11, 13, 14, 16, 17, 19 to 21, 24, 27, 28, 30 and 31 were agreed to.

Clause 2

MR JAMES TO (in Cantonese): Mr Chairman, I move that clauses 2A to 2E be amended as set out in the paper circulated to Members. These amendments pertain to the interpretation of terms such as "bedspace", "bedspace apartment", "flat", "rental agreement" and "tenancy". The amendments are proposed to achieve a clearer and more accurate reflection of the definition and application of the terms.

Proposed amendment

Clause 2

That clause 2 be amended —

- (a) by deleting the definition of "bedspace" and substituting -

""bedspace" (床位) means any floor space, bed, bunk or sleeping facility of any other type, or any part thereof, used or intended to be used as sleeping accommodation for one person;"

- (b) in the definition of "bedspace apartment" by deleting "occupied or intended to be occupied" and substituting "used or intended to be used as sleeping accommodation".

- (c) by deleting the definition of "flat" and substituting -

""flat" (居住單位) means any premises which -

- (a) (i) in the approved plans of the building of which such premises form part, are demarcated as a unit that is self-contained in respect of ablution, toilet and cooking facilities; or
- (ii) in the absence of any approved plans, are self-contained in respect of ablution, toilet and cooking facilities; and
- (b) are used wholly or primarily for human habitation;"

(d) by deleting the definition of "rental agreement" and substituting -

""rental agreement" (租用協議) means any agreement, whether oral or in writing, and whether express or implied, by virtue of which a person is given the right to use one bedspace as sleeping accommodation on payment of such rent or other consideration as is provided for in the agreement;".

(e) by adding -

""tenancy" (租賃) includes a sub-tenancy, "tenant" (租客) includes a sub-tenant, and "lessee" (承租人) includes a sub-lessee.".

Question on the amendment proposed, put and agreed to.

SECRETARY FOR HOME AFFAIRS: Mr Chairman, I move that clause 2 be further amended as set out under my name in the paper circulated to Members. These are technical refinements to Chinese text.

Mr Chairman, I beg to move.

Proposed amendment

Clause 2

That clause 2 be further amended, in the definition of "床位寓所" by deleting "住宅" wherever it occurs and substituting "居住".

Question on the amendment proposed, put and agreed to.

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

Clauses 3, 6, 26 and 33

MR JAMES TO (in Cantonese): Mr Chairman, I move that the following clauses be amended as set out in the paper circulated to Members.

Clause 3(1)(c) is to be amended to specify that the Bill shall not apply to any dormitory or hostel maintained by any university or any institution that provides post secondary education within the meaning of section 3 of the Education Ordinance. In order to remove Members' concerns over the legal responsibilities of any person in charge of any premises used for bedspace apartment purpose, through clause 6(1)(a), an amendment is now proposed to specify that the person concerned shall be deemed to have committed an offence

only when, to his knowledge, the Bedspace Apartment Authority has neither issued a licence nor a certificate of exemption in respect of the bedspace apartment in question. The Bill also provides that appeals against the decision of the Authority may be suspended if, in the opinion of the Authority, the appeals are contrary to the public interest. Members hold that such power shall be invoked only if an appeal poses an imminent danger to life or property and the normal appeal procedures shall be followed when conditions are otherwise. The Administration supports Members' view and makes the amendment by way of clause 26(2) to materialize the modification.

The amendment to clause 33 is purely a technical one.

Proposed amendments

Clause 3

That clause 3(1)(c) be amended, by deleting "attached to any university or any post-secondary institution" and substituting -

"maintained by any university or any institution that provides post secondary education within the meaning of section 3 of the Education Ordinance (Cap. 279)".

Clause 6

That clause 6 be amended —

- (a) in the section heading by adding "of premises" at the end.
- (b) in subclause (1) by deleting paragraph (a) and substituting -

"(a) being the owner, tenant, lessee or person in charge of any premises or part of any premises (other than a bedspace for one person), uses or permits or suffers the use of such premises or (as the case may be) such part of such premises in such manner as, by such use alone or in conjunction with the use or intended use of any other part or parts of such premises, constitutes such premises a bedspace apartment in respect of which neither of the conditions specified in section 5(2) has to his knowledge been satisfied; or".

- (c) by deleting subclause (2).

Clause 26

That clause 26(2) be amended, by deleting "be contrary to the public interest" and substituting "pose an imminent danger to life or property".

Clause 33

That clause 33 be amended, by deleting "may" and substituting "shall".

Question on the amendments proposed, put and agreed to.

Question on clauses 3, 6, 26 and 33, as amended, proposed, put and agreed to.

Clause 10, 12, 15, 18, 22, 23, 25, 29, 32 and 34

SECRETARY FOR HOME AFFAIRS: Mr Chairman, I move that the clause specified be amended as set out in the paper circulated to Members. Subclauses 2 and 8 of clause 25 are amended. These amendments are technical refinements. Clause 32(4) is amended in order to differentiate the penalties for the offences which are basically regulatory in nature under this clause and those penalties for the offences under clause 5 which are of a more serious nature. Clause 34 is amended to enable the Secretary for Home Affairs to make regulations and to differentiate the penalties for the offences which are basically regulatory in nature under this clause and those penalties for the offences under clause 5 which are of a more serious nature. The Chinese text of clauses 10(b) and (c), 12(5), 15(e), 22(1), 23(6)(b), 34(4)(b), 18(3) and 29 are amended. These amendments are technical refinements. Mr Chairman, I beg to move.

Proposed amendments

Clause 10

That clause 10(b) and (c) be amended, by deleting "認為" and substituting "覺得".

Clause 12

That clause 12(5) be amended, by deleting "認為" and substituting "覺得".

Clause 15

That clause 15(e) be amended, by deleting "認為" and substituting "覺得".

Clause 18

That clause 18(3) be amended, by adding "、 裝配" after "固定附(A001)物" wherever it occurs.

Clause 22

That clause 22(1) be amended, by deleting "認為" and substituting "覺得".

Clause 23

That clause 23(6)(b) be amended, by deleting "認為" and substituting "覺得".

Clause 25

That clause 25 be amended, in subclauses (2) and (8) by deleting "first" and substituting "legal".

Clause 29

That clause 29 be amended —

- (a) in the heading by deleting "述要" and substituting "呈述".
- (b) in subclauses (1), (2) and (3) by deleting "案件述要" and substituting "案件呈述".
- (c) in subclause (4) by deleting "述要" wherever it occurs.
- (d) in subclause (5) -
 - (i) by deleting "述要提供" where it twice occurs and substituting "呈述提供";
 - (ii) by deleting "述要的副本" and substituting "的副本".

Clause 32

That clause 32(4) be amended, by deleting "\$100,000", "2 years" and "\$20,000" and substituting "\$50,000", "1 year" and "\$10,000" respectively.

Clause 34

That clause 34 be amended —

- (a) in subclause (1) by deleting "Governor in Council" and substituting "Secretary".
- (b) in subclause (5) by deleting "\$100,000", "2 years" and "\$10,000" and substituting "\$50,000", "1 year" and "\$5,000" respectively.

That clause 34(4)(b) be amended, by deleting "認為" and substituting "覺得".

Question on the amendment proposed, put and agreed to.

Question on clauses 10, 12, 15, 18, 22, 23, 25, 29, 32 and 34, as amended, proposed, put and agreed to.

New clause 30A Termination of tenancies

New clause 35 Interpretation

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

MR JAMES TO (in Cantonese): Mr Chairman, I move that new clauses 30A and 35 as set out in the paper circulated to Members be read the Second time. According to the new clause 30A, protection offered to tenants during the term of tenancy under the Landlord and Tenant (Consolidation) Ordinance shall not be applicable to bedspaces which shall be demolished in compliance with the Authority's direction.

New clause 35 will also be added to the Bill. According to this clause, consequential amendments shall be made to the Hotel and Guesthouse Accommodation Ordinance to the effect that provisions in the Ordinance shall not apply to premises under the Bedspace Apartment Bill.

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

Clauses read the Second time.

MR JAMES TO (in Cantonese): Mr Chairman, I move that new clauses 30A and 35 be added to the Bill.

*Proposed additions***New clause 30A**

That the Bill be amended, by adding —

"30A. Termination of tenancies

Where any condition imposed by the Authority for the issue or renewal of a certificate of exemption or a licence, or any particular direction given by the Authority under section 19(1), requires the cessation of use of such one or more of the bedspaces in a bedspace apartment as may be specified in writing by the Authority, the provisions of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) which prohibit or otherwise restrict the termination of tenancies (except those provisions governing termination by tenants) shall, upon such specification by the Authority, cease to apply to the tenancy or tenancies (if any) then subsisting in respect of the bedspace or bedspaces so specified."

New clause 35

That the Bill be amended, by adding —

**"Consequential Amendments
Hotel and Guesthouse Accommodation Ordinance**

35. Interpretation

Section 2 of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) is amended in the definition of "hotel" and "guesthouse" by adding ", but exclude any premises to which the provisions of the Bedspace Apartments Ordinance (of 1994) apply" after "received".

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

WASTE DISPOSAL (AMENDMENT) BILL 1993

Clause 1 to 12, 14 to 19 and 21 to 28 were agreed to.

Clause 13 and 20

REV FUNG CHI-WOOD (in Cantonese): Mr Chairman, I move that clauses 13 and 20 be amended as set out in the paper circulated to Members.

I would like to respond to two Members' speeches. Miss Emily LAU said that I move the amendment at too late a stage. As a matter of fact, during the deliberations on the Bill, we spent too much time discussing complaints, basic principles and the methods of livestock farming. It was not until the last two meetings held on 15 March and 22 March that we began scrutinizing the provisions of the Bill. There are a total of 28 clauses in the Bill, a total of 13 pages. Would Members kindly enlighten me which Bill can be scrutinized in just two meetings? At the first meeting, we went through half of the Bill and, at the second meeting on 22 March, the remaining half was gone over. The amendments I propose to move relate to the last part of the Bill. At that meeting, I raised questions with respect to the clauses concerning notices. But some Members said that there was no need for detailed discussions and, if I had any disagreement, I might move amendments myself. We should, first of all, understand the rationale of the Government behind these provisions and why it has to be done in this way. Then we may consider how to amend the relevant provisions. We had not planned to move amendments right from the beginning. Moreover, I have given sufficient notice of my intention to move amendments. According to the Standing Orders, 11 working days' notice is required if Members intend to move amendments to any of the clauses in a Bill. I have followed the rules or else the Chairman would not have allowed my motion to go forward. Furthermore, when the Bill was discussed at the meeting on 15 April, I mentioned such amendments verbally and undertook to give a written explanation on them. I have also circulated my opinion paper to Members for reference. Such being the case, I am really not moving the amendments on the spur of the moment. I have given Members ample time to consider my proposed amendments. Members should, therefore, consider whether or not my amendments are sensible and are in the public interest before deciding on whether or not my amendments be supported.

The Secretary for Planning, Environment and Lands has given only a simple response to my proposed amendments. My first amendment is based on the reasoning that the Authority should not prosecute the farmer after issuing the abatement notice should the farmer cease to cause pollution. But according to the Bill, the farmer who fails to comply with the directions of the notice issued by the Environmental Protection Department to rectify the situation shall be prosecuted regardless of whether the pollution was caused by him or not. Is it not depriving the farmers of their rights? Farmers of course refuse to give in. Their default amounts to no more than failing to comply with the directions of the notice in not installing the required waste treatment system.

My second amendment is related to appeal. The Secretary for Planning, Environment and Lands again did not give me a satisfactory answer on this. Why should appeals be made on grounds of maladministration only? Why not give farmers a chance to comment on the pollution abatement notice? I say so because the facilities required to be installed under the notice may be very expensive and farmers may not be able to afford them. If the ultimate aim of the Government is to assist farmers to improve the pollution situation, it should allow them to put forward alternative improvement measures. As a matter of

fact, the Environmental Protection Department has already been vested with supreme authority to impose additional licensing conditions as it sees fit. This is very harsh indeed. Should farmers fail to comply with the additional conditions or to install the required treatment system, licences will not be granted to them. Such a measure has indeed imposed very stringent controls over the farmers' operations. I hope that Members will carefully consider and support my amendments so that farmers may be better safeguarded. Thank you.

Proposed amendments

Clause 13

That clause 13 be amended, in the proposed section 15G —

- (a) in subsection (6) by deleting "Any" and substituting "Subject to subsection (7), any";
- (b) by adding -

"(7) No offence under subsection (6) is committed unless it is proved that at the end of the period specified in the notice there existed pollution to the environment by livestock waste generated or produced in or on the livestock premises to which the notice relates."

Clause 20

That clause 20 be amended, by deleting paragraph (b).

Question on the amendments proposed.

MR ANDREW WONG (in Cantonese): Mr Chairman, I would like to air my own opinion now. During the Second Reading debate, the views I put forward are those of the Bills Committee. Right from the beginning, I have all along been supporting the establishment of a licensing system. When the new scheme was endorsed in 1987, I already proposed the granting to all livestock farmers, in an ungrudging and generous manner, of substantially high *ex gratia* allowances for cessation of livestock farming. Anyone who intends to continue raising livestock may apply for a licence. The Government can, of course, impose all conditions that are necessary through licensing. Yet, it seems that not until now has the Government reached the licensing stage — a considerable effluxion of time indeed since 1987. I think the Government has been too slow in implementing the scheme. It should have reached this stage much earlier. Yet the licensing system is to be implemented in three phases and a three-year grace period is allowed in each phase. This is also an exceedingly slow pace. As the Government has already introduced the capital grants, I think it may be

better if the capital grant is raised to the level of the *ex gratia* allowance. This will enable environmental protection to be implemented immediately through the licensing system so that the livestock farming industry will not pollute the Hong Kong environment. If the licensing system is effective, we may just rely on some prior warnings or notices instead of heavy penalties. For this reason, to clause 13 of the Bill will be added a new section 15G which will be incorporated into the Waste Disposal Ordinance. The purpose of this is to make it possible to deal with existing or imminent pollution by just issuing a notice without the need to add any new provision to the licensing conditions or to resort to prosecution. Just now the Rev FUNG Chi-wood mentioned "possible" pollution while the word used in the Ordinance is "imminent", that is, something that will happen very soon. When the Director of Environmental Protection issues such a notice or a letter of notification containing such a notice, he must have reasonable grounds to hold the opinion that pollution is imminent. If prosecution can only be instituted after pollution has occurred, it will be just the same as reverting to the system adopted before 1987, which will mean that we will never have sufficient manpower to carry out frequent inspections to spot pollution and, in case pollution occurs, to find out whether it is caused by the farm concerned. For this reason, I cannot support the Rev FUNG Chi-wood's proposed amendments.

As for the appeal system, I have two points to make. First, it is about the written authorization to raise livestock in a restriction area, that is, an appeal relating to the authorization for the continued operation of the farm concerned. Under such circumstances, it is very obvious that an appeal may only be made on grounds specified in section 20B of the principal Ordinance. If an appeal can be made on whatever other grounds, the farm concerned may continue in business even though it has not been in regular operation in the last 12 months prior to the appeal, thus giving rise to environmental pollution. Second, it is about the irregularities specified in section 15G. If the restrictions thereto applying are not based on the three types of grounds referred to just now, we will have to institute prosecution once the farm concerned causes pollution. Yet, given the added provision in 15G, we will be unable to institute such prosecution. Under such circumstances, the farm will cause endless pollution through this appeal system.

Just now the Secretary for Planning, Environment and Lands most tactfully let drop a remark. He said that there were Members who would say environmental protection work was going too slowly while there were Members saying that it was going too fast. Yet, it is strange that these two opposing views should be held by the same Member. This observation does not apply to the Rev FUNG alone but also Members from the United Democrats of Hong Kong (UDHK) who adopt the same stand as the Rev FUNG. Are the UDHK intending to score credit points with the farmers by lending a hand to them? Is this why the UDHK are making threats to abstain from voting unless all of us support these amendments? In case these amendments are negated, they can still claim some credit from the abstention vote. This has made me feel so angry that I cannot support the amendments.

CHAIRMAN: Rev FUNG, please be very relevant and do not engage in repetition.

REV FUNG CHI-WOOD (in Cantonese): Mr Chairman, I am very disappointed that the Secretary for Planning, Environment and Lands and Mr Andrew WONG misunderstood my proposed amendments. My amendments do not seek to abolish the practice of issuing an abatement notice. The notification system is to be retained. Where the Director of Environmental Protection holds the opinion that pollution arising from a farm's activities is imminent, the Director may indeed issue a notice to the farmer. The farmer concerned is required to comply with the directions as specified in the notice. Failing this, he is liable to be prosecuted. Under the proposed legislation, if he does not comply with the directions, the Environmental Protection Department may institute legal actions against him at the end of the period specified in the notice regardless whether there is pollution or not after the period. Yet two scenarios are worthy of our consideration. First, pollution does occur at the farm but the situation is subsequently improved after the expiry of the notice period. There is no longer any pollution. Second, pollution is imminent or does actually take place during the notice period; but if pollution stops at the end of the notice period, the farm should be regarded as having made an improvement and there is no justification to prosecute the farm. The farm could have applied an improvement method which is different from those listed in the notice to abate the situation. Our main concern is environmental protection or pollution. Why should we care too much about the methods laid down in the notice? A bone of contention at the moment between the Government and the farmers is their divergent views over the methods of livestock breeding. The pig-on-litter method is one in dispute. There is no mutual trust between both parties. The Government holds that the pig-on-litter method is workable whereas the farmers think otherwise. This lack of mutual trust troubles me.

Furthermore, should there be any worry about the appeal system being misused or abused by farmers to delay taking actions, we should certainly plug the loopholes. Appeal channels are not only made available in this Bill, but also in many other ordinances. The proposed establishment of an Appeal Board seeks to allow for settlement of disputes outside the court. Both parties could make representations to the Board. I think that it is not necessary to bring everything before the court. By imposing certain restrictions on the appeal procedures, abuses may be avoided. However, it is unacceptable if appeals can only be made on grounds of maladministration and no appeals can be made in respect of the content of the abatement notice.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, thank you. I will be brief. I do not propose to repeat what I said about the Committee stage amendments. I think I made the Administration's

position very clear. We do not support the amendments proposed because we believe they will lead to a further continuation of pollution and not its curtailment at the pace that it is necessary. I think this is a moment of truth for the Council. We should see truly Members' intentions as far as environmental improvement is concerned. We should see which Members are facing forwards on the environmental issues and which Members are facing forwards and backwards at the same time. And we should know how much weight to give to Members' views on environmental issues in future.

Question on Rev FUNG's amendment to clauses 13 and 20 put.

Voice vote taken.

CHAIRMAN: Council will proceed to a division.

CHAIRMAN: Will Members please proceed to vote? I would just remind Members that you are being asked to vote on Rev FUNG's proposed amendments to clause 13 and 20. If you support his amendments, you vote "yes". If you do not support his amendments, you, of course, vote "no".

CHAIRMAN: Are there any queries? If not, the result will now be displayed.

Mr Martin LEE, Dr David LI, Mr SZETO Wah, Dr LEONG Che-hung, 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, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum and Mr WONG Wai-yin voted for the amendment.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr PANG Chun-hoi, Mr TAM Yiu-chung, Mr Andrew WONG, Mr Edward HO, Mrs Peggy LAM, Mrs Elsie TU, Mr Peter WONG, Mr Moses CHENG, Mr Timothy HA, Dr LAM Kui-chun, Miss Emily LAU, Mr Steven POON, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG, Miss Christine LOH, Mr Roger LUK and Mr James TIEN voted against the amendment.

Mr CHIM Pui-chung, Dr TANG Siu-tong and Mr Alfred TSO abstained.

THE CHAIRMAN announced that there were 20 votes in favour of Rev FUNG's amendment motion and 24 votes against it. He therefore declared that the amendment motion was negatived.

Question on the original clauses 13 and 20 proposed, put and agreed to.

PUBLIC HEALTH (ANIMALS AND BIRDS) (AMENDMENT) BILL 1993

Clauses 1 to 5 were agreed to.

INSURANCE COMPANIES (AMENDMENT) BILL 1993

Clauses 1 to 3, 6 to 8 and 11 to 19 were agreed to.

Clauses 4, 5, 9 and 10

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

As mentioned in my earlier speech, the proposed amendments to the Bill are all consequential upon the enactment in July 1993 of the Insurance Companies (Amendment) Ordinance 1993 which exempted Classes G and H of long term business from the solvency margin requirement.

Clause 4

Clause 4(1) is to be amended in proposed section 8(3)(a)(iii)(A)(II) to exclude from the solvency margin requirement Classes G and H of long term business as specified in Part 2 of the First Schedule.

Clause 5

A new clause 5(2) is added to amend section 10(2) to specify that the solvency margin requirement referred to in section 8 does not apply to Classes G or H of long term business.

Clause 9 and 10

Clauses 9 and 10 are to be amended because sections 22(3) and 23(2) of the Insurance Companies Ordinance, which they sought to amend, have, since introduction of this Bill, been replaced. The relevant new sections which require amendment by the Bill are sections 22(3)(a) and (b) and section 23(2)(b). The proposed amendments clarify that the solvency margin requirement does not apply to Classes G and H business.

Mr Chairman, I beg to move.

Proposed amendments

Clause 4

That clause 4(1) be amended, in the proposed section 8(3)(a)(iii)(A)(II), by adding before "\$2,000,000" -

"if any part of the long term business carried on or intended to be carried on is of a nature other than that specified in class G or H in Part 2 of the First Schedule,".

Clause 5

That clause 5 be amended —

(a) by renumbering it as clause 5(1).

(b) by adding -

"(2) Section 10(2) is amended by adding before "is \$2,000,000" -

", if any part of the long term business carried on or intended to be carried on is of a nature other than that specified in class G or H in Part 2 of the First Schedule,".

Clause 9

That clause 9 be amended, by deleting the clause and substituting —

**"9. Separation of assets and liabilities
attributable to long term business**

Section 22(3) is amended -

(a) in paragraph (a), by repealing "any applicable valuation regulations" and substituting "section 8(4)";

(b) in paragraph (b), by repealing everything after "as determined in accordance with" and substituting -

"section 8(4) in the aggregate is not less than the greater of the following -

- (i) the aggregate of -
 - (A) the amount of the liabilities attributable to those parts of that business to which the funds relate (as so determined); and
 - (B) \$2,000,000 or its equivalent; or
- (ii) the aggregate of the amount of the liabilities attributable to those parts of that business to which the funds relate (as so determined) and such amount as may be required to be held in such funds in accordance with regulations made under section 59(ab).".".

Clause 10

That clause 10 be amended, by deleting the clause and substituting —

"10. Application of assets of insurer with long term business

Section 23(2)(b) is amended by repealing "the aggregate of the amount of the liabilities attributable to those parts of that business to which the funds relate and \$2,000,000 or its equivalent," and substituting -

"the greater of the following -

- (i) the aggregate of -
 - (A) the amount of the liabilities attributable to those parts of that business to which the funds relate; and
 - (B) \$2,000,000 or its equivalent; or
- (ii) the aggregate of the amount of the liabilities so attributable and such amount as may be required to be held in such funds in accordance with regulations made under section 59(ab),".".

Question on the amendments proposed, put and agreed to.

Question on clauses 4, 5, 9 and 10, as amended, proposed, put and agreed to.

INSURANCE COMPANIES (AMENDMENT) (NO. 2) BILL 1993

Clause 1 was agreed to.

Clause 2 and 3

SECRETARY FOR FINANCIAL SERVICES: Mr Chairman,

Clause 2

(Proposed section 25A)

Mr Chairman, I move the clauses 2 and 3 be amended as set out in the paper circulated to Members. Section 25A in clause 2 of the Bill is to be amended to clarify the requirement for insurers to maintain assets in Hong Kong. I should explain the reasons for each of the proposed amendments to this section.

Subsection (1) of proposed section 25A is amended, through clauses 2(b)(i) and (ii), to include, in the proposed definition of "liabilities", liabilities accounted for on a "fund" accounting basis. Such liabilities are not separately identified but are represented by a single fund. This practice is common among insurers writing marine hull and aviation insurance for which the liabilities take a longer time to develop, and where the fund is normally left open for a period of three years before it is closed and the profit and loss taken.

In subsection (2) of proposed section 25A, the reference to a person "carrying on" reinsurance business is amended, through clause 2(b)(iii), to clarify that it means a person "authorized to carry on" reinsurance business.

Subsections (3) and (4) of proposed section 25A are amended, through clause 2(b)(iv), to extend the basis for determining the amount of liabilities to be matched by local assets by reference to the proportion of insurance business an insurer has reinsured. This is necessary to prevent insurers from over-reinsuring for the purpose of evading the local asset requirement. An insurer reinsuring more than half his gross premiums is deemed to be over-reinsuring his liabilities. The amended subsection (3) provides that an insurer will be required to maintain assets in Hong Kong in an amount not less than 80% of his net liabilities (that is, the total amount of liabilities after deducting the amount reinsured). Where an insurer has reinsured more than half the premiums received, he shall maintain assets equal to either 80% of his net liabilities or 40% of his gross liabilities (that is, the amount of liabilities before deducting the amount reinsured), whichever is the greater.

Subsection (4) of proposed section 25A is amended to allow for circumstances where over half the gross premiums received are reinsured for *bona fide* reasons, for example, where the risk is so substantial that the insurer is unable to retain a greater proportion. Provided that it is not contrary to the interests of policy holders, the Insurance Authority may, at the request of an insurer, exempt the insurer from the 40% gross liability test. In these circumstances, the insurer will only be required to match 80% of his net liabilities.

In response to representations by the industry, a new subsection (7A) is added, through clause 2(b)(v), to proposed section 25A. An insurer shall be relieved of the requirement to maintain assets in Hong Kong to the extent of any assets he is already required by the law of any place outside Hong Kong to maintain in that place.

Subsection (9)(b) is amended, through clause 2(b)(vii), to clarify that an insurer who fails to comply with the conditions attaching to an exemption from the local asset requirement under subsection (6) commits an offence, unless it is established that, at the time he failed to comply with those conditions, he was complying with the requirements of the amended subsection (3).

Clause 2
(Proposed section 25B)

Amendments to proposed section 25B in clause 2 of the Bill, which empowers the Insurance Authority to direct an insurer to re-determine his liabilities.

Subsection (1) of proposed section 25B is amended, through clause 2(c)(i), to ensure that the qualifying phrase, "notwithstanding the definitions of 'additional amount for unexpired risks', 'claims outstanding' and 'unearned premiums'," applies only to the date on which the liabilities are to be re-determined and not to the scope of those liabilities.

Subsection (2) of proposed section 25B is amended, also through clause 2(c)(i), to clarify that, if, after re-determination, an insurer's liabilities are greater than when determined under section 25A, the insurer shall commence maintaining assets in Hong Kong in accordance with amended section 25A, that is, he should meet the gross or net liabilities test instead of, as originally proposed, simply increasing his assets in Hong Kong to an amount not less than 80% of his net liabilities.

Clause 2
(Proposed section 25C)

Through clause 2(d), a new section 25C is to be added to enable an insurer to procure a letter of credit or other commitment from a bank in favour of the Insurance Authority, instead of maintaining assets in Hong Kong.

Subsection (2) of new section 25C allows the Insurance Authority to exercise his right to payment pursuant to the letter of credit or other commitment from the bank, if, in his opinion, it would appropriately safeguard the interests of policy holders. Subsection (3) clarifies that any payment made to the Insurance Authority shall be held in trust for the insurer.

(Proposed Part 9 of Third Schedule)

Subsection (8) of proposed section 25A originally required an insurer, within six months after the end of each financial year, to file with the Insurance Authority a statement as set forth in the proposed Ninth Schedule. The proposed Ninth Schedule is now replaced by a new Part 9 of the Third Schedule, because: firstly, the proposed requirement to report annually to the Insurance Authority what assets are held in Hong Kong is similar to the existing requirement under Part 8 of the Third Schedule whereby an insurer shall submit annual accounts to the Authority; secondly, the same liabilities are reported in both returns and the same definitions of terms apply to both; thirdly, inclusion of the Requirement in Part 9 of the Third Schedule will enable the Insurance Authority to modify the return to meet special circumstances, as provided for under section 17(2); fourthly, the asset valuation regulations, which are being drafted, will apply by virtue of section 17(1) to the assets reported under Part 9 of the Third Schedule. Consequently, it is proposed that the references to the Ninth Schedule in subsection (8) of proposed section 25A and subsection 3(b) of proposed section 25B be replaced, by references to Part 9 of the Third Schedule.

Clause 3

It is also proposed for the reasons just given, that, through clauses 3(a) and 3(c), the proposed Ninth Schedule be deleted.

The Bill proposed in clause 3(b) the addition of an Eighth Schedule to define which assets of an insurer would qualify as assets in Hong Kong. In response to queries from Members and the Hong Kong Federation of Insurers, and to remove any inconsistency with the Banking Ordinance, it is proposed these definitions be amended. In paragraph 1(c) "a bank or deposit-taking company" is redefined as "an authorized institution, as defined in the Banking Ordinance (Cap. 155)". Location of shares in respect of a company under paragraph 1(g) is amended to clarify that such shares are Hong Kong assets if they are transferable and registrable only at a register in Hong Kong or, in the ordinary course of business, transferred and registered at a register in Hong Kong and the certificates for which, if any, are for the time being kept in Hong Kong. The legal situation of the shares is an important factor in determining whether the assets are indeed Hong Kong assets.

To allow an insurer greater flexibility of investment choice, paragraph 1(i) is added to include an interest in a unit trust, as defined in the Securities Ordinance (Cap. 133), which is realizable in Hong Kong and in

respect of which the governing law of the trust is expressly stated to be that of Hong Kong.

Mr Chairman, I beg to move.

Proposed amendments

Clause 2

That clause 2 be amended —

(a) by deleting "The Insurance Companies Ordinance (Cap. 41) is amended by adding -" and substituting "The following is added -".

(b) in the proposed section 25A -

(i) in subsection (1) in the definition of "liabilities" by deleting paragraph (c) and substituting -

"(c) unearned premiums, but, where a class of Hong Kong insurance business is accounted for on a fund accounting basis, liabilities means, with respect to such a class, the fund;"

(ii) in subsection (1) by adding -

"'fund" has the same meaning as in paragraph 1(1) of the Third Schedule;"

(iii) in subsection (2) by deleting "carrying" and substituting "authorized to carry";

(iv) by deleting subsections (3) and (4) and substituting -

"(3) Subject to subsections (4), (6) and (7A), an insurer shall, at all times, maintain assets in Hong Kong in respect of its liabilities, as of the end of the last preceding financial year, arising from Hong Kong insurance business, and such assets shall be maintained in an amount that is not less than -

(a) the aggregate of -

(i) 80% of its liabilities after deducting the amount in respect of

which contracts of reinsurance have been entered into; and

(ii) the relevant amount; or

(b) where, in respect of such liabilities, it has entered into contracts of reinsurance for which the premiums payable exceeded one half of the gross premiums received, the aggregate of -

(i) 40% of its liabilities before deducting the amount in respect of which contracts of reinsurance have been entered into; and

(ii) the relevant amount,

and, where paragraph (b) applies, the insurer shall maintain assets in accordance with paragraph (a) or (b), whichever is greater.

(4) The Insurance Authority may, at the request of an insurer and provided that he is satisfied that it would not be contrary to the interests of policy holders to do so, exempt, in writing, the insurer from the requirements of subsection (3)(b) and he may attach such conditions to, or limitations in respect of, the exemption as he considers appropriate including, mwithout limiting the foregoing, a limitation on the duration of the exemption.";

(v) by adding -

"(7A) The requirements under subsection (3) to maintain assets in Hong Kong shall be relieved to the extent, if any, of any assets which an insurer is, by the laws of any place outside Hong Kong, required to and does maintain in that place and which would, upon the liquidation of the insurer, fall within the description of assets that is contained in section

265(1)(e)(i) of the Companies Ordinance (Cap. 32).";

(vi) in subsection (8) by deleting "the Ninth Schedule" and substituting "Part 9 of the Third Schedule";

(vii) in subsection (9)(b) by adding after "(6)," -

"unless it establishes that, at the time it failed to so comply, it was complying with the requirements of subsection (3)."

(c) in the proposed section 25B -

(i) by deleting subsections (1) and (2) and substituting -

"(1) Where the Insurance Authority is of the opinion that an insurer's liabilities would be significantly greater if determined as of a day later than the end of its last preceding financial year, he may, by notice sent to the insurer, direct the insurer to re-determine its liabilities as of a date specified in the notice, and he may specify the manner of re-determination, and, in that case, notwithstanding that the definitions of "additional amount for unexpired risks", "claims outstanding" and "unearned premiums" provide that they are amounts set aside by an insurer at the end of its financial year, the insurer shall re-determine its liabilities as of the date and in the manner, if any, specified in the notice as if such date were the end of its financial year.

(2) Where an insurer receives a notice under this section, it shall forthwith in the manner specified, if any, re-determine its liabilities as of the specified date and, if the liabilities are greater than those determined under section 25A, it shall, not later than 3 months after the date it received the notice, commence maintaining assets in Hong Kong in accordance with section 25A, as modified by this section, and the insurer shall continue to so maintain assets in Hong Kong until the next determination of its liabilities under section 25A.";

(ii) in subsection (3)(b) by deleting "the Ninth Schedule" and substituting "Part 9 of the Third Schedule".

(d) by adding -

**"25C. Letter of credit or other
commitment from a bank**

(1) An insurer may, instead of maintaining assets in Hong Kong as required by this Part, substitute, in whole or in part, a letter of credit or other commitment from a bank, as defined in the Banking Ordinance (Cap. 155), in favour of the Insurance Authority, but the terms and conditions attached to such a letter of credit or other commitment are subject to the approval of the Insurance Authority.

(2) The Insurance Authority may, if in his opinion it would appropriately safeguard the interests of policy holders or potential policy holders, exercise his right to payment pursuant to a letter of credit or other commitment referred to in subsection (1).

(3) Any payment made to the Insurance Authority pursuant to a letter of credit or other commitment shall be held in trust for the insurer as if it were a deposit made by an insurer under section 35A(1).

(4) Nothing in this section shall limit the powers of the Insurance Authority to require a deposit under section 35A(1)."

Clause 3

That clause 3 be amended —

(a) by deleting -

"Schedules added

The following are added -"

and substituting -

"Schedule added

The following is added -".

(b) in the proposed Eighth Schedule, in paragraph 1 -

(i) in subparagraph (c) by deleting "a bank or a deposit-taking company in Hong Kong" and substituting "an authorized institution, as defined in the Banking Ordinance (Cap. 155)";

(ii) by deleting subparagraph (g) and substituting -

"(g) shares in respect of a company, wherever incorporated and whether or not it comes within the definition of "company" in section 2(1) of this Ordinance, which shares are -

(i) transferable and registrable only at a register in Hong Kong; or

(ii) in the ordinary course of business, transferred and registered at a register in Hong Kong and the certificates for which (if any) are for the time being kept in Hong Kong;"

(iii) by adding -

"(i) an interest in a "unit trust", as defined in the Securities Ordinance (Cap. 333), which is realizable in Hong Kong and in respect of which the governing law of the trust is expressly stated to be that of Hong Kong to the exclusion of all others."

(c) by deleting the proposed Ninth Schedule.

Question on the amendments proposed, put and agreed to.

Question on clauses 2 and 3, as amended, proposed, put and agreed to.

New clause 1A	Interpretation
New clause 1B	Notification in respect of auditors appointed under section 15
New clause 1C	Documents to be deposited with Registrar of Companies

New clause 2A Regulations

New clause 2B Accounts and Statements

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

SECRETARY FOR FINANCIAL SERVICES: Mr Chairman,

New clauses 1A and 1B

I move the new clauses 1A, 1B, 1C and 2B as set out in the paper circulated to Members be read the Second time. Consequent upon the requirement in new clause 2B, to be moved later, for forms and statements submitted under Parts 8 and 9 of the Third Schedule to be audited by a suitably qualified auditor, it is proposed that, through new clauses 1A and 1B, subsection (2) of section 15A and the definition of "prescribed person" in section 2(1) be amended, to include an auditor appointed under paragraph 4(1A) of Part 1 of the Third Schedule. The amendments will require an auditor to give notice to the Insurance Authority when he decides to make a qualification or adverse statement to the report annexed to the forms and statements submitted by the insurer under Parts 8 and 9 of the Third Schedule. The amendments will protect the auditor against breach of confidentiality between himself and his client.

New clause 1C

As the information contained in the statements in Part 9 of the Third Schedule covering assets and liabilities of an insurer is confidential and intended solely to enable the Insurance Authority to monitor the insurer's business, it is proposed that, through new clause 1C, section 21(1), which requires certain documents to be deposited with the Registrar of Companies for public inspection, be amended to exclude its application to Part 9 of the Third Schedule.

New clause 2A

It is proposed that, by means of new clause 2A, reference to the Eighth Schedule be included in section 59(c), so as to enable the Governor in Council by regulations to amend the Eighth Schedule.

New clause 2B

(Amendments to Part I of Third Schedule)

Members have expressed concern that the proposed requirement to maintain assets in Hong Kong does not apply to liabilities arising from policies underwritten in Hong Kong covering property located or policy holders

residing overseas. I therefore proposed that the definition of "Hong Kong Insurance Business" in paragraph (1)(1) of Part 1 of the Third Schedule be amended, through new clause 2B(1), to include policies underwritten in Hong Kong irrespective of the location of the risk or residency of the policy holder. This amendment is a considerable improvement upon the original proposal.

New clause 2B
(Miscellaneous amendments)

It is proposed that, through new clause 2B(2)(b), a new subsection be added to paragraph 4 of Part 1 of the Third Schedule to address Members' concern that the information contained in forms and statements submitted by the insurer under Parts 8 and 9 of the Third Schedule may not be reliable. I agree therefore that these forms and statements should be audited by an auditor appointed by the insurer. Apart from stating that the insurer maintains proper records and that the forms and statements are properly prepared in accordance with the records, the auditor shall, in his report annexed to forms submitted under Part 8, state that the information submitted by the insurer presents fairly, in all material respects, the underwriting results pertaining to the insurer's business in Hong Kong. Under Part 9 the auditor shall state that, in addition to the above matters, the assets maintained by an insurer in Hong Kong enable it to comply with the local asset requirement.

To address concerns raised by the accounting profession, and being mindful that auditors do not certify the forms and statements referred to in Parts 8 and 9 of the Third Schedule, it is proposed that, new clause 2B(2)(a), all references to "certificate" in subparagraphs (1), (2) and (3) of paragraph 4 of Part 1 of the Third Schedule be replaced by "report".

As mentioned earlier, the proposed Ninth Schedule is replaced by a new Part 9 of the Third Schedule. This is effected through new clause 2B(3).

It is also proposed that, through new clause 2B(3), Table A in new Part 9 of the Third Schedule be amended to clarify what information is to be supplied by the insurer. The item at lines 34 and 35 of Table A now includes reference to "restricted licence banks" as well as "deposit-taking companies".

A bank guarantee is legally a surety whereby the guarantor promises to pay the creditor the debts owed by the principal debtor in the event of default. Since the guarantor's promise is given directly to the creditor, a "bank guarantee" cannot be used where numerous policy holders are involved. Therefore line 40 of Table A is amended by deleting reference to "bank guarantee" and substituting "other commitment from a bank".

I proposed that Table B of Part 9 of the Third Schedule be amended by dividing it into two parts to distinguish between the gross and net liabilities matched by local assets. Each part of Table B shall specify both the amount of liabilities accounted for on a fund accounting basis, as proposed in subsection

(1) of section 25A, as well as the relief granted to insurers, as proposed in subsection (7A) of section 25A.

Mr Chairman, with this remarks, I commend that new clauses to amend.

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

Clauses read the Second time.

SECRETARY FOR FINANCIAL SERVICES: Mr Chairman, I move that new clauses 1A, 1B, 1C, 2A and 2B be added to the Bill.

Proposed additions

New clauses 1A, 1B and 1C

That the Bill be amended, by adding —

"1A. Interpretation

Section 2(1) of the Insurance Companies Ordinance (Cap. 41) is amended in paragraph (a)(ii) of the definition of "prescribed person" by adding "or paragraph 4(1A) of Part 1 of the Third Schedule" after "15".

1B. Notification in respect of auditors appointed under section 15

Section 15A is amended -

- (a) in subsection (2) by adding "and, in the case of paragraph (c), an auditor appointed under paragraph 4(1A) of Part 1 of the Third Schedule," after "15";
- (b) in subsection (2)(c) by repealing "certificate" and substituting "report".

1C. Documents to be deposited with Registrar of Companies

Section 21(1) is amended by adding "or 9" after "Part 8".

New clause 2A and 2B

That the Bill be amended, by adding —

"2A. Regulations

Section 59(c) is amended by repealing "or Seventh" and substituting "Seventh or Eighth".

2B. Accounts and Statements

(1) The Third Schedule is amended in Part 1, in paragraph 1(1), in the definition of "Hong Kong insurance business" -

- (a) in paragraph (a)(i) by repealing "and" at the end and substituting "or";
- (b) by repealing paragraph (a)(ii).

(2) The Third Schedule is amended in Part 1, in paragraph 4 -

- (a) in subparagraphs (1), (2) and (3) by repealing "certificate" and substituting "report";
- (b) by adding -

"(1A) The forms and statements to be submitted under Parts 8 and 9 of this Schedule shall be audited by a person who is qualified for appointment as auditor of a company under the Professional Accountants Ordinance (Cap. 50) and is not disqualified under section 140 of the Companies Ordinance (Cap. 32), and the auditor shall -

- (a) with respect to the forms under Part 8, annex a report thereto stating whether or not in his opinion -
 - (i) the insurer maintains proper records in accordance with section 16 of this Ordinance for the purposes of preparing the forms;
 - (ii) the forms have been properly prepared in accordance with those records; and

- (iii) the information supplied in the forms presents fairly in all material respects the underwriting results pertaining to the Hong Kong insurance business; and
- (b) with respect to the statement under Part 9, annex a report thereto stating whether or not in his opinion -
- (i) the insurer maintains proper records in accordance with section 16 of this Ordinance for the purposes of preparing the statement;
 - (ii) the statement has been properly prepared in accordance with those records;
 - (iii) the values of the assets and liabilities have been determined in accordance with any applicable valuation regulations;
 - (iv) the relevant amount has been determined in accordance with section 25A(1) of this Ordinance; and
 - (v) where the statement is submitted pursuant to -

(A) section 25A(8) of this Ordinance, the assets held by the insurer, as shown in the statement, enable it to comply with the requirement stipulated in section 25A of this Ordinance as at the last day of the financial year and 2 such other dates in the financial year as the auditor preparing the report may elect, provided that the intervening period between those 2 dates shall not be shorter than 3 months; or

(B) section 25B(3)(b) of this Ordinance, the assets held by the insurer, as shown in the statement, enable it to comply with the requirement stipulated in section 25B of this Ordinance as at the date specified in the notice issued under that section."

(3) The Third Schedule is amended by adding -

"PART 9 [ss. 25A & 25B]

STATEMENT OF ASSETS AND LIABILITIES PURSUANT TO
 #SECTION 25A AS AT ----- (financial year end date)
 #SECTION 25B AS AT ----- (date specified in notice issued under section 25B)

Name of Insurer-----

A. Assets maintained in Hong Kong

Items			\$
Land and Buildings*		01	
Fixed interest securities*	Issued by, or guaranteed by, any government or public authority	02	
	Other fixed interest securities except those in associated or subsidiary companies	Listed	03
		Unlisted	04
Variable Interest securities*	Issued by, or guaranteed by, any government or public authority	05	
	Others	06	

Other Variable Interest Investments*	Equity shares except those in associated or subsidiary companies	listed		07	
		unlisted		08	
	Holdings in unit trusts				09
Investment in associated or subsidiary companies*	Insurers	Value of any shares held	listed	10	
			unlisted	11	
		Debts (other than debts which must be included in line 20 or 21 to 28)	secured	12	
			partly secured	13	
			unsecured	14	
		Non-insurers	Value of any shares held	listed	15
	unlisted			16	
	Debts (other than debts which must be included in line 20 or 21 to 28)		secured	17	
			Partly secured	18	
		unsecured	19		
Loans secured by contracts of insurance issued by the insurer				20	

Insurance debts	Due from associated or subsidiary companies	Premium income in respect of direct insurance but not yet paid to the insurer less commission payable thereon	21	
		Amounts due from ceding insurers and intermediaries under reinsurance contracts accepted	22	
		Amounts due from reinsurers and intermediaries under reinsurance contracts ceded (excluding recoveries in respect of outstanding claims)	23	
		Recoveries due by way of salvage or from other insurers in respect of claims paid other than recoveries under reinsurance contracts ceded	24	
	Due from others	Premium income in respect of direct insurance but not yet paid to the insurer less commission payable thereon	25	
		Amounts due from ceding insurers and intermediaries under reinsurance contracts accepted	26	
		Amounts due from reinsurers and intermediaries under reinsurance contracts ceded (excluding recoveries in respect of outstanding claims)	27	
		Recoveries due by way of salvage or from other insurers in respect of claims paid other than recoveries under reinsurance contracts ceded	28	

Debts not Previously Covered*	Fully secured		29	
	Partly secured		30	
	Unsecured		31	
Deposits and current accounts*	With banks	Fixed term deposits	32	
		Current accounts	33	
	With restricted licence banks and deposit-taking companies	Fixed term	34	
		At call	35	
Cash			36	
Computer equipment, office machinery, furniture, motor vehicles and other equipment			37	
Other assets, to be separately specified if material			38	
Total			39	
Letter of credit or other commitment from banks licensed in Hong Kong			40	

B. Liabilities and relevant amount pertaining to Hong Kong insurance business

	Items			\$
	Unearned premiums		41	
+Gross insurance liabilities (before deduction of amount Reinsured)	Additional amount for unexpired risks		42	
	Claims outstanding	Reported claims	43	
		Claims incurred but not reported	44	
	Fund		45	
	Total liabilities (line 41+42+43+44+45)		46	
	Deduct: Relief permitted under section 25A(7A)		47	
	Total liabilities after deduction of line 47		48	
	40% of line 48		49	
Net insurance liabilities (after deduction of amount reinsured)	Unearned premiums		50	
	Additional amount for unexpired risks		51	
	Claims outstanding	Reported claims	52	
		Claims incurred but not reported	53	
	Fund		54	

Total liabilities (line 50+51+52+53+54)	55	
Deduct: Relief permitted under section 25A(7A)	56	
Total liabilities after deduction of line 56	57	
80% of line 57	58	
The greater of line 49 or line 58	59	
Relevant amount	60	
Total liabilities (line 59+60)	61	

We certify that the above information is true and correct.

() () ()

Director

Director

Chief Executive/Secretary#

Note: Amounts must be expressed in Hong Kong dollars.

* Supply particulars of assets in a separate sheet.

Delete as necessary.

+ Enter N/A in line 41 to line 49 if section 25A(3)(b) is not applicable."."

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

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

WASTE DISPOSAL (AMENDMENT) BILL 1993 and

PUBLIC HEALTH (ANIMALS AND BIRDS) (AMENDMENT) BILL 1993

had passed through Committee without amendment and the

BEDSPACE APARTMENTS BILL

INSURANCE COMPANIES (AMENDMENT) BILL 1993 and

INSURANCE COMPANIES (AMENDMENT) (NO. 2) BILL 1993

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

PRESIDENT: I will take the Waste Disposal (Amendment) Bill and the Public Health (Animals and Birds) Amendment Bill 1993 separately from the other three Bills. The question is that the following three Bills be read the Third time and do pass:

BEDSPACE APARTMENTS BILL

INSURANCE COMPANIES (AMENDMENT) BILL 1993 and

INSURANCE COMPANIES (AMENDMENT) (NO. 2) BILL 1993

Question on the three Bills put and agreed to.

Bills read the Third time and passed.

PRESIDENT: The question is that the following Bills be read the Third time and do pass:

WASTE DISPOSAL (AMENDMENT) BILL 1993 and

PUBLIC HEALTH (ANIMALS AND BIRDS) (AMENDMENT) BILL 1993

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

Bills read the Third time and passed.

Members' Motions

PRESIDENT: I have accepted the recommendations of the House Committee as to time limits on speeches for the motion debates and Members were informed by circular on 23 April. 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.

ABOLITION OF INTEREST RATES RULES OF THE HONG KONG ASSOCIATION OF BANKS

MR FREDERICK FUNG moved the following motion:

"That this Council urges the Government to introduce amendment legislation as soon as possible to repeal the existing provisions under the Hong Kong Association of Banks Ordinance regarding the specification of interest rates for current, savings and fixed deposits, so as to promote fair competition within the monetary sector and safeguard the interests of the depositors."

MR FREDERICK FUNG (in Cantonese): Mr President, the Administration is introducing into the Legislative Council today a number of Bills relating to the protection of consumer interests. They include the Sales of Goods (Amendment) Bill, the Supply of Services (Implied Terms) Bill and the Unconscionable Contracts Bill. This has had an encouraging effect on me as I move my motion today. The Government is showing its resolve to protect consumer interests and this is going to be the direction in which the Government is heading. However, I am also somewhat worried. Is it the Government's intention, in tabling those Bills today, to divert the attention of the public and the media from my motion? Is this a government ploy to swat flies but not to hunt tigers, so to speak?

Mr President, consumers have two basic rights:

- (1) The right to know; and
- (2) the right to choose.

But the Hong Kong Association of Banks (HKAB) Ordinance contains an "interest rate agreement" provision. This provision takes away consumers' legitimate right to choose. Section 12(1)(a) of the Ordinance provides that HKAB has full power to decide what the interest rates should be for most kinds of bank deposits. This is generally referred to as the "interest rate agreement." Section 12(1) of the Ordinance provides that HKAB has the power to take legal action against any member bank, that is, any licensed bank, which violates any of the provisions of this section (including the interest rate agreement), and to terminate its membership. This forces or obligates all licensed banks to abide by the interest rate agreement. The Ordinance is like a "magic controlling device". Licensed banks have no choice but to be led by the nose by HKAB. If HKAB says yes, no licensed bank can say no. The individual banks are forbidden to use their business acumen to draw customers by setting attractive interest rates. There is effectively no fair competition in the market place. To the consumer, it basically makes no difference in which bank he puts his money (up to \$500,000), or whether it be in a savings account, a call deposit account or a fixed deposit account. Thus, the consumer has zero choice. This is why I say that the HKAB Ordinance's "interest rate agreement" provision takes away the consumer's right to choose.

Last month, the Consumer Council published a report — *Hong Kong's Banking Policy and Operations: Their Effects on Consumers*. The report says that the interest rate agreement causes depositors to lose between \$4 billion and \$5 billion annually. The report cites a lot of statistical evidence. It also advances a lot of arguments. These arguments are the same as those advanced over the years by the Association for Democracy and People's Livelihood (ADPL) including myself. The report concludes that now is the time to abolish the interest rate agreement.

The lowly citizens of Hong Kong have always been the victims of low interest rates on deposits. Those with high incomes and those who are awash with funds can invest their money in property, stocks and foreign currencies. If a person has only a small amount of cash, for instance, less than \$100,000, he can in most cases only deposit his money in a bank, where its value is sure to be eroded by the high inflation rate and the low interest rate. Therefore, ADPL, including myself, believes that banks should not force the humble citizens to accept such a low interest rate on their deposits, or no interest at all as in the case of deposits in current accounts. But HKAB argues that the interest rate agreement actually makes large account holders subsidize small account holders. HKAB also argues, self-contradictingly, that it "pays more attention to operating efficiency than to social equity". I buy its second argument. Banks are commercial institutions. How can one expect it to rob the rich to pay the poor, like Robin HOOD. That would be totally contrary to the principle of commercial business, which is to make money. Well then, if banks are losing money over their small account holders, why do they, immediately after every Chinese New Year, use all kinds of ploys to attract deposits from children who are awash with "laisee" money? That would make them lose even more money, would it not? It is really unthinkable. Actually, HKAB uses a very questionable

method to represent how much banks spend on, and earn from, their small depositors (whose deposits are under \$10,000). It says that banks' incomes are determined by the inter-bank interest rate. It does not count banks' incomes from commercial loans or mortgage loans. In this way, it deliberately understates banks' interest earnings from loans made with depositors' money. Nor does HKAB accurately represent banks' expenses. For instance, expenses on employees and automatic teller machines are fixed expenses. Employees and machines serve big and small customers alike. The costs to the banks are not much different if their facilities are used once a day, 10 times a day or even 100 times a day.

HKAB says that the abolition of the interest rate agreement will probably lead to a sharp rise in service charges and a decline in the number of branch offices. This smacks of intimidation. True, many banks are already collecting service charges. I am convinced, however, that, in a competitive environment, they will not raise such charges sharply. As regards the decline in branch office numbers, the agreement may have been instrumental in subsidizing various service charges and loss-sustaining branch offices. Conversely speaking, why are branch offices sustaining losses? Many big banks are taking advantage of the economy of scale. They set up branch offices in the best locations in order to take away business from other banks. Is this true? And will fewer branch offices mean higher operating efficiency? The answer has yet to be researched.

HKAB also says that the interest rate agreement enables Hong Kong's fixed exchange rate system to be maintained. I believe that everybody knows that the interest rate agreement came into existence in 1964 while the fixed exchange rate was first adopted only in 1983. There is no inevitable relationship between the two. This is so according to Mr GREENWOOD, one of the original proponents of the fixed exchange rate system. Also, Mr Joseph YAM, Chief Executive of the Monetary Authority, has said in a letter in answer to Mr Fred LI that the interest rate agreement is not the most important element supporting the stability of the Hong Kong dollar's exchange rate; a more important element is the inter-bank interest rate. In fact, up to now, only HKAB is defending the interest rate agreement, and it is doing so self-servingly. Not many people buy its arguments.

In any case, I think that maintaining the fixed exchange rate system is not the responsibility of HKAB. Rather, it lies within the responsibility, as well as the power, of the Government and the Monetary Authority. The Monetary Authority has in recent years functioned like a central bank. The foreign exchange fund bills, the new accounting arrangements between the Government and the Hongkong and Shanghai Banking Corporation Limited and the mechanism for regulating liquidity are sufficient for maintaining the stability of the Hong Kong dollar's exchange rate.

In fact, the interest rate agreement does one major harm, which is that interest rates on deposits are set too low. It is this conflict of interest that often causes manifestly low interest rates on savings deposits. People with a lot of

liquidity are unwilling to deposit their money in banks and earn low interests. This is the cause of waves of speculation in the foreign exchange market, in property and in the stock market. Speculation seriously distorts what should otherwise be a reasonable distribution of resources, and it hinders normal economic activity. It also brings inflationary pressure. In such a vicious circle, the banks are not making enough long-term and medium-term loans.

The report of the Consumer Council recommends that the interest rate agreement be abolished over a period of three years to minimize any destabilizing effect on the banking system. I think this is acceptable. However, I also think that the Government should abolish the interest rate agreement sooner if it finds that this is warranted by timing and other factors. That will be even better.

As a legislator, I think that my first priority is to find out if existing law may lead to unfairness and, if so, how this should be remedied. Today, we are discussing the relationship between banks and consumers (depositors and lenders). The interest rate agreement is just one problem. I hope that the Government will see the woeful inadequacy of banking legislation generally. ADPL, including myself, suggests that the Government study the consumer credit law enacted by the United Kingdom long ago — in 1974. That law provides a legal basis for most types of bank services, such as mortgage, personal loans and lines of credit.

The interest rate agreement came into existence 30 years ago — in 1964. Hong Kong's financial services sector has undergone major changes since then. The interest rate agreement has already fulfilled its historical mission, that is to say, the functions it was intended to discharge when the agreement was set up in the 1960s. Now is the time for it to "retire with honour".

Mr President, with the intention of protecting the interests of the vast number of depositors, of promoting a greater degree of freedom in Hong Kong's banking industry, and of promoting a greater degree of fair competition, I am moving this motion for the abolition of the interest rate agreement.

Question on the motion proposed.

PRESIDENT: Although I do not have a direct pecuniary interest in this motion within Standing Order 65, Members ought to be aware of the fact that I am a non-executive director of the Hongkong and Shanghai Banking Corporation Limited.

MISS CHRISTINE LOH: Mr President, I firmly believe in competition. The Hong Kong Association of Banks has not adequately refuted the charges of unfair competition and unfair practices made against the banking industry by the

Consumer Council. The substance of today's debate is to ensure that depositors and stockholders are not, in fact, victims of these practices.

In response to the Consumer Council's allegations the Association claims firstly that the interest rate agreement is vital for the stability of the banking sector, and secondly that the agreement is vital for maintaining the US dollar exchange rate link.

On the first point surely the stability of the banking industry depends on the sound management of the banks themselves and not on the agreement. Members of the public have the right to know whether they are depositing their money in a soundly-managed bank. They ought to be given sufficient information to make an informed decision about which bank they want to patronize.

The banking industry claims that removing the agreement would force banks to compete for the business of Hong Kong's smaller depositors who make up about 50% of the Hong Kong dollar market to the tune of approximately \$500 billion. The banks argue that they lose money on these small deposits and that the agreement is, in fact, a public subsidy. The argument continues that if banks had to compete for these deposits it would lead them to provide a higher interest return to small depositors for which they would have to take more aggressive and therefore more risky investments.

If this is indeed the case then the Association should provide more information to substantiate their claim. It was singularly unhelpful for the Association's representative to tell legislators that he could not provide any figures to support the case that scrapping the agreement would hurt small depositors because it would involve highly sensitive information. I believe the answer to the issue of the banking industry's stability is for there to be greater financial disclosure about the banks' businesses. If banks were required to provide a higher level of information on their loan portfolios, declare genuine earnings, sources of income and expenditure then depositors and shareholders could more fully assess the financial risk of a bank's investment portfolio.

This in turn would force banks to fully consider the level of risk of their various investments as well as what effect these investments would have upon the public's confidence in their institution. Disclosure helps prevent mismanagement.

More importantly, Hong Kong does not require its banks to carry out any deposit insurance, nor should the Government begin to provide such insurance, but in return for this lack of financial security, shareholders and depositors fully deserve to be able to gauge the risk return performance of banks and, conversely, force the banks to make appropriate prudent investments.

The Consumer Council criticizes the fact that our banks disclose very little information when compared to their competition in other developed

economies. I believe there is substance to this criticism. In a global economy the banking public is not only local depositors but the global investing community. Hong Kong only ranks eighth out of a total of nine Asian countries surveyed in terms of information disclosure. Last October the Associate Director of Moody's Investment Services, an internationally-renowned credit rating agency, explained his company's lower rating of Hong Kong's banks in the world market with this statement. He said: "A lower level of disclosure means lower credit ratings. That is the general rule."

Unquestionably the banking industry is crucial to our economy but our banking industry cannot operate on the principle that its economic strengths and accomplishments justify its secrecy. Instead it should realize that in a potentially volatile market in a global economy its continued strength depends upon also the continued public confidence and support.

The second point the Association contends is that the agreement is essential for the keeping of the exchange rate peg. Last week the Monetary Authorities said that the agreement is not crucial to the maintenance of the exchange rate's stability. One reason for this is that the Authority's expanding role as a financial sector stabilizer and its willingness to use its formidable reserves to maintain the exchange rate link.

The ability to hold this exchange peg in the future will come from enhanced supervisory powers and greater public confidence in the Monetary Authority, a confidence that also relies on public disclosure of information. To be sure, strengthening the authority will mean continuing to scale back the powers of the largest banking cartels. In 1992 the Authority implemented a liquidity adjustment facility, which allows it to draw out funds from the market, thereby adjusting short-term interest rates. The Authority also recently strengthened its control over the industry's financial clearing services, a privilege that had been the reserve of the Hongkong Bank.

I believe this Council and the Government should adopt the Consumer Council's suggestion to amend the Banking Ordinance to give the authority or the Financial Secretary the ability to adjust all Hong Kong dollar deposit rates in certain special circumstances. Such a clause would provide, where absolutely necessary, the security of the present agreement while spreading the burden of such an agreement across all depositors. The Consumer Council also offers a very reasonable timetable for dismantling the agreement and the disclosure of more information. Such a slow, purposeful de-regulation under the watchful eyes of a strengthened Monetary Authority is by far the best way to proceed. The Honourable Frederick FUNG's motion fails to mention this timetable. That is unfortunate. But with this reservation, Mr President, I support the motion.

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

DR DAVID LI: Madam Deputy, I realize that the Hong Kong Association of Banks is fighting a lost battle here today. After all, how could anyone with an ounce of political savvy vote against a motion that seems to score one for the little guy against big business?

But, on behalf of my Constituency, I would ask you to consider seriously the implications of your actions. Because with democracy comes responsibility. To illustrate that point, I would like to tell you a story.

It is the not too distant future — at a not too distant place. We are across the way, in what used to be Chater Gardens, in what is now called the Central Squatter Settlement.

Not far from the stink of the garbage dump in the southwest corner, an old man — let me call him the Honourable Ngor Mo-chor (我無錯) — is crouched in his cardboard hovel, preparing to heat a rusted can of pork luncheon meat over a copy of an old Hansard, which he has pilfered from the decaying Legislative Council building for just that purpose. Beside him is a pile of crumpled old Hong Kong bank notes, which he uses as kindling.

Ngor Mo-chor's grandson has been watching his grandfather preparing the family dinner. Finally, tugging on his grandpa's ragged sleeve, he asks, "Grandpa, why do we live like this? Mama says that you let the banks go under."

"I did not!" Mr Ngor Mo-chor retorts defensively. "In 1997, after the banking failures of 1996, I voted for tighter regulation of the banks." His daughter-in-law, perched listlessly on a corroded steel drum, sneers at his remark, "But that was too late, by then, was it not? There were too few banks left. They did not survive competition."

"Then they were regulated again, but the bankers had become a bunch of bureaucrats. You had to have a fortune just to walk through a bank's doors. Do you remember how much my mother had to pay for her small account? Finally she could not afford the fees. In the good old days there were a lot of banks. You could borrow money, buy a flat. At least we have relatives in Shanghai who could support us," she says.

She looks back at her son. "The banks started to fail, one by one. People lost their savings, their cars, their homes. The Hong Kong dollar crashed, because the peg had been destroyed. The Government's surpluses did not last long. That was why we live like this, kwai tsai (乖仔)", she sighs.

In 1994, the Honourable Ngor Mo-chor sat on the Legislative Council. He voted for a motion that held out the promise of promoting "fair competition", of "safeguarding the interests of depositors" against the big bad banks.

Mr Ngor Mo-chor, slavishly devoted to the ideals of consumer rights, did not realize that competition is not always in the best interests of the consumers. He did not anticipate the interest-rate war, launched by some larger banks, that followed the abolition of the Interest Rates Rules. He did not expect the smaller local banks to merge or fail as a result of the riskier and riskier loans they felt forced to make in order to compete. And, as in a game of Chinese chess, if you get one move wrong, you lose all your pieces.

Mr Ngor Mo-chor and his well-intentioned fellow Councillors thought they could save consumers a few pennies. Instead they precipitated a banking crisis that cost Hong Kong its economic and social stability.

For Hong Kong's problems were not restricted to a few failed banks. No, things got much worse than that. Rocked by financial catastrophe, the Government was forced to use its surplus funds to try to bail out the banks. Soon it found that its coffers were almost empty.

At the same time, higher interest rates had led to speculation against the Hong Kong dollar, creating undue pressure on the peg. But without the Interest Rates Rules and deposit charges, the Monetary Authority found that it could not adequately defend the linked rate, and the Hong Kong dollar collapsed. Damn that David LI, he was right after all!

Everyone here knows that I would be delighted to revise the linked rate. But it does exist, and as long as it exists, it needs defending. As the Monetary Authority itself pointed out last week, it is better to have more arrows in your quiver than to find it empty when you reach for more ammunition.

The collapse of the linked rate was followed by the property market, bringing several more banks to their knees. Then the stock market went. Central became a wasteland as the foreign banks fled their landmark buildings for more lucrative markets in Guangzhou, Shanghai and Beijing.

My Constituency may be fighting a losing battle, but, after today's vote, they will not be the only losers. The Monetary Authority will have lost, the business community will have lost, and the people of this territory will have lost. Hong Kong will have lost.

Because stability and confidence are valuable, intangible assets. Hong Kong has cultivated these assets over the years. They remain vital to our reputation as an international financial centre, and critical to the future of Hong Kong. They should be carefully safeguarded, and not carelessly sacrificed.

Tampering with the Interest Rates Rules should only be considered after due prudential care has been taken to examine all the implications to regulation of the financial sector. Now, let us return to our story.

The little grandson, still clinging to his grandfather's dirty sleeve, looks perplexed by all this. "Grandpa," he says, "why did the banks go under?"

The daughter-in-law laughs a hollow laugh. "They went under the noses of people like your grandfather," she says. "They forgot that depositors are not consumer statistics, that they need protection, not deregulation. Because banks are not like any other businesses. They should not have allowed unrestrained competition," and then she lapses into silence.

Now, on behalf of my Constituency, I ask each of you to reconsider your vote, and to act responsibly in the best interests of Hong Kong.

With these remarks, Madam Deputy, I invite my fellow Councillors to join me in opposing this motion.

MR HUI YIN-FAT (in Cantonese): Madam Deputy, with the increasing openness of the Hong Kong society, the Government has become more transparent and accountable. In contrast, the Hong Kong banking industry and the Hong Kong Association of Banks (HKAB) appear to be conservative and backward in their business and operations. Therefore, any measure which will enhance the transparency and the competitiveness of the banking industry should have the support of this Council and the community.

With the scanty information available, the ordinary public find it difficult to choose their banks, not to mention to have an understanding of the HKAB's Interest Rate Agreement (IRA) mechanism. Although there is obvious disparity between the interest rate for savings deposits and the prime rate in recent years, the ordinary public have to accept it reluctantly. Therefore, I appreciate very much the way in which the Consumer Council safeguards the interest of the ordinary public by challenging the authority of the HKAB because such a move will at least force the HKAB to disclose more information on the operations of the banking industry.

To the ordinary public, the most important thing they would consider is whether the bank would give them a feeling of security after they deposit money in it. The interest rates offered and the amount of handling fees charged are of secondary importance. Therefore, as regards the abolition of the IRA, my first and foremost consideration is whether this would affect the stability of the operations of banks.

As you all know, the IRA was introduced in 1964 as a means to stop the unhealthy competition among large and small banks by offering high interest rates to attract customers. The measure was effective at that time and a number of bank crises had been avoided.

However, during these 30 years, the banking system in Hong Kong has undergone a lot of changes. The stability of banks no longer depends on the IRA. In fact, the Government has set up a body to monitor closely the operations of the banking industry. Over the past 30 years, there were several cases of bank failure and the IRA had no stabilizing effect at all because the problem lies not in unhealthy competition but in the management of the banks themselves. In some cases, it even involves the fraudulent and illegal practices of individual banking officers.

Apart from takeovers and injection of funds by foreign investors, most of the so-called small banks have changed their mode of operations by running in the form of alliances or syndicates. They all have their own room for survival. Therefore, it is no longer necessary to protect small banks with the IRA. Instead, the abolition of the IRA can provide a fairer competitive environment.

As regards the view of the HKAB that the IRA is conducive to the protection of the linked exchange rate, I consider that the two are not closely related. Apart from the fact that the linked exchange rate was only introduced in 1984 by the Government, the most important point is that it is based on political consideration whereas the IRA is purely a matter of economic consideration. Moreover, the role of protecting the stability of the linked exchange rate rests with the Monetary Authority set up by the Government and the means to this end is the recently issued foreign exchange fund instrument. The effect of the IRA in this respect is thus questionable.

In conclusion, I consider that now is the right time to review the abolition of the IRA. It is evident that the IRA has not much role to play in terms of enhancing the stability of banks and protecting the linked exchange rate. Furthermore, under fair and free competition, I do not think that banks would levy service charges arbitrarily. Instead, they would minimize wastage of resources and enhance the quality of their service. Of course, the first and foremost condition is that after the abolition of the IRA, banks should, at the same time, be forbidden to have any agreement on charges so as to ensure the operation of the free market. For the above reasons, I support the phasing-out of the IRA. Moreover, the Government has long ago let the public bear the risks resulted from the political reform. I therefore see no reason why the Government should not help the public to make an informed decision regarding their own choice of banking services.

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

MR MAN SAI-CHEONG (in Cantonese): Madam Deputy, the Government is duty bound to protect the public interest and to provide a good and level playing field for various sectors and trades.

The cancellation of the Interest Rate Agreement (IRA) can, on the one hand, safeguard small depositors' interests and, on the other hand, bring about

fair competition within the banking sector. At present the bank deposit rate is around 2% per annum while Hong Kong's inflation rate exceeds 8% each year. To the small depositors, their savings in bank have already been eroded by inflation. Yet, the difference between the interest rate on loan and the deposit rate, which may be called the interest spread, is far too astonishing. If the interest rate on tax loan is 1% per month, the interest rate per annum can be as high as 20%. As for the mortgage rate for new property, it is 1.75% above the prime rate, which is 0.5% higher than the rate two years ago. Besides, major banks like the Hongkong Bank and the Hang Seng Bank are currently setting the mortgage rate for property with a value over \$5 million at 2.25% above prime. No wonder so many banks in Hong Kong are doing great business and making huge profits. However, the small depositors still have to suffer from the negative interest rate in real terms, thus providing the banks with capital funds at low cost. Although it is said that the chief culprit in bringing about Hong Kong's low deposit rate is the linked exchange rate system, the IRA is, given the non-variable linked exchange rate, certainly a monopolistic means which enables banks to make profits far exceeding the reasonable level. The monopolistic means of suppressing the deposit rates for small depositors while readjusting upwards the interest rate on loan has resulted in the interest spread in Hong Kong being much greater than those in foreign countries. However, the Hong Kong Association of Banks (HKAB) still made great play of its argument that the IRA could protect small depositors' interests and that large depositors were presently subsidizing small depositors. The HKAB pointed out that a considerable number of services enjoyed by small depositors would cease upon the cancellation of the IRA. Such a threat in disguise is indeed unacceptable because the HKAB has never disclosed the proportion of small deposits in the total amount of deposits in Hong Kong. I believe that deposits made by small depositors are the source of funds for many banks in Hong Kong. In fact, only by procuring such funds at low cost can banks compete with one another to open more branches and absorb more funds. The HKAB's claim has simply written off small depositors' contribution to the banking industry. They put the cart before the horse by describing small depositors as the beneficiaries of bank services, claiming that each \$10,000 deposit account has to be subsidized with an operating cost of more than \$1,000. Yet, it is hard to understand why there was no information provided to indicate how they arrived at such a figure. Why should the banks be so generous? It seems that banks in Hong Kong, especially the major ones, really should follow the example of banks in foreign countries by disclosing certain information so that the public will be able to see why banks can become "charities". The HKAB pointed out that the subsidies for small depositors amounted to HK\$3.8 billion each year and that a good deal of services for small depositors would cease upon the cancellation of the IRA. This virtually is to admit that the benefits received by banks have exceeded \$3.8 billion under the existing IRA. Otherwise, how can these banks give their shareholders a satisfactory explanation?

According to the Consumer Council's statistics, the IRA has enabled banks to earn profits in the order of \$5.7 billion, which constitutes 0.8% of our gross domestic product. We have no intention to upset the smug calculations of the

banking sector but, for the sake of safeguarding small depositors' interests and promoting competition in the provision of diversified services among large and small banks, it is necessary to cancel the IRA. I do not believe that small depositors will be frightened away once the IRA is abolished. Smaller banks can still absorb the small depositors so as to break the monopoly of large banks which are having an over-proliferation of branches. Such monopoly can be likened to the Wellcome or Park'n Shop Supermarkets. Furthermore, manoeuvring room for the operation of small banks will thus become greater so that they will be able to compete with other banks, thus facilitating the diversification of banking services and enhancing their service quality.

With these remarks, I support the motion.

MR TAM YIU-CHUNG (in Cantonese): Madam Deputy, recently, there are a lot of heated debates over the issue of the abolition of the Interest Rate Agreement (IRA) among the public. Parties for and against the abolition both advance their own views and rebut the other's arguments. A while ago I also heard Dr David LI, who represents the banking sector, telling a story of a disaster. Having carefully studied the arguments and the key points by both sides, the Democratic Alliance for the Betterment of Hong Kong (DAB) supports the abolition by stages and regular reviews afterwards of its impact on the local financial sector. Meanwhile, the Government should maintain an effective negative interest rate mechanism to stabilize the exchange rate of the local currency.

On the premise of stabilizing the financial system, the gradual abolition of the IRA by stages will dismantle the control over interest rates by the Hong Kong Association of Banks and offer more choices to the public. It will also promote competition among banks so that depositors may obtain better return. We have reservations about the argument against the abolition advanced by the Hong Kong Association of Banks. The validity of these arguments is open to question.

First of all, the Association says that the abolition of the IRA will cause an "aggressive" interest rate war. In order to attract deposits and compete for customers, banks will be offering high interest rates and some may even make high risk investments. Should some banks fail due to poor investment, the depositors will become the victims. Worse still, it may cause the entire banking system to collapse.

On the Association's view, we feel that the abolition of the IRA may not necessarily lead to a cut-throat competition. We should not make a sweeping generalization because whether banks will offer higher interest rates depends on the demand for deposits in the banking sector. Take for an example, if the local property market becomes less active, the demand for deposits by the banks may drop and we may not necessarily see an interest rate war.

Moreover, the Monetary Authority can strengthen its supervision over the banks to forestall them taking risky investment activities which may cause bank failures. For instance, by closely scrutinizing the investment and deposit portfolios of the banks, it can prevent banks from taking high risk commercial and investment activities. Besides, the Monetary Authority may also require banks to disclose to the public more information on their operations so that people may have a better understanding of the operations and financial status of individual banks. In this way, people will not be misled by the high interest rates and have their savings deposited with some unsound banks recklessly.

As a matter of fact, since the formulation and implementation of the IRA in the 1960s, there have been several bank failures in Hong Kong due to mismanagement, misinvestment or malfeasance or embezzlement of the bank management. As a result, depositors suffer losses. In view of this, the IRA may not necessarily be essential in stabilizing our banking system. It is incumbent on the Government to strengthen its monitoring over the banking sector should we want to stabilize the banking system.

It is also claimed by the Hong Kong Association of Banks that the abolition of the IRA will seriously undermine the stable linked exchange rate system and will be detrimental to the stability of the local economy. Naturally, to keep our financial system stable in the latter half of the transition period is of paramount importance. It would be absolutely inappropriate to change the linked exchange rate system. As a matter of fact, the IRA is not the major factor affecting the linked exchange rate. Mr John GREENWOOD, Chairman of the J.G.T. Management Asia Limited and one of the architects of the linked exchange rate between the Hong Kong dollar and the US dollar, has recently stated that the abolition of the IRA would, far from having a negative impact, enhance the stability of the linked exchange rate because it would provide more room for the arbitrage of exchange between the two currencies, thus strengthening the automatic adjustment mechanism of the linked exchange rate.

Moreover, so long as the "negative interest rate mechanism" is maintained, coupled with the various capital adjustment and financial stabilizing vehicles by the Monetary Authority, the impact on the Hong Kong dollar exchange rate will be reduced to the minimum even though the IRA is abolished.

Lastly, the Hong Kong Association of Banks also stresses that the abolition of the IRA will raise the operating cost of banks. Consequently, banks may have to charge customers service fees or may even give up serving small depositors. This will defeat the original purpose of safeguarding the interests of small depositors and make them a loser.

Of course, we cannot exclude the possibility that banks may charge their depositors to make up for the cost. But depositors also have their choices.

Madam Deputy, on the whole, although the IRA has performed its positive function in stabilizing the financial system and maintaining the linked exchange rate, its abolition will enable the large number of small depositors to enjoy fair and equitable deposit interest rates. It will play a role in the suppression of inflation and speculative activities. In view of this, the DAB feels that since we have a sound and stable financial system to safeguard the linked exchange rate, the Hong Kong Association of Banks should abolish the IRA by stages.

With these remarks, I support the motion.

MR PETER WONG: Madam Deputy, I congratulate Dr the Honourable David LI for his spirited defence of the indefensible. But he is far too good a banker to allow the scenario he described to happen. Certainly not to his own bank. Those of us who believe and practice free market and open competition would have no hesitation to pledge support to the motion before us. The Liberal Party and I welcome this opportunity to challenge the discriminatory business practices in our banking market.

For many years, the average Hong Kong citizen has felt that he has been getting unfairly meagre interest on his savings deposit and demand deposit covered by the uncontested Interest Rate Agreement (IRA). At the same time, the deposit-lending interest margin has stayed wide — an issue for which the Hong Kong Association of Banks (HKAB) has yet to come up with an explanation which satisfies everyone. That banks are disadvantaging the unsuspecting, less interest-sensitive, small depositors through the IRA gives cause for concern.

We are told that the low interest rate is a trade-off for the free retail products and services offered by the licensed banks, which incur high operating costs. The quoted annual operating cost of some \$1,717 for each \$10,000 deposit account, compared with \$480 in the United States, is hardly credible. It is unlikely that the banks would subsidize small depositors to the tune of \$4 billion a year if they are not already reaping substantial profits derived from the various marketing strategies designed to generate related businesses, such as the tie-in sale. The Liberal Party believes that consumers who primarily save should not automatically cross-subsidize other account holders and users of other financial services who benefit from the excessive non-price competition.

The dire consequence of the on-going exploitation of one group of depositors lies in the quiet distortion of resource allocation in our economy. In the absence of close substitutes for bank deposits, many depositors are investing disproportionately in real estate, adding inflationary pressure to the economy. It is high time that Hong Kong contemplated the process of de-regulation in line with Western countries.

A plausible argument advanced against de-regulation is that the IRA protects small local banks which can then compete on equal terms with the big banks. However, the majority of the 29 locally incorporated banks have either merged or allied with major foreign banks. Further, markets for the Hong Kong dollar demand deposits and private residential mortgage loans are highly concentrated in the large banks. This effectively means that a powerful cartel is currently monopolizing the banking sector and discouraging healthy, fair competition to the detriment of the consumers.

The warning sounded against aggressive competition among less prudent, risk-taking institutions as a result of de-regulation is an exaggerated problem. Improved regulatory measures taken by the Hong Kong Monetary Authority (HKMA), as the HKAB admits, have exerted a stabilizing effect on the market so that the market value of the IRA, which served the useful purpose back in 1964, has now declined. Nor do we subscribe to the theory that the IRA is both sacrosanct and vital for maintaining the linked exchange rate. The peg is affected mainly by the Hong Kong Interbank Offer Rate and capital flows. Moreover, 50% of our bank deposits are not subject to the IRA. Furthermore, the various financial tools adopted by HKMA, featuring the 1988 new accounting arrangements, have proved effective in ensuring a stable exchange rate. We do not agree that the small depositors should alone pay the price of maintaining a linked exchange rate.

Madam Deputy, the Liberal Party upholds the basic principles of equity, fair competition and open market economy. We therefore advocate that the IRA be replaced as a monetary instrument by a prime deposit rate to be determined by market forces. The deposit rate should initially be allowed to fluctuate within 10 basis points, that is, HKAB sets the interest rate at 3% with the banks quoting a range of 2.9% to 3.1%, it should be increasingly widened as we ascertain the consequences of such liberalization, and the process should be carried out in stages within five years. Free competition of interest rate and banking charges will not only offer customers choice, but will also help contain service charges at a reasonable level. It is about time that banks decide for themselves the degree of cross-subsidization as a matter of business strategy individually and not as a cartel, and make alternative use of high technology to improve management efficiency and cut costs. Meanwhile, small depositors should be offered short-term government financial instruments (for \$10,000 or more denominations) as alternatives to bank deposits.

The Liberal Party further recommends full disclosure of bank service charges, inner reserves and other information in line with international standards. Such disclosure will reduce risk-taking activities, with depositors, shareholders, financial analysts and the general public acting as a watch-dog. In the absence of depositors insurance in Hong Kong, there is a need for the HKMA to improve the transparency and effectiveness of its banking supervision. Regular risk assessments and study of individual bank portfolios will enable the public to choose their banking services intelligently.

Madam Deputy, the cancellation of the IRA is long overdue. Deregulation not only gives consumers a fairer deal, but will offer incentive to banks to compete for higher profits. Most importantly, it will liberalize our banking sector and make it more accountable to the public. The Liberal Party believes that the Government should take a bold step forward in launching the de-regulation process, if it is committed to promoting free enterprise that is the cornerstone of Hong Kong's economic success.

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

8.00 pm

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

ATTORNEY GENERAL: 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.

MR MARTIN LEE (in Cantonese): Madam Deputy, I have been in the Legislative Council for some years but have never heard such a wonderful speech as Dr David LI's. However, I do not know if he has already had a bad dream before 8.00 pm. In fact, things are not that bad.

Maybe I have to tell Members a story too. In the year 2024, that is 30 years from now, inside the Chater Garden is a little boy strolling hand in hand with his grandfather. When they see a bronze statue, the boy asks, "Grandpa, who is this statue?" The old man says, "This is the first Chief Executive of the Hong Kong Special Administrative Region." The boy asks, "Grandpa, why is he so imposing and can take up the post of Chief Executive?" The Grandpa answers, "30 years ago, that is on 27 April 1994, the Honourable Frederick FUNG moved a motion debate to abolish the Interest Rate Agreement in the Legislative Council. It was then this person, who later became the Chief Executive, who strongly objected to the motion by "frightening" everybody. Nevertheless, some Members of the Council like the United Democrats and Meeting Point members, would not be frightened. Had they been frightened, they would not have formed the Democratic Party. The motion was later passed, and the Government had to abolish the Interest Rate Agreement. The banking business of that Honourable Member flourished and his wealth grew. Later he even became the Chief Executive. The little grandson asks further, "Grandpa, what is his name then?" Grandpa says, "He is called LI Kow-hark!"

Madam Deputy, the United Democrats support this motion.

THE PRESIDENT resumed the Chair.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, people say, "There are more banks than rice retail stores in Hong Kong." If you walk down the streets in Central, you will find that this is absolutely true. Another saying goes like this, "It is best to make money by doing banking business." When firecrackers are discharged, people will bring in their money. This is what used to be in the past. When a bank was opened, firecrackers were discharged, and people would come to deposit their money.

I would like to talk about the abolition of the Interest Rate Agreement (IRA) from three angles:

The first is the Government's attitude. Looking at recent history, I have always thought that an overall understanding of the trends of the financial market in Hong Kong is absent among senior officials in the Hong Kong Administration. Things did not change for the better until the emergence of the present Financial Secretary, and this is all due to his insight and good luck.

Secondly, the Government badly wants the banking sector to operate smoothly because, in the past, there had been three banks and financial institution which went into liquidation folded up. There was originally no obligation on the part of the Government to hold itself responsible for the performance of the three banks, namely the Canton Trust and Commercial Bank which went under a long time ago, and the Bank of Credit and Commerce which folded up rather recently. Anyway, the Government did advance money to various extents on behalf of the Overseas Trust Bank, Ka Wa Bank and the Hang Lung Bank. Although the exact amount of the advances was not disclosed, yet that was already a long time ago. The position of the Government is that as long as the financial position of the banks remains sound, the Government will try its best to uphold the interest of the banks even though that might mean helping them to make more money.

Thirdly, the Government also wishes to make use of the adjustments to bank interest rates to maintain the pegged rate system. As a matter of fact, this is a responsibility which should be fulfilled, not by the ordinary banks but by the Government. Moreover, the current peg with the US dollar is crucial to the political stability of Hong Kong. Therefore the Government is in a dilemma. It does not enjoy seeing the banks making too much money on the one hand but is, on the other hand, afraid that other factors will lead to social unrest and economic handicaps.

The recent explanation given by the banking sector is definitely not a true representation of the facts. In particular, representatives of the banking sector attending the debates are simply not equipped with the necessary eloquence and data; how then are they supposed to be capable of convincing the public? The banks said that small depositors are being subsidized by major depositors. I have

also said that lots of people go into large department stores just to look at things without actually buying, that people patronize coffee shops and cafeteria just to have a cup of coffee, and that they go to a Chinese restaurant just to have dim-sum. One can say that they are in fact being subsidized. As banking is a service industry, the banks should not claim in a frivolous manner that they are subsidizing the small depositors. If "subsidization" is really the case, why then should the banks do so much promotion? From the viewpoint of the depositors, it is only natural for them to think they are being exploited. While interest rate for deposits only ranges from 2% to 3%, that for lending is as high as 10% or 8%. The latter is, in comparison, almost 300%, 400% or even 500% of the former! The Hongkong Bank reaps a profit of over \$10 billion each year. Although people of the Bank claimed that such profits do not come entirely from the interest spread between deposit and lending and that there are other sources of income, the earnings of over \$10 billion is an indisputable fact. Of course, the people here will not feel jealous, because this is Hong Kong. In fact, people may even feel proud. However, they will likewise feel that such profits come from them. Therefore we should tackle the issue from a sensible approach and adopt a more equitable attitude. We wish to cancel the IRA, but, on the other hand, if each and every bank sets its own interest rate on lending and deposits, for example, 2%, 3% or 4% for deposits, but 10% for lending, would this not fail likewise to achieve the effects that we hope for?

Therefore, Mr President, as contemporary capitalists in Hong Kong and conscientious capitalists at that, we hope very much that the banks, instead of adopting a policy of profiteering, will adopt a long-term policy of economizing, and maintain a profit margin of 20% or above 10%, which will be beneficial to the overall economic development of Hong Kong. The public should also adopt an unbiased attitude and should hope that the banks would exercise self discipline in maintaining an interest spread of 100% of between deposit and lending. By 100%, I mean that if an interest rate of 4% is offered for deposits, then the lending rate should be set at 8%; if an interest rate of 6% is offered for deposits, then the lending rate should be set at 12%. Of course if such self-discipline is exercised, things will even be more ideal.

Furthermore, if the Government is to give the banks more room for self-development, then more banking licences should be issued. This will protect the existing banks from being criticized for monopolizing the market. Since the banking industry is one which encourages reasonable competition, making money is also a matter of course. I do hope that the Hong Kong Association of Banks will follow the practice of banks in other parts of the world by offering interest to deposits in current accounts, so as to create a fair and open market eventually.

Mr President, I so submit.

DR TANG SIU-TONG (in Cantonese): Mr President, according to the Consumer Council's report *Hong Kong's Banking Policy and Operations: Effects on the Consumer*, the inter-bank interest rate agreement has led to a monopoly in the market of deposits in amounts of \$500,000 or less. The banking industry has for the same reason reaped huge profits from their depositors. These profits due to monopolistic practices have risen steadily from year to year. They stood at only \$1.23 billion in 1987 and then they hit \$5.17 billion in 1991. This shows that the banks' profit margins have grown wider and wider.

We do not grudge the banks their huge profits. Rather, we will take a look to see if monopoly leads to unfair inter-bank competition and if depositors are being exploited.

The interest rate agreement of the Hong Kong Association of Banks (HKAB) is a constraint on the smaller banks. It forbids them to gain a competitive edge by offering higher interest rates on deposits. The monopoly in the market of deposits in amounts of \$500,000 or less is a monopoly by the big banks. Consequently, there is unfair inter-bank competition. From the depositor's point of view, if a person is wealthy and has a deposit in excess of \$500,000, he can escape the effect of the interest rate agreement. He can get a higher rate of interest by bargaining with his bank. Therefore, the benefits arising out of the banks' monopoly are derived from the bulk of their deposits from all small depositors and from letting small depositors subsidize big depositors. Unsurprisingly, therefore, Hong Kong's community is being polarized with "the poor getting poorer and the rich getting richer".

Another expropriating aspect of the interest rate agreement is the wide spread between interest rates on deposits and interest rates on loans. Towards the end of March, HKAB announced its first interest rates rise in three and a half years. The rate on passbook savings deposits was raised from 1.5% to 2%. I believe that nobody will disagree that even this new rate is unreasonably low. The rate of interest on savings deposits is just 2%, compared with the 8% rate of inflation. The humble citizens' money in the banks is experiencing a *de facto* depreciation in value. They watch as their money shrinks. People used to talk about "saving food in preparation for a famine and saving money to build a family fortune". Nobody is talking in this way any more.

In certain European countries, the rate of inflation is under 4% but the rate of interest on small deposits is 5%. Things are quite different in Hong Kong, where, inexplicably, the rate of interest on deposits is 2% but the rate of interest on loans is 6.75%. In the United Kingdom, the rate of interest on loans is 6% while the rate of interest on small deposits is 5%. What a different world that is! Well, if the United Kingdom can have a narrow spread between the rate of interest on deposits and the rate of interest on loans, why cannot Hong Kong?

Something happened two years ago. In the name of restraining runaway property prices, HKAB adjusted the mortgage interest rate from 1.25 of a

percentage point above the prime rate to 1.75 of a percentage point above same. It is now known that the higher mortgage interest rate did nothing to discourage property speculation though it made the interest burden heavier for genuine end-users. But the banks have not lowered the unreasonably high mortgage interest rate. Mortgage interests are one of their main sources of income. The extra half of a percentage point in the mortgage interest rate has allowed the banks to earn an extra 10% in profits. If it is true to say that the humble citizens work all their lives to make money for property developers, it is also true to say that they spend half of their lives working without pay for the banks.

HKAB has reacted strongly to the Consumer Council's recommendation that the interest rate agreement be abolished. This is understandable. However, the arguments advanced by HKAB are untenable. HKAB argues that the abolition of the interest rate agreement will have many adverse effects, including huge losses for the banks, a higher likelihood of a crisis as the smaller banks go under and the Hong Kong dollar's exchange rate comes under destabilizing pressure. I am sure that higher rates of interest on deposits will follow the abolition of the interest rate agreement. But the market will adjust smoothly to the higher rates, and the banks will not engage in cut-throat competition in disregard of consequences. Besides, our Monetary Authority is a world-class regulatory body. I believe that, under its close watch, inter-bank competition is not likely to turn unhealthy. HKAB is unduly concerned about the impact on the linked exchange rate system. The interest rate agreement came into existence 30 years ago. The linked exchange rate system began in 1983. The relationship between the two is not such as warrants the concerns and objections on the part of HKAB. I do not find its arguments convincing.

Consumers have been questioning bank services for the past few years. In 1992, the Consumer Council received 143 complaints about bank services. Last year, there were 222 complaints. Most of the complaints were against increased service charges. The banks want to keep their profits growing, and in attempting to do so, they pass the costs of services to consumers little by little. ETC cards are a case in point. Offering automatic teller machine service helps to lower a bank's operating costs. Banks nevertheless collect annual charges from card holders. A bank customer has to pay a service charge for depositing a large sum of money and for converting money into coins. All these represent the banks' gains implicitly attributable to improved services and competitiveness. Yet the banks are using improved services as an excuse for explicitly raising service charges. This is absolutely unfair to consumers.

The abolition of the interest rate agreement is the first step towards breaking the monopoly of the banks and terminating their exploitation of depositors. I think that the Government should, having regard to the protection of consumer interests, review the banks' service charges and come up with better ideas to enable fair treatment to be accorded to depositors and users of bank services.

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

MR FRED LI (in Cantonese): Mr President, the Interest Rate Agreement (IRA) has been in force for 30 years. I believe that the IRA, after having served its purpose, should now be set aside and be consigned as relic to Hong Kong's monetary history.

The IRA is in fact a form of cartel, which is a total departure from the principle of free competition in Hong Kong. For this reason, the Meeting Point thinks that the Government should as soon as possible abolish the IRA so that depositors' right to choose can be restored.

The Hong Kong Association of Banks (HKAB) has repeatedly stressed that the IRA can help stabilize the monetary system and protect the medium and small banks. Recently the HKAB has even openly pointed out that the abolition of the IRA would lead to a serious monetary crisis during the transition period towards 1997. Yet, we should note that our present monetary system is much more strictly regulated than before and that some medium and small banks have teamed up to operate as a banking group while others have been acquired or funded by foreign investors.

In respect of this question of the IRA, I interviewed a senior executive of an established foreign bank from whom I obtained the view that the IRA had offered little protection to them. The senior executive opined that the cancellation of the IRA, far from having any negative implications, might actually bring benefits instead. It is obvious that the HKAB has been exaggerating by giving us an alarmist's talk.

More importantly, it is incumbent upon the Government to maintain the stability of the monetary system. It is inappropriate for private banking groups to take up this job through the IRA and it is even more inappropriate to maintain an outdated system at the expense of consumers.

The HKAB has time and again stressed the correlation between the linked exchange rate and the IRA so as to confuse the public. It is undeniable that the Government must effectively keep the local interest rates under control if it is to maintain the linked exchange rate. The IRA can be regarded as a related method but is absolutely neither the only means nor an essential tool. This point has been clearly stated by Mr Joseph YAM, the Chief Executive of the Hong Kong Monetary Authority (HKMA), in his written reply to me. At the same time, he also pointed out that the brunt of the effort to maintain the peg fell on the Hong Kong Inter-bank Offer Rate rather than on those deposit rates subject to the IRA. For this reason, the abolition of the IRA will definitely not threaten the stability of the linked exchange rate.

In fact, the Exchange Fund and the Hongkong Bank reached an agreement in 1988 to implement the new accounting arrangements. Furthermore, as the Government can issue Exchange Fund bills, the HKMA has full leverage in maintaining the linked exchange rate. We can thus say that the IRA is no longer of any practical value. On the contrary, the IRA will even impede the self-

adjustment of interest rates and encourage members of the public to deposit money in foreign currency accounts. This is indeed extremely detrimental to the linked exchange rate system.

The HKAB has repeatedly claimed that banks are actually subsidizing small depositors (having deposits under \$10,000). However, since the HKAB has provided the public with neither detailed explanation nor evidence to back up the figures quoted, their claim is hardly convincing. Even when their representatives attended this Council's panel meeting, they failed to give a clear account of the operating cost of \$1,717 despite the fact that I did ask the question several times. From the commercial point of view, it is virtually incredible that banks, as a profit-making industry (I believe Dr David LI will absolutely agree that banks are not charities), will give up the opportunity of earning money and be so magnanimous as to subsidize the small depositors. Just as the Consumer Council has pointed out, even if banks really subsidize small depositors, it is not because of the IRA but just a marketing strategy to induce more customers to open accounts with both small and large deposits. If this is not the case, why should the banks, with the sure knowledge that loss will come their way, still make so much effort to promote their business by attracting more depositors?

The HKAB always boasts that banks in Hong Kong are providing a good deal of services free of charge. However, service charges of banks in Hong Kong are, in fact, not lower than other countries such as the United Kingdom and Singapore. The HKAB even threatened that banks would increase their service charges if the IRA was abolished. However, we believe that depositors will certainly benefit if the market can maintain an environment of free competition after the cancellation of the IRA. Yet, the prerequisite will be, of course, to prevent banks from coming up with another agreement on charges, which will give rise to another type of monopoly, once the IRA is abolished. For this reason, we urge the Government to take precautions by formulating effective monitoring measures.

Mr President, with these remarks, Members from the Meeting Point will support Mr FUNG's motion.

DR HUANG CHEN-YA (in Cantonese): Mr President, as several Members have already noted, the interest rate agreement of the Hong Kong Association of Banks (HKAB) should be abolished because it not only violates free market principles but also is unfair to depositors. But HKAB says that the abolition of the interest rate agreement will give rise to all kinds of problems. Will it really? HKAB stresses that the interest rate agreement has the effect of preventing cut-throat inter-bank competition. It says that, if the interest rate agreement is abolished, banks will vie to push up interest rates and this will increase the operating costs of all banks. It says that, to compensate for this, the banks will then probably take higher risks in their investing and lending

activities, with destabilizing effects on the smaller banks. It says that Hong Kong's bank runs and bank failures of the 1960s will then be repeated.

A moment ago, Dr David LI told us a story about this. But our Office of the Banking Commissioner (OBC) today is not like the regulatory body of old. By virtue of a series of directives issued by OBC, the banks' own capital is no longer cushioned from risks. It is now simply impossible for a bank to make a high-risk loan regardless of consequences. I should say that the chances of a bank failure today are negligible — barring a sudden change in Hong Kong's macro-economic climate which catches the business community and the banking industry by surprise; barring a build-up of non-performing debts; barring heavy losses sustained by banks from trading in unfamiliar financial derivatives; and barring commercial frauds.

HKAB observes that the mass bankruptcy of American banks was due to the interest rate deregulation. This observation betrays either a deliberate intent to mislead or a total ignorance of banking history. The United States Government laid down interest rate controls to prevent interest rate wars and to protect savings and loans associations (SLAs) specializing in making home mortgages. Beginning in 1974, more and more money market funds, not subject to interest rate controls, made their appearances. They offered higher interest rates to woo depositors away from banks and SLAs, which then had either to raise the rates of interest on deposits or to watch their deposits dwindle, with lethal effects on liquidity. Accordingly, the United States Government was forced to deregulate interest rates in a number of steps between 1980 and 1982. Banks and SLAs were allowed to offer higher rates of interest on deposits. The SLAs were allowed to diversify into other kinds of lending business. Meanwhile, many United States companies began to offer credit card services. This affected the profitability of the banks. In America at the time, there was an obvious over-abundance of banks. There were many lenders but comparatively few borrowers. The banks scrambled to offer loans. The credit market became unstable. Then the United States economy went into recession. There was a build-up of non-performing debts. Many banks failed. Clearly, the United States' financial trouble was not caused by the deregulation of interest rates. Rather, as financial restructuring gave rise to all kinds of problems, the United States Government deregulated interest rates to save the banks.

HKAB goes on to say that, because of what happened, bank services became unavailable to several hundred thousand depositors in the United States. Actually, it was the depositors who chose to take their money out of the banks and invest it in portfolios promising higher rates of return, or redeposit it in financial service institutions outside the banking system. They were not forced to take their money out of the banks. Is it true that, after the interest rate agreement is abolished in Hong Kong, the banks will compete for depositors by frantically raising the rates of interest on deposits, thereby bringing about a financial crisis in Hong Kong? I am amazed at HKAB. Why does it have so little confidence in Hong Kong's banking industry? Is it trying to tell us the

people of Hong Kong that our confidence in the banking industry is totally misplaced? Deposits in amounts exceeding \$500,000 are now not subject to the interest rate agreement. Nevertheless, we do not see any interest rate war in Hong Kong. HKAB says that all small depositors are in fact subsidized by their banks. If this is true, why then does it think that the banks will, when the time comes, engage in cut-throat competition to woo small depositors? The banking industry says that, if the interest rate agreement is abolished, interest rates will rise and the banks will then raise their service charges to help pay their higher operating costs. It says that the banks will pass their higher costs to the depositors. It also says that the number of bank branch offices and automatic teller machines will be cut to the inconvenience of members of the public. It says that the banks' capital adequacy ratio will probably be affected by the slowing down of profit growth and the banks will then put off expansion plans temporarily or permanently. If the banks really incur higher costs, they will of course charge higher service fees to bring incomes and expenditures into balance. But the banks are already collecting many kinds of service charges. If service charges are really raised, then those depositors who need more services will put their money in banks which charge lower service fees but also pay lower interests, and those depositors who need fewer services will put their money in banks which charge higher service fees but also pay higher interests. That each depositor should choose the bank that he needs is basically reasonable.

What about the probability that the number of bank branch offices will decline after the interest rate agreement is abolished? In fact, in Hong Kong today, there is only one bank branch office for every 3 750 people. The ratio is lower in Hong Kong than it is in other countries or areas. So I believe that the number of bank branch offices will rise instead of falling. Besides, the intent behind the setting up of a branch office is to attract deposits rather than to provide a convenience to members of the public. A bank with a larger number of branch offices also has a larger share of the market. Suppose that, after the interest rate agreement is abolished, a bank recklessly reduces the number of its branch offices. I am afraid such a bank will only lose its market share and business to other banks.

Mr President, summing up the above, we feel that we not only should but also can abolish the interest rate agreement. Its abolition will have no serious adverse effects on the stability of the banking system or on banking services. Therefore, we feel that the phased abolition

The buzzer sounded a continuous beep.

PRESIDENT: Dr HUANG, you have to stop.

MR ROGER LUK (in Cantonese): Mr President, before I speak, I should like to declare my interest as a senior banking executive.

The views expressed by politicians recently generally criticized the Hong Kong Association of Banks (HKAB) for its Hong Kong Dollar Interest Rate Agreement. They are mostly biased and taken out of context, with a tone of playing to the depositors and pleasing the public. When asked by Gongsun Chou the question "What do you mean by saying that you understand others' words?", Mencius said "If someone speaks to me using unfair remarks, I know that he is hiding the truth". One-sided remarks are of course agreeable to the listeners, but they often also cover up the truth. Amid these overwhelming opinions, perhaps we could probe into these criticisms and misunderstandings from another point of view.

Misunderstanding number one: The HKAB is an interest rate "cartel". By "cartel", it means an association of operators in a particular industry to manipulate the market to obtain the greatest economic benefit. Doubtless licensing conditions for banks are harsh and all the banks must abide by the Hong Kong Dollar Interest Rate Agreement. But it is pedantic to infer that the association is a "cartel" on basis of this. In practice, the "cartel" only restricts banks in the price competition for Hong Kong dollar demand, current and savings deposits; but such deposits only account for less than 25% of the total deposits. Moreover, saving deposit interest rate is set in accordance with the market trend. Hence it would be difficult to form a "cartel" out of this.

Misunderstanding number two: Banks are making enormous profits by way of monopolization through the Interest rate Agreement. The Consumer Council is of the view that the difference between the prime rate and the savings deposit interest rate offered by Hong Kong banks is too great, so it infers that the banks must have made great profits out of the Interest Rate Agreement. In fact, evidence provided by the HKAB indicated that the association's timing in adjusting the interest rate for retail deposits are mostly favourable to depositors. Also, the rate of adjustment follows the market trend. As to the question of interest rate difference, the upbeat key of the Hong Kong economy as opposed to the United States economy in recent year has made the exchange rate of the Hong Kong dollar strong. But because of the linked exchange rate system, the market rate remains weak and lower than the US dollar rate. On the other hand, the inflation rate in Hong Kong is higher than that in the United States, resulting in negative interest rate in real terms which stimulated local demand for loans which are hence provided at a high interest rate. The net effect is that the difference between Hong Kong dollar deposit rates and lending rates is greater than that of other financial markets. As a matter of fact, the net interest profitability of Hong Kong banks (that is, the ratio of the net interest income to profits generating assets) is only about 2.5%, lower than the 3% to 4% of their counterparts in Europe and the United States, where there is no interest rate agreement. The assertion that banks are making enormous profits therefore cannot stand. The theoretical basis on which the Consumer Council calculated and then presented the figures is therefore questionable.

Misunderstanding number three: The Interest Rate Agreement has created monopolization of the market which is unfair to small depositors. Whilst the

interest rate agreement has unified the competitive basis of current and savings deposits, it cannot be asserted that the interests of depositors have been undermined. There is no such thing as a free lunch. It is only commercially prudent of banks to maintain a ratio of sufficient liquid assets to capital in running their businesses. Therefore, no bank would offer its demand depositors capital market interest rates while at the same time allow them to withdraw funds at any time and for any number of times with the basic services provided free of charge. In fact, even if there were no Interest Rate Agreement, depositors would keep their current and savings accounts deposits at a minimum, so that they can increase their income by managing their money flexibly. Therefore, the amount of demand deposits bears no relation to the sizes of deposit accounts.

Misunderstanding number four: There is no question of banks subsidizing depositors as banks are profit-making institutions. According to the figures provided by the HKAB, small savings accounts are money losing accounts. But the credibility of this statement is questioned by the Consumer Council. In fact, it is a common phenomenon in the service industries that big clients are subsidizing small ones for the cost structure of service industries is such that fixed costs account for the highest proportion and the gross profits returned by small clients are so very low that they tend to fail to offset their share of the fixed costs. Similarly, the service costs of bank accounts do not vary with the balance. Therefore, small depositors' accounts are not profitable. In fact, by restricting the price competition among banks, the Interest Rate Agreement protects the interests of small depositors so that both big and small depositors can enjoy the same quality demand deposits service.

Misunderstanding number five: It is a paradox that the Interest Rate Agreement has a positive effect in stabilizing the financial market. For many years, banks went bankrupt because of poor management and frauds. At present we have a strict system of monitoring, so the Administration is well capable of maintaining the stability of the financial market without relying on the Interest Rate Agreement. However, allowing a price competition among banks for Hong Kong dollar demand deposits will not only increase the risk of a price war, but will also create monopoly on demand deposits by major banks. In Hong Kong, the development of supermarkets is a good lesson to be drawn. Has the Consumer Council not recently expressed its concern for the market monopolization by the two major supermarket groups?

Misunderstanding number six: The Interest Rate Agreement no longer serves the function of a monetary policy. With the establishment of the Monetary Authority and together with measures such as accounting arrangements, liquidity regulation mechanism and the Exchange Fund bills, the Administration is able to effectively achieve the financial objective of mainly to maintain the stability of the exchange rate. Moreover, under the linked exchange rate system, the scope of Hong Kong's monetary policy is limited in terms of independence and autonomy. In fact, given that the financial system of Hong Kong is unlike the central bank system which is based on government

bonds, the functions that the Monetary Authority can perform in controlling money supply and setting interest rates are far less extensive and direct than the central banks in Europe and the United States. The Interest Rate Agreement provides the Administration with a most direct and effective tool to influence bank interest rates, ensuring that interest rates move in step with the Administration's direction. It therefore supplements the deficiency of the system.

Mr President, under the present system of having an Interest Rate Agreement, both big and small depositors are well aware of the quality of service provided by the banks on demand deposits. Would we have a better tomorrow should the Interest Rate Agreement be abolished? The Consumer Council has repeatedly suggested that with banks engaged in free competition, small depositors would get higher interest return and that the service charges may not be raised or increased as a result of competition. Drawing on the experience of the European and United States markets, I am afraid it is only the wishful thinking of the Consumer Council. With the high inflation and low interest rates, the feelings of depositors are not difficult to understand. But scrapping the Interest Rate Agreement will not turn the table. An increase of one or two percent in interest rates does not matter very much, but the stability of the whole financial institution is of paramount importance. In recent years banks have been competing fiercely on interest rates to attract large sums of Hong Kong dollar deposits. Should the competition extend to demand deposits, would it do any good to small depositors? Or would their loss outweigh their gain?

In this dispute, critics of the Interest Rate Agreement have argued that fair competition is beneficial to depositors. It is regrettable that a certain political party, making use of the convenience offered by one of its members having participated in the study conducted by the Consumer Council, posted bills throughout the territory, organized procession parades and petitions and attacked the Interest Rate Agreement in a high profile before the report was officially published. This kind of public opinion forming is virtually a trial of the banks in their absence. It is unfair and compromises that particular party's political ideal of promoting democracy and people's livelihood.

Last week, a certain political party even openly asked me and another Member who is also of similar background to abstain from voting in this very motion debate. Since a Legislative Council Member who is also a member of the Hong Kong Housing Authority could move a motion in this Council to debate the Authority's policy, the request I just mentioned is indeed an application of double standards akin to "allowing only the magistrate to set fire". This is against the spirit of freedom and democracy.

Mr President, with the above arguments, I oppose the motion.

MS ANNA WU: Mr President, is the Interest Rate Agreement so essential that the stability of the banking system would be undermined without it? The Hong Kong Association of Banks contends that the abolition of the Interest Rate Agreement would slash bank profitability, and would thereby disturb the stability of the banking sector. If that is the case, it is not saying very much for our banking system. Stability should be founded on the state of health of the banking industry itself. It should not be founded on the artificial prop called the Interest Rate Agreement. To say that the survival of any bank is dependent on the maintenance of a cartel is a damning pronouncement on the state of the banking industry.

Real strength and stability of the banking industry in Hong Kong can only come from fierce competition, the integrity of those operating banks, fair disclosure of information and adequate regulatory and supervisory measures taken by the Hong Kong Monetary Authority.

The Hong Kong Association of Banks (HKAB) stated unabashedly that,

"Put simply, the Interest Rate Agreement provides stability."

This maxim belittles those who operate and supervise banks in Hong Kong and the standing of these banks in global terms today.

Consumers should not be hoodwinked or brow-beaten into submitting to a questionable deal by illusory arguments or threats.

It is illusory for the HKAB to claim that the \$5 billion in lost interest payments to small depositors is only guesswork due to the unavailability of facts. Why are banks subject to such a low level of disclosure requirements and why are banks so reluctant to volunteer information?

Banks in Hong Kong provide less information to the general public than counterparts in the United States, the United Kingdom or Japan. According to the Consumer Council report on banking, inner reserves, breakdown of revenues and expenses, loan loss reserves and non-performing loans, maturity mismatching, detailed breakdown of loan portfolios, off balance sheet items and foreseeable changes in financial conditions of banks are items that have been disclosed in other countries but not in Hong Kong save for a few exceptions.

Greater information disclosure can reduce speculation and risk-taking, enhance accuracy of assessment and Hong Kong's position as an international financial centre. Surely the key to stability is the integrity of the banks and the vigilance of the Hong Kong public.

Much has also been said of the threat to the Linked Exchange Rate as a result of the Interest Rate Agreement. The Hong Kong Monetary Authority has explained that the major factor affecting the Linked Exchange Rate is Hong Kong Inter-Bank Offered Rate (HIBOR) and not the prime or deposit rates. It

is particularly significant that Mr John GREENWOOD, the architect of the Linked Exchange Rate, openly stated that the abolition of the Interest Rate Agreement would not adversely affect but would enhance the Linked Exchange Rate.

The Hong Kong Association of Banks has also contended that the small savings customers have been subsidized at a loss of \$2.7 billion and across all current, savings and time deposit accounts under \$10,000, at a loss of \$3.9 billion. It said that in most other countries, this loss would be recovered through fees or setting high minimum deposit balances.

Assuming the accuracy of the figures, one of the questions that must be raised is where is cross subsidization occurring, that is, who is subsidizing whom among the banks' customers? Is it not also true that as a matter of business strategy, many banks are willing to get less out of small customers in anticipation that these small customers will be borrowing from banks to buy homes or to start businesses?

Business strategy, the market sector to be served or to be discouraged are matters only within the control of the bank themselves. To threaten small depositors with high service fees is not an answer to removing the cartel. There is a known risk at least of a loss of over \$5 billion to small depositors by keeping the cartel.

The Hong Kong Association of Banks cited a study by the International Consumer Policy Bureau which estimated that 8 million households in the United States were excluded from the banking sector because they could not afford to be within it. What has not been pointed out is that half of these households voluntarily chose not to have a bank account. The study of the Consumer Advisory Council of the Federal Reserve System Board of Governors also reported a decline of depository account but stated that the causes of the decline were not known.

Deregulation of the banking sector is not new. An Organization for Economic Co-operation and Development (OECD) publication on Competition in Banking demonstrated that the extent of bank interest rate deregulation goes throughout most OECD countries. Other countries, such as Thailand, Japan and Korea, have already gone through such deregulation process without affecting the stability of their banking sector.

Dr the Honourable David LI made banking sound like a risky business. He compared it to a chess game: one wrong move and the whole game would be lost. I think of banks as solid and sturdy institutions capable of withstanding many storms and this is a storm that it could well afford to weather. The Honourable Roger LUK certainly sounded that the banks can do without the Interest Rate Agreement.

Mr President, I support the recommendations made by the Consumer Council of which I am the Vice-Chairperson and I support this motion.

DR CONRAD LAM (in Cantonese): Mr President, I would like to respond to the comments made by Mr Roger LUK.

Just now Mr LUK has levelled his criticisms against some political party Members and independent ones. I think an elected Member has to make known his stand no matter he is for or against the motion because he has to be accountable to the voters or to the functional constituency which he represents. He should not be criticized for doing so. Being the senior executive of a bank, Mr LUK has to be accountable to his "boss" too. So it is understandable that he spoke from his point of view (of the banking industry). Yet I would like our honourable Members to look at the role of the Consumer Council. Whose interest does it represent? It represents the interests of the grassroots and the majority of the people of Hong Kong. It does not have to be accountable to any politician or political party. So judging from this, can we not say that the conclusion drawn by the Consumer Council is more objective?

Mr President, these are my remarks.

MR JAMES TO (in Cantonese): Mr President, I would like to respond to Mr Roger LUK's speech. He has advanced about six arguments and I am going to teach fish to swim by responding to them. First, he considered that there was no cartel existing among banks because the restrictions under the Interest Rate Agreement (IRA) applied to no more than 25% of the deposits. I am of the view that cartel may take any form and it may exist in any scope of business. It carries the element of monopoly. I can only say that the IRA is a cartel with limited scope, a cartel for a certain type of deposit rather than the full scale cartel. Of course I do not wish to see some sort of fee-charging cartels being formed after the abolition of the IRA.

Misconception number two, Mr LUK said that there was hardly any reason why depositors should have the best of both worlds. Because banks are required to maintain a certain liquidity ratio in order to meet the prudent principle of bank monitoring, therefore why should a current account holder be justified to ask the bank for interests? If banks have to maintain a certain amount of cash to comply with the Monetary Authority's requirement, why should the depositors "have a free ride" then? Since banks are required to maintain a certain liquidity ratio, they have a certain amount of cost to bear. This being the case, after the abolition of the IRA and under competition, the outcome may be that some banks will find it unprofitable to accept this kind of deposits and therefore reject them. On the other hand, other banks may be able

to attract depositors with deposits of \$500,000 or less because these banks are efficient, soundly run or have established goodwill. We can infer from it that since there is "no free ride", why cannot the IRA be abolished? It is really hard to understand.

Another point made by Mr LUK was that large depositors were subsidizing small depositors at the present time, enabling both large and small depositors to enjoy the same high quality of banking services through this cross-subsidization mechanism. First of all, on the argument of subsidization. It has been argued that it is unjustifiable for outsiders to present information or data to attempt to explain why there is no subsidization. It is the banks that should produce strong and powerful arguments to explain why subsidization exists and how the cost is calculated. However, up to the present, the Hong Kong Association of Banks simply says that the information cannot be made public because it should be kept confidential under the competitive environment. This is why there is no computation of cost available that is of a statistical, general and comprehensive nature. There is even no clear-cut definition as to how the cost is to be apportioned between different types of accounts and different departments. Against this background, should we be convinced from a consumer's perspective that the large depositors are subsidizing the small ones. I believe that the onus of proof should be on the banks rather than on the consumers.

Mr LUK further argued that should the IRA be relaxed on deposits of \$500,000 or below, it would certainly lead to competition in terms of deposit interest rates. I find such a chance extremely remote because at the moment banks may still compete in areas other than those covered by the IRA, for example, fixed deposits, foreign currencies deposits or deposits over \$500,000. Apparently, interest rate wars do not exist and even if they exist, they tend to settle on a base level with that everybody would feel comfortable. As mentioned by Mr LUK, generally speaking, the large depositors have substantial profit margins at minimal cost. Since no interest rate wars exist among banks vying for large depositors, why should banks start vicious competition merely over the meagre interests of the small depositors? This is again hard to understand.

On the other hand, Mr Roger LUK said that since Hong Kong did not have a central bank, the IRA served a very important function. We may ask Mr Joseph YAM the importance of the IRA. I believe that no one knows better than he because the prime role of the Monetary Authority is to stabilize the linked exchange rate. In a written reply to a Member, Mr YAM said that the IRA is not a crucial mechanism but it helps. The most important mechanism to safeguard the Linked Exchange Rate System is the Hong Kong Inter-bank Offered Rate. In a nutshell, the reasons are rather one-sided. The mechanism has its historical background. It is hoped that the Government will give this point careful consideration. Every Member here is a sensible person and we hope that the Government will make a definite decision. As a matter of fact,

even the proposals put forward by the Consumer Council point to a gradual relaxation. I, therefore, believe that it is a practical and step by step approach.

With these remarks, I support the motion.

SECRETARY FOR FINANCIAL SERVICES: Mr President, the motion calls for the repeal of existing provisions under the Hong Kong Association of Banks Ordinance (Cap. 364), regarding the specification of interest rates for current, savings and fixed deposits.

I tend to begin my treatment of this subject by briefly describing the legal position as well as the historical background of what are commonly known as the "Interest Rate Rules". I do this in the hope of dispelling certain misconceptions that might be in the mind of some Members. I also think it is important to identify clearly what it is we are talking about.

Legal position

In January 1981, the Hong Kong Association of Banks Ordinance was enacted to provide for the incorporation of the Hong Kong Association of Banks which assumed the function of its predecessor, the Exchange Banks' Association.

Section 12 of the Ordinance provides that the committee of the association may, after consultation with the Financial Secretary, make certain rules relating to the conduct of the business of banking. These include, amongst others, rules as to the maximum rates of interest, return, discount or other benefit which may be paid or granted by members of the association to specified Hong Kong dollar deposits of their customers, and the imposition of deposit and interest charges.

Pursuant to such provisions, the Hong Kong Association of Banks issued to its members a set of rules, entitled "Rules on Interest Rates and Deposit Charges". That part of the rules which concerns interest rates applies to interest rates paid by licensed banks to customers on Hong Kong dollar deposits of less than \$500,000 and with a maturity of less than 15 months, and under the rules, no interest shall be paid on current accounts; that part of the rules concerning deposit charges is more readily understood as the mechanism for imposing negative interest rates which has not since its introduction in 1988 been invoked.

History

Although legislative backing for the rules does not seem to have a long history, the origins of the rules themselves can be traced back to the year 1964 when they were introduced after protracted negotiations under the auspices of the then Exchange Banks' Association. The background was not well documented, but the purpose of instigating the rules appears in reality to have been to put a stop to cut-throat competition in the form of an "interest-rate war" which had prevailed during the early 1960s, and thereby to protect the smaller

local banks. It may be relevant to today's debate to note that the early 1960s had seen the collapse of a number of local banks.

In fact, 1964 was a vintage year for banking reform in Hong Kong. Indeed before the 1964 Banking Ordinance, banking regulation was almost non-existent. The previous 1948 Ordinance provided only the vaguest definition of banking, but the 1964 legislation dramatically changed the scene and laid the foundations for the current system of banking regulation. Among other things it established the Office of the Commissioner of Banking with powers to grant licences and to inspect bank accounts; it introduced a minimum capital requirement of \$5 million and a minimum liquidity ratio of 25%. It also required all locally incorporated banks to publish their annual reports.

It was in this atmosphere of regulatory reform that the Government sanctioned the making of interest rate rules, then called the "Interest Rate Agreement", which were designed to reduce excessive competition among banks. The belief of the authorities at the time appeared to be that price competition was damaging banks' interest rate margins and thus inducing them to invest in high yield and high risk assets.

However, over the subsequent years there have been doubters who claimed that, in reality, price controls in the form of the Interest Rate Rules were actually forcing banks to practise non-price competition by opening more branches and offering free services. This would increase the cost of operations and hence lower the profit margin and would thus make banks invest more in high risk assets. Thus, the argument ran, price control could be just as destabilizing as free competition.

The Consumer Council Report

The debate on whether the Interest Rate Rules should remain has been fuelled by the publication in February this year of the report on the Consumer Council's industry study on the banking sector.

This report, which has been referred to by many Members in this debate, rejoices in the title of "Are Hong Kong Depositors Fairly Treated?" It recommends that the rules should be abolished by stages over three years, starting with abolishing the interest rate cap for time deposits in 1995, going on to allow banks to pay interest on demand deposits in 1996 and concluding in 1997 by abolishing the interest rate cap for saving deposits.

On one side of the argument is the view represented by the Consumer Council which has argued in its report that the banks have profited unreasonably at the expense of the consumers to the extent of over \$5 billion per annum by virtue of the sheltered position provided by the Rules. Such rents, the Report suggests, represent about 0.8% of the GDP. The Council refers to this windfall profit as monopsonistic rent.

On the other side of the argument, the Hong Kong Association of Banks contends that the Interest Rate Rules have created a stable environment in which banks subsidize banking services for many, generally less well off consumers to the tune of almost \$4 billion each year. The mass of smaller depositors would be the ones to lose out if the Interest Rate Rules were to be abolished; and the stability of the financial system would be adversely affected.

It is remarkably difficult to judge the rights and wrongs of this dispute, and to pick one's way through the statistical minefields laid by both sides. I do not intend today to get embroiled too much in the technicalities of this debate since we are still doing our own research on the matter. What I can do however is to indicate the main areas that are being addressed by the Hong Kong Monetary Authority (MA) whose conclusions will form the basis for the Government's response to the Consumer Council's Report. Three fundamental issues are being addressed by the MA:

- (i) Have the Interest Rate Rules been abused for profiteering by the banks? And what would be the likely impact of de-regulation on small depositors?
- (ii) How vital are the Interest Rate Rules to maintaining the stability of the banking industry?
- (iii) How vital are the rules to maintaining the stability of the exchange rate of the Hong Kong dollar?

The MA is undertaking this task by conducting its own statistical analysis as well as by talking to individual banks to ensure that a full spectrum of opinion is heard. This process inevitably takes time. Some commentators have found it very easy to make up their minds on this issue — in some cases apparently even before the report was published! But I hope that you will appreciate that the report, over which the Consumer Council laboured for nearly a year, deserves an open-minded and above all considered response. We are after all dealing with structures that have been in place for 30 years, the alteration of which should not be considered lightly.

In his address to this Council last October, the Governor committed the Administration to respond to the Consumer Council's industry study reports within six months of their appearance. We have no wish to delay our response to the end of that period, that is to the end of August this year, but it is our intention to hear both sides of the story, to let the debate run its course and to review the issues thoroughly in the light of our own research before coming to any conclusion and publishing a full response. We shall also bear in mind the views expressed by Members in this debate.

On one aspect, however, the MA has already indicated its views in a recent letter by the Chief Executive of the MA to the Honourable Fred LI. This letter has been referred to by a number of Members, including the proposer of

this motion. So let me clarify its contents. The letter addresses the question of whether there will be any significant impact on the Linked Exchange Rate System should the Interest Rate Rules be abolished.

The letter notes that the objective of our macro monetary policy is exchange rate stability; and that the mechanism for achieving this centres around the Linked Exchange Rate System established in October 1983.

Since that time a series of monetary reform measures has been introduced to strengthen the system and our ability to ensure exchange rate stability. That these measures have been successful is illustrated by the fact that the exchange rate has remained unshaken despite an abundance of events in the past few years, including the stock market crash in 1987, the events in China in June 1989, the Gulf War in 1990, the BCCI affair in 1991 and so on.

Within its monetary armoury, the MA needs to have the means of influencing the interest rates of the Hong Kong dollar, relative to those of the US dollar, in a way that is helpful to the maintenance of exchange rate stability. It is true, as the Consumer Council has argued, that the ability to influence wholesale interbank rates, rather than retail deposit rates, is more directly relevant to the purpose of exchange rate stability. However, the different types of interest rates are in practice inter-related. In monetary operations, therefore, it is prudent for the monetary authority to be in a position to exercise effective influence over a wide, if not the whole, spectrum of interest rates including those on retail deposits. In short, an extensive range of monetary weapons is always preferable to a restrictive one.

The Interest Rate Rules are part of the monetary armoury at present. They provide an effective mechanism for setting interest rates for the retail deposits they are designed to cover. Such rates may in turn influence wholesale interest rates or may directly affect the desire to hold Hong Kong dollar balances. This led the MA to conclude that while the Interest Rate Rules are not crucial for the purpose of maintaining exchange rate stability, they are undoubtedly relevant and helpful for that purpose.

Thus, the MA has expressed a preference for that helpful element in its monetary armoury to be retained in the interest of maintaining exchange rate stability.

Some have said that the MA is being overly conservative, and perhaps even unduly modest in its ability to defend the exchange rate. But even if the Government were, in the final analysis, to conclude that the MA could still do a reliable job without the Interest Rate Rules as part of its monetary armoury — a conclusion which I should stress that it has not yet reached and might not reach — it would still be necessary to form a view on the other stability issue which I mentioned earlier — namely, whether the soundness of the banking system could be undermined if the Interest Rate Rules were to be abolished.

This is something to which the MA, in its role as banking supervisor, is paying serious attention. Again, I must stress that it has not yet made up its mind, but certain observations can be made at this stage.

The effect of deregulation has been compared to the breaking of a dam, unleashing a flood of pent-up change. It induces changes in behaviour by the previously regulated institutions which may be more rapid and more far-reaching than originally anticipated. In particular, elsewhere in other economies, deregulation has tended to lead to a narrowing of interest margins as banks compete more actively for deposits and face inroads to their business from other parts of the financial services industry. Banks have tended to respond to the new, more competitive environment by increasing the riskiness of their portfolios and by expanding their balance sheets — in both cases with the objective of repairing the damage to profits caused by increased competition. Increased involvement by banks around the world in property lending and highly-leveraged transactions during the 1980s are only two examples of this.

The overall impact of deregulation and increased competition may, of course, be to produce leaner and more efficient banking systems in the longer run. That is what deregulation is designed to achieve. However, the path towards greater competition has tended to be a bumpy one in other economies; and the experience of the countries concerned during the 1980s suggests that the effect of greater competition has been to produce greater instability in banks' earnings and to leave them less well protected against fluctuations in economic activity.

Now of course it may be argued that the experience of other countries need not be repeated in Hong Kong and indeed that has been argued tonight, and that it would be the job of the Monetary Authority, as banking supervisor, to ensure that that was the case. I can assure you of course that the MA would do its best. Indeed a number of improvements to our supervisory system have been made in recent years to enable the objective of banking stability to be achieved. However, I would utter a number of caveats. Firstly, no supervisory system can offer a 100% guarantee of success, particularly at a time of structural change. If such a guarantee were to be offered, in the sense that no bank could ever be exposed to the risk of failure, it would be necessary to set such demanding regulatory standards that competition would be unduly constrained.

There is also the undeniable fact that the impending change of sovereignty means that Hong Kong is undergoing a period of economic and political transition and the effect of changes which could have implications for the stability of the financial system need to be carefully weighed.

The last three years have been very profitable ones for the Hong Kong banking system. But this should not lull us into a false sense of complacency. We hope that the good years will continue, but experience should teach us that this is not necessarily going to be the case. Developments so far this year have

shown that banks are operating in an environment of rising interest rates and higher market risks.

Let me be clear that in uttering this warning note, I am not seeking to protect the position of larger banks. They are quite capable of looking after themselves and in a deregulated interest rate environment they would no doubt have the financial muscle to ensure that their profitability was unimpaired. Rather, my concern is with the smaller banks which are less well equipped by virtue of their size to compete successfully in an interest rate war. These banks add to the diversity of the banking scene in Hong Kong and offer a valuable service to their customers. We must be sure that any changes in the Interest Rate Rules would not undermine their position.

Finally, let me repeat that we are approaching this issue with an open mind and that no decisions have been made. The MA has not yet completed its work. If I have tended to dwell on the need to maintain stability of the financial system in the face of deregulation, this is because the case for deregulation and increased competition has been put so eloquently by Prof the Honourable Edward CHEN and indeed his Vice-Chairman on the Consumer Council. However, it is part of the job of the Government to consider the costs as well as the benefits of change. In this case, there may be a trade off between risk and return for the depositor. It is certainly not the case that abolition of the Interest Rate Rules will inevitably lead to instability. Equally, we should not blind ourselves to the fact that such a risk exists. The question which we need to address, and which I hope that Honourable Members will take seriously, is whether this is a risk worth taking.

Several Members have referred to the subject of banking disclosure during the course of this debate, and this indeed was also addressed by the Consumer Council report, although it was not directly the subject of this debate. But let me take this opportunity, Mr President, to assure Members that the Administration already accepts in principle that banking disclosure should be improved. The Monetary Authority had already established a working party with banking representatives at the beginning of this year prior to the appearance of the Consumer Council report to examine the whole question and to identify the steps that could be taken to improve disclosure and the time frame for their implementation. We hope to see results by the middle of the year.

Mr President, in the light of all that I have said, it will be clear that the Administration is not yet in a position to determine whether any changes should be made to the Interest Rate Rules. For that reason, we are not in a position to support this motion today, and the Official Members will abstain.

PRESIDENT: Mr K K FUNG, you are now entitled to reply and you have, out of your original 15 minutes, five minutes 40 seconds.

MR FREDERICK FUNG (in Cantonese): Mr President, our discussion today is mainly on the relationship between three parties, namely, consumers, banks and the Government, and the relationship between consumers and banks is one of depositors and money lenders.

The rights of consumers have just then been touched on by many Members, especially those who support this motion. Basically, consumers have two rights: the first is the right to know and the second is the right to choose. However, Members who oppose this motion mostly evaded the issue of consumers' rights. They rarely mentioned the questions such as: How can consumers get to know more about banks? What are the suitable ways to deposit money with banks? Are banks the best place to place our investments? How much is the rate of return? How great are the risks to be taken? Little mention was given to these questions by Members who oppose this motion.

Members who oppose this motion hardly mentioned the magnitude of consumers' right to choose or whether consumers have the right to choose at all.

Apart from dealing with consumers, banks have another function as well and that is that they represent the financial system of Hong Kong. Should our financial system be monitored by the Hong Kong Association of Banks alone or by the Government? And to go further, should the Government play a role similar to that of a central bank? At present, we have an authority like a central bank, but what role will this authority play in future? Nothing was mentioned about these in the present debate. However, I am of the view that the role of a central bank should be played by the Government because it would be more effective to leave this role to a party which has no direct interest in the banking industry. Members who oppose this motion made no mention of this point either. They just mentioned the domino effect of bank failure as a basic argument against this motion. However, the income generated by the so-called cartel effect accounts for only 25% of the banks' total income. Such arguments are hardly convincing. As to other counter arguments, some Members have responded just then, and I am not going to repeat it here. I just want to make a few points:

First, regarding the Honourable David LI's story, I find that there is some element of intimidation in that it has over-exaggerated the subject of today's debate. This story would only come true under one circumstance, that is to say, only if our Government was incompetent and negligent of duty. The point is that this is not the case with our Government. Conversely speaking, if the scenario depicted should really come to pass in Hong Kong, even the linked exchange rate could not bail our Government or banks out. Therefore, there is no need to worry.

Secondly, the two questions posed by the Honourable Roger LUK had something to do with me, and I would like to respond briefly here. In fact, I had applied for a date to debate this motion seven months ago. However, two members of the Consumer Council who are not members of the Hong Kong

Association for Democracy and People's Livelihood said to me, "You are bound to lose if you move this motion now. You had better not move this motion until the publication of our report. That would be not only in the interest of the citizens of Hong Kong but also in the interest of reform of the banking system. Would you wait for a while?" I therefore let my motion go forward again in February. However, as the report was not yet published, my motion was deferred until now. Mr Roger LUK's remark is therefore unfounded.

Thirdly, it has been argued that as a member of the Housing Authority can move a motion to debate the housing policy, why cannot a representative of the financial sector do the same to support the Interest Rate Agreement? My view is that members of the Housing Authority do not have any direct pecuniary interest in the housing policy whereas banks have direct pecuniary interest in the change of interest rates. I think such a comparison is very inappropriate.

Finally, I would like to thank the Consumer Council for producing this detailed report to spell out the relationship between the banks, consumers and the Government. I would also like to thank Members for speaking today. In fact, the more they speak for or against my motion, the clearer the rationale becomes. I thank the Honourable David LI as well. Although he is opposing my motion openly, I know that he supports my view at heart. I also thank the Administration because it always casts dissenting votes and has never cast abstention votes on my many motions. By abstaining from voting this time, it has given us a chance. I would like to tell the Administration that we have got everything ready, and all that we need is its support. I hope the Administration will maintain its firm stance to safeguard the interests of consumers and that it will not back down by "swatting the fly instead of hitting the tiger".

Question on the motion put.

Voice vote taken.

MR FREDERICK FUNG: Mr President, I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Will Members please proceed to vote?

PRESIDENT: Are there any queries? If not, the result will now be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mrs Peggy LAM, Mrs Elsie TU, Mr Peter WONG, Mr Moses

CHENG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LEE Wing-tat, Mr Fred LI, Mr Henry TANG, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Dr TANG Siu-tong and Ms Anna WU voted for the motion.

Dr David LI, Dr Philip WONG and Mr Roger LUK voted against the motion.

The Chief Secretary, the Financial Secretary, Mr Martin BARROW and Mr CHIM Pui-chung abstained.

THE PRESIDENT announced that there were 28 votes in favour of the motion and 3 votes against it. He therefore declared that the motion was carried.

PRACTICAL SCHOOLS FOR SECONDARY SCHOOL STUDENTS

MRS ELSIE TU moved the following motion:

"That this Council urges the Government to carry out as a matter of urgency the recommendations of the Education Commission Report Number 4 to provide Practical Schools for Form I to Form III secondary school students who show no interest in the standard secondary school curriculum."

MRS ELSIE TU: Mr President, compulsory free education in secondary school up to the age of 15 was introduced into Hong Kong about 15 years ago, that is, in 1978. That was considered a great step forward because it gave equal opportunity to all children. Before that time, secondary education had been only for those whose parents could afford to pay for it, or for exceptionally clever children selected from the 11+ examination. Underprivileged families at that time usually had to sacrifice to send their children to school. And it was usually the girls who were sacrificed and had to go to work to pay for their brothers' education. But free universal education has certainly solved some of the problems of discrimination.

However, the Government made a big mistake in introducing free secondary education without a curriculum compatible with the needs of many children of that age group. The mistake was inexcusable, because many of the problems of universal compulsory education were well known in Britain. I used to teach in school in Britain five decades ago. And even then, we knew perfectly well that children between 11 and 15 years of age could not all study the same syllabus because they had different academic standards and different interests. Secondary education therefore had to be diversified in Britain to meet the varying needs of the children. But in Hong Kong, schools were expected to

be like machines churning out young people of identical mould, regardless of their ability.

Very often, children in Hong Kong are passed up from Chinese primary schools into English secondary schools without consideration as to their ability or their interest in study. Some entered Form I English schools hardly able to distinguish between some letters of the alphabet, yet they were expected to study the whole curriculum in English. Even when schools were encouraged to use Chinese as the language of teaching, there were still many students without interest in the curriculum. The fact is that some people are good at practical subjects but have no interest in academic subjects. Parents were not always helpful about this. Many parents considered English important enough for them to force their children to go to English schools and study in English, push them along the academic path and sometimes there were tragic results. I think parents need counselling on this because they need to learn that their children too have rights and that children may be guided but they should not be forced to do something for which they do not have the ability to succeed. Lack of interest has led to serious behavioural problems in school. Many of the children spend their time in electronic game centres, walking around the streets or joining in gang activities. Some of the girls even join in these activities and many of them have entered into prostitution because they get fed up with the curriculum. Some children lose hope and may even attempt suicide.

Meanwhile, the Government is trying to deal with this child delinquency problem by putting responsibility on the schools. The Government made it a punishable offence for a school to expel a student no matter how bad or how unruly he is. This has only made the situation worse because now students know that they can cause any kind of disturbance they like in school and the teachers can do nothing about it because the schools have no power to expel them. Consequently teachers have to waste their time dealing with discipline problems, and this in turn causes a general fall in academic standards because students who do not want to get into trouble but want to study cannot do so. Many teachers give up teaching when they find that they have to be not only teachers but also policemen or social workers. School social workers cannot cope with the heavy workload and can spend far too little time with the problem children. But if there are more social workers, it will not solve the problem. It will help but counselling is useless to children who have no interest in academic subjects.

A few years ago, the Government decided that the problem of student behaviour was getting serious and that too many teenagers were turning to crime. In 1983, the number of school drop-outs was estimated to be 1 800. The Government had to do something about it. The Education Commission Report No. 4 was published in 1990 and the consultation period ended in early 1991. The report was still using, even after so many years, the 1983 figures of 1 800 drop-outs in deciding to set up practical schools for these unmotivated children. Educationists now estimate that the number of children who drop-out of school is around 8 000. And yet it has taken the Government five years to provide for one-third of that figure, that is 1 800. A practical school is going to

be set up in an old converted school building in Yuen Long in 1995. That is five years after the Education Commission Report No. 4. It will cater only for 450 children. A second school is being planned to be open in 1996-97, and a third in 1997-98. The cost will be only \$40 million. The curriculum will include subjects such as fashion and clothing, hairstyling, catering, computer studies, commercial subjects and other subjects. This kind of study will not only motivate many practical children to make a career, but it will also assist Hong Kong by training workers for our industries. This step should have been taken a long time ago, first and foremost for the sake of the children, and secondly to increase our workforce.

What I find difficult to understand is the fact that the Government can always find huge sums of money for infrastructural projects, bridges, flyovers, roads, tunnels, consultancies, and in fact anything except projects which assist human beings to make life more meaningful. Probably the Government thinks that children and elderly people are unimportant: the children will grow up and the elderly will die, so they can be neglected. Infrastructural projects are much more exciting and prestigious! I am not against providing these infrastructural projects because they help to build up our economy, which in turn supports our social programmes. But what makes me angry is that the amount of money needed for human-oriented projects is minimal compared with the tens of billions of dollars we spend on non-human-related projects, yet it takes so long to carry out the ones that we are asking for for human beings! We can build an enormous airport and all its infrastructure in a fraction of the time it takes to get this simple practical school programme off the ground.

Mr President, I wonder if it really takes four or five years to renovate and open a school for 450 children? We have expertise in organizing this kind of school, and the trades to be taught are well known in Hong Kong. One can only conclude that there is no will to do the job, no consideration of the consequences to our young people if we provide nothing for them and they slide down into evil ways. Young people have the potential to be good and skilful workers, given the right opportunities. Likewise they have the potential to become criminal gangsters, idle school failures or suicides. Is the future of our young people so unimportant that we can delay the action needed to help them?

During the many years we have waited for these practical schools, several thousands of students of Forms I to III will have lost the chance to learn a useful trade. And who knows where they are now? How many of them are in prison, or doing less productive work or even doing anti-social work?

If the number of the drop-outs is increased to 8 000, how many more children are going to drop out before we really deal with the problem? I therefore urge the Government, Mr President, to speed up the work and greatly increase the provision of practical schools in various districts of the territory. We need our young people as workers. The young people need us to provide alternative training for them. We cannot afford to see them losing their way in our community.

Mr President, I so move.

Question on the motion proposed.

MR HENRY TANG (in Cantonese): Mr President, to study and work hard, to live an active and positive life, to climb up the social ladder and to rise to prominence seem to be the ultimate goals of most of the Hong Kong people. As a child, we were given to know that if we did not study hard enough, our future would definitely be filled with obstacles. Take for example a job interview. We have to submit to a detailed inquiry by the prospective employer, which very often causes us embarrassment. However, the mainstream mentality of the majority is not absolute. We still enjoy the freedom of thinking — the freedom to choose our own future. We should not apply excessive pressure on students who show a lack of interest in the standard academic subjects or on those so-called "unmotivated" students, because I believe we are all talented in our own individual way. What is more important is parental care, concern and encouragement, social support, ways and means to explore and cultivate the student's potentials as well as fair opportunities for the student to develop his or her strengths. That is why there is an urgent need for an alternative form of education which can be achieved by the provision of more practical schools.

The Education Commission Report No. 4 (ECR4) recommends the setting up of practical schools to offer a diversified curriculum to those junior secondary students who show no interest in the standard school curriculum or who show a lack of motivation towards learning. The Liberal Party most readily support this motion. However, Mr President, I would like the Education Department to take note of the following:

(1) Published in 1990, the ECR4 pointed out that some 2 000 students fall within this category. But today, four years later, there appears to be a need for the Government to reassess the number of students within this category, as well as to determine whether there is an increase or decrease in the number, so that the facilities in terms of "quantity" can be tailored to meet the actual demand. As a matter of fact, the ECR4 recommended then the provision of three additional practical schools, each to cater for 450 students. Even if all these recommendations of the ECR4 can be fully implemented within the next few years, they still fall far short of the actual demand. Therefore I propose that the Government should review the number of such students as soon as possible and provide additional practical schools to tie in with the demand of the community.

(2) The Education Department intends to change the enrolment method of practical schools from the current school referral system to that of junior secondary school places allocation system. There is originally no cause for criticism for doing so. However, I must stress that before implementing such a system, it is the responsibility of the Government to instil into the community, parents in particular, a correct concept and that is that practical schools

constitute an alternative form of education. Their aim is to provide a variety of choices to students who show no interest in the orthodox or standard academic subjects. They are certainly not equivalent to a haven for "unmotivated", "ignorant and incompetent" students, or, in the words of a political party, a "school drop-out centre". Moreover, it is also necessary for both the Education Department and the schools to strengthen communication with and counselling for the parents, so that they understand the true meaning and functions of practical schools, as well as the performance and inclination of learning of their children at school. The Government should understand that, no matter how perfect its policies are, if they are not accepted by the parents, they will still fail and cannot work. A vivid example of this is the development of education with the mother tongue as the medium of instruction. If the Government still fails to learn any lessons from this experience, then the junior secondary school places allocation system will once again become something which nobody cares about, and the practical schools will be subjected to discrimination, ending up in a gloomy state.

(3) The curriculum and prospects for the students are also very important issues which the Government cannot afford to overlook. When students show a lack of interest in standard academic subjects in primary schools, this does not necessarily imply that they will still resist everything about learning in the future. It all depends on how the schools lead, guide and cultivate them. According to the information from the Education Department, out of the first batch of 35 students who graduated from the practical schools, six have entered grammar schools to continue with their studies in Form IV and the rest are all studying in technical institutes. Only one chose to take up an employment. Such a result is indeed remarkable. This shows that there is still a very high percentage of students who choose to continue with their studies and this is good. I hope that in future when such schools are built in Au Tau, Yuen Long and Sham Shui Po, a certain degree of compatibility will be maintained between the adopted curriculum and the standard academic subjects to safeguard the future prospects of the students.

Mr President, with these remarks, I support Mrs Elsie TU's motion.

MR JAMES TO (in Cantonese): Mr President, I speak in support of Mrs Elsie TU's motion. She has provided some profound insights and analyses in her speech. I think that it is a good idea to set up practical schools. Practical schools not only provide alternative education to some students but also enable some youths to grow up under the right environment and make it less likely that they would go astray.

This kind of student-oriented schools actually performs an important social function. The Hong Kong Federation of Youth Groups produced a report last year on a survey on youth gang. According to the outcome of the survey, students, though they may be unmotivated, very much hope that school life could meet their young hearts' emotional needs. Yet, to their dismay, school is

the place they find most disgusting. This is a miserable finding. In response, we should extend a helping hand to these young people as soon as practicable because this is our inescapable duty to our next generation.

In practical schools, a more flexible and practical curriculum could make learning more interesting for youngsters and a higher ratio of teachers to students would ensure that they could receive better care and attention. Under the boarding system, students are given a chance to learn to stand on their own feet and how to integrate into the community and are exposed to some relatively stringent disciplinary training so that they know how to put their lives in order. Such training certainly would help nurture their good characters.

According to the Education Department's mid-term report on this pilot scheme, the drop-out rate during the initial stage was around 30% or more. Although I find the figure a bit high, I am sure that the situation will improve in future. Furthermore, we should also note the so-called "opportunity comparison" which means that should there be no practical schools, the drop-out rate of this group of youngsters in ordinary grammar schools may be as high as 80%, or even higher. For this reason, I believe that practical schools have basically offered better development opportunity to more than 50% of the students.

I am of the view that expenses on precautionary measures to prevent students from going astray and developing bad characters would produce more positive effects than those on remedial measures such as stepping up law enforcement and increasing the number of social workers. I, therefore, totally support Mrs Elsie TU's call for the Government to carry out and expand as a matter of urgency the scheme of practical schools. I would also like to advise the Government to increase the places of practical schools. I trust that boarding will go a long way towards boosting the students' sense of discipline and enabling them to lead a full social life.

I must stress that, under a student-oriented education system, comprehensive counselling services should be made available to the unmotivated students in tandem with the provision of alternative education.

It should be pointed out that the Fight Crime Committee also has repeatedly urged the Government to establish more practical schools as early as possible. I believe that many students whose potential cannot be fully realized in ordinary grammar schools are in real need of this type of schools. I therefore support Mrs Elsie TU's motion.

MR TIK CHI-YUEN (in Cantonese): Mr President, the Education Commission Report No.4 proposed that practical schools be founded to provide a diversified curriculum to meet the needs of school age junior secondary school students who lack interest in the common core curriculum and who are demoralized in schooling. The basic position of the Meeting Point is that we oppose streaming

of the mainstream education at the junior secondary level. However, we understand that, at best, there will only be four practical schools by September 1996, while practical schools are under the supervision of the Special Education Section of the Education Department. The Meeting Point does not oppose the provision of alternative special education as one of the options to students who fail to adapt to mainstream education. This is also a realization of the diversification of education. Besides, the Meeting Point expresses the following concerns about the establishment of practical schools.

To provide publicity and education for the public, especially parents

Many people have only a smattering knowledge of special education and tend to associate it with the negative side. The Meeting Point proposes that the Education Department should provide suitable counselling and education to parents who need the education services provided by practical schools, so that they, having been comprehensively and sufficiently informed and having given it full consideration, may make education arrangements most suitable to the needs and interests of their children.

Rigorous scrutiny of referrals for admission to practical schools

In order to prevent schools from abusing the referral system by giving up at will students they dislike (such as those who do not perform very well at school or who do not observe discipline) and coercing them to switch to practical schools, the Meeting Point proposes that school referrals should be reviewed rigorously and be accepted only with the professional evaluation and recommendation by education psychologists. If otherwise, there is a good chance that with schools abusing the referral system, practical schools would eventually be attached with a strongly negative label of "education rejects collection points". This kind of situation has a fatal negative effect on practical schools in launching their education work.

Pre-vocational and in-service training for teachers

Since what practical schools have to handle are a bunch of junior secondary students whose motivation to learn is low and who have become demoralized by their lack of interest in the common core curriculum, practical school teachers have to be sufficiently confident and capable to flexibly employ varied student-based teaching methods. By doing so, they can organize for practical school students learning experience and activities that are enjoyable, interesting and effective. Besides, teachers should also organize plenty of extra-curricular activities and supplementary programmes to expand the learning experience of students, such that mutually complimentary effect can be achieved with the regular curriculum.

Practical subjects must meet the needs of the community

In designing practical subjects, practical schools must give consideration to meeting the needs of the time and the community, lest it would be meaningless to students who have studied these subject in their eventual career development or pursuit of further studies. The Meeting Point proposes that the Government should invest a considerable amount of resources and support into practical schools, so that they may acquire modern and essential teaching equipments in their provision of educational services for practical school students.

Bridging of curricula and further studies

Graduates of practical schools who have completed Form III may consider taking up the Vocational Training Council's basic training courses for technicians or the Form IV and V courses offered by other types of schools. The Meeting Point is concerned about the repetition of contents between courses offered by practical schools and those provided by the Vocational Training Council. Moreover, the Meeting Point is also concerned that whether or not, when practical school graduates wish to switch to other types of schools to further their studies at Form IV, Form V or even matriculation or tertiary level, these schools will have enough subjects for these students to sit for the Hong Kong Certificate of Education Examination and matriculation examination and to apply for admission to tertiary institutions, and will help students lay a solid foundation for such.

Mr President, vocational training is not necessarily the only way to solve the problem of students who are not so bright academically and demoralized. Some other methods such as the student-based teaching method may cultivate among students the fundamental abilities including language proficiency, basic arithmetic and mathematical concepts, basic scientific knowledge and knowledge about oneself and the community, and so on. Such methods may help students develop their intelligent potentials and establish a good value system. As practical schools is a new trial, we hope that the Education Department will seriously consider and adopt the above suggestions.

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

MRS PEGGY LAM (in Cantonese): Mr President, all communities aim at making advancement. This explains why the elitist approach of education in Hong Kong was switched to the provision of nine-year free education, or compulsory and universal school education in 1979, followed by the Report by a Visiting Panel. Then in the ensuing 10 years, we witnessed the publication of five Education Commission Reports, all spearheading efforts to refining the education system in Hong Kong.

Regrettably, many of the improvement proposals, including the proposal for practical schools under debate today, are still far from realization. Given the fact that this particular proposal is neither controversial nor expensive, I can see no reason why the Government does not fulfil its promise by setting up practical schools earlier, so that all school age students eligible for enrollment at grammar school may genuinely benefit from nine years of free education.

As the supervisor of a number of schools, I understand that students who lack interest in academic advancement may cause nuisance to the other students in the classes, and may also create enormous pressure on the teacher.

These students dillydally in the school only to kill time until their "nine-year sentence" to compulsory education is over. In fact, statistics provided by the Education Department revealed that many students play truant or even drop out from schools. They strongly resist the community's benevolent policy of providing them with nine years of free education.

Where does the problem lie? Education Commission Report No. 4 (ECR4) has identified both the causes and the solutions. However, the first practical school is not available until next year when the renovation works is completed. And yet we have to wait with even more patience for the second or the third practical school.

I give my full support to Mrs Elsie TU's motion. I believe that the Government not only has to put the first practical school into operation as soon as possible, but also to expedite a review of the demand for practical school places and the completion dates of practical schools in order to deal with the problem before us.

On basis of the truancy rate for Forms One to Three students, the ECR4 estimated that there are about 2 000 students who are demoralized in their studies. However, the number of Primary One to Form Three dropouts in the 1993 school year, as revealed by Education Department statistics, was over 8 100. Even after discounting factors such as emigration and omission to report after the school's recruitment exercise, over 30% of them are *bona fide* dropout. By deduction, the anticipated 1 000-odd places to be provided by the three proposed practical schools can hardly cope with the existing number of students who are not interested in the conventional curriculum or find it difficult to adapt to. It is all the more worrying to find that, apart from the long-established Hong Kong Sea School, not even one practical school has ever started recruiting students.

In addition, the report of a survey conducted by the Hong Kong Federation of Youth Group among youngsters in mid-1993 indicated that more than 40% of the interviewed juvenile gang members and youths who have broken away from such gangs admitted that they had kept on going to schools on a nonvoluntary basis. Another 40% of the respondents indicated they

intended to terminate their studies after finishing the current school year, mainly due to their "inability to catch up with the classes" or "lack of interest".

Hence it is essential for us to provide these youngsters with an alternative stream of education which are different from conventional education in terms of the teaching mode and contents. They may therefore study in practical schools where they are subject to fewer restrictions and may enjoy a more active teaching style, so that they can really excel in skills they acquired. To clutch them within the mainstream education may, to a lesser extent, waste their time, belie their parent's expectations and throw the taxpayers' educational subsidies down the drain. But to a greater extent, retaining the students in the mainstream education may give rise to groups of frustrated youths on the brink of becoming juvenile delinquents, jeopardizing the peace and progress of the community.

However, there is one more point that I would like to address. For the students, to attend practical schools may be a very good option, but it may not be so in the eyes of their parents. We must therefore exercise extreme care in tackling this problem by putting more efforts into enhancing the parents' understanding of the advantages that will be brought to their children if they attend practical schools. I really do not wish to see such an excellent plan fail at the eleventh hour.

Most parents would like to see their children strive for advancement within the mainstream education, so that they may pursue the so-called high-class jobs in the future. A common example can be found in the promotion of mother-tongue teaching which will be met with opposition from parents who fear that it will undermine their children's proficiency in the English language. Prevocational schools face the same sort of pressure. Some of them seek to emulate the conventional grammar schools in terms of their orientation of teaching and even the school names. This can be ascribed to the labelling effect, that is, the general consensus among the community still regards grammar schools as the mainstream and any form of education outside the mainstream is regarded as inferior.

We have to make the community accept that the two Chinese sayings, "students of different aptitude involve adopting different teaching strategies" and "one may distinguish himself in any trade", are not empty words. These are the actual objectives that the community should aim to achieve. We have to pave a thoroughfare, not a cul-de-sac, for our next generation..

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

MR CHEUNG MAN-KWONG (in Cantonese): Mr President, I believe Members will not oppose the motion before us today. In fact, it seems that the Government has all along been quite helpless in dealing with young people who have deviated from the mainstream teaching model. The known figure for last

year's drop-outs came close to 6 000 while the number of young people who took drugs or indulged in abusive use of soft drugs even multiplied exponentially. Such figures are actually warning signs to remind the Government of the need to deal with the issue in a more positive manner so that the students will not be neglected and left to their own devices.

According to the Education Commission Report No. 4 (ECR4), practical secondary schools were to be set up to provide unmotivated students with a curriculum emphasizing practical skills so that they can go out to work or join apprentice schemes when they complete their junior secondary education. However, Mr President, there is one point I consider more important and that is that practical schools must provide students with the kind of specific curriculum, training and activities that they require so that students who cannot adapt to the mainstream education can, through joining this type of schools, restore their confidence, build up their character and cultivate the right outlook on life.

For this reason, education in practical schools, which is described as "practical", is not a matter of whether students take grammar or technical subjects but mainly a matter of human education. We should understand that these students are losers or even castoffs from grammar schools or other types of schools. The emphasis of practical schools should, therefore, be placed on ways to heal the traumas students suffered under an educational system not suitable to them. Practical schools should offer them an opportunity to grow up, recuperate, face life in an optimistic manner and to restore their hopes. None other than this will constitute the most practical and precious education in their long drawn out life journey.

Mr President, it is really feasible for the Government to address student problems in a specific manner by setting up different types of schools tailored for students with study problems caused by different reasons. However, although categorization is clear, the implementation of policies is muddled. At present there is only one practical school in Hong Kong. Yet, even for students referred through the Education Department, an overwhelming majority of them have not been assessed by educational psychologists. Students are normally referred without any professional assessment as to whether they are unmotivated, bad in conduct or poor in academic performance. In September this year, the Secondary School Places Allocation System will be extended to practical schools. Will schools admit the right students and will students enter the right schools? Both sides can, just like a prearranged marriage without the parties ever meeting each other beforehand, only rely on guessing. If students are so unlucky as to have guessed wrongly and chosen the wrong school, they have to face the fate of being referred to other special schools or dropping out again. We must understand that this guessing process is both painful and a waste of time to teachers, social workers and students alike.

Mr President, I previously spoke to teachers and social workers in practical schools who reflected another important issue and that is that the

curriculum in practical schools incorporates no special feature that specifically addresses the students' needs. The term "specifically addresses" refers to a curriculum specifically designed for putting unmotivated students on the right track instead of merely increasing or reducing the proportion of grammar subjects or technical subjects. Strictly speaking, there is not much difference in the curricula between the existing practical schools and prevocational schools. Given such a curriculum arrangement and such a method of allocating students, I am afraid practical schools may, along the line of this development, become another type of prevocational schools or Band 6 or even Band 7 schools. For this reason, it behoves the Government to review the curriculum as soon as possible instead of imposing unilaterally the hard-and-fast curriculum on the students.

Mr President, the target of practical schools is to provide students with an alternative choice and an alternative way out. For this reason, when the Government draws up the curriculum, it should put the emphasis on diversification of content and form to make them as fresh and sprightly as possible in order to suit students' individual needs. We can, on such a basis, consider the adoption in practical schools of a flexible credit unit system under which students will be allowed to select their own combination of subjects apart from taking individual compulsory subjects. Not only can such a system accord with individual students' will, interests and needs but it can also cultivate students' sense of participation and the sense of being masters of their own affairs. Yet, relaxing the choice of subjects does not mean relaxing discipline training. In fact, it should be another key teaching point in practical schools to cultivate students' knowledge of the importance of discipline and to rectify their undisciplined, recalcitrant and rebellious attitude. For this reason, the prerequisite of implementing human education in practical schools is the presence of caring and professionally trained teachers coupled with appropriate moral education.

Finally, Mr President, I would like to remind the Government to make no mean effort to promote practical schools. It should introduce and propagate the contents and targets of practical schools extensively among schools, parents and students. This can, on the one hand, enable students to have correct knowledge and sufficient psychological preparation before entering the practical schools and, on the other hand, reduce as far as possible the community's misconception and prejudice against practical schools. Mr President, the situation we most loathe to see is the community's stigmatization of practical schools, which offer students an alternative choice, by conferring on them the unfavourable title of "poor students' shelter". This has made students with real needs shrink from this type of schools. Is this not another sort of pain to students and a waste of resources to the community?

Mr President, with these remarks, I support Mrs Elsie TU's motion.

MRS SELINA CHOW (in Cantonese): Mr President, having participated in the compilation of the Education Commission Report No. 4, I am glad to support Mrs Elsie TU's motion today. Nearly five years have elapsed since the publication of that report, but one of its important proposals, namely the setting up of practical schools, has still not been implemented. Some may argue that it has been implemented, but only in the form of one practical school set up so far. Such pace of progress is indeed regrettable, very inefficient and inconsistent with the usual efficiency of Hong Kong, or indeed of the Administration.

I believe Members will understand that before the introduction of the nine-year compulsory education in 1978, many 12-year-old children who had to leave schools because they could not afford schooling or did not have the intelligence or interest to study could take up trade apprenticeship. But since 1978, these children have been forced to continue with school education and have constituted a big problem. Members are aware that most of the problems concerning adolescents, especially those between 13 to 15 years of age, are due to their inability to catch up with the curriculum from Form I to III or their lack of interest in studying. Hong Kong is now a diversified society where demands for education are diversified, too. In this light, practical schools can in fact play a very important function. The demands of society and the parents have diversified and parents are undeniably more far sighted than before, evident in the change of their attitude towards vocational schools, technical secondary schools and other types of alternative education. If the Administration remains inert in implementing the practical schools programme, it will not be helpful at all to eliminating the prejudices of parents or members of the community in this regard. So I hope that the Administration can step up its effort because by so doing it will not only be providing a way out for these youngsters, but will also make these talents available to society. If we succeed in training these youngsters, we will be turning them from prospective criminals or bad elements of society into useful pillars of society. I earnestly look forward to being informed in the near future of the schedule, substance and details of the Administration's plan in regard of practical schools. But I always consider it most important for us Members to step up our effort in requesting the Administration to take account of this matter in its budgeting. In the next two to three years, if we can bear in mind the need for practical schools and request that the Administration allocates more funds for this purpose, I believe that it will be very helpful in giving impetus to the setting up of more practical schools.

MR SZETO WAH (in Cantonese): Mr President, the key to any successful programme is the availability of resources. Otherwise, it is only a paper programme with mere posturing and to no practical avail. Such a programme only aims at pleasing the public with a claptrap and will only expose the lack of sincerity on the part of those who formulated the programme because no practical results come out of it at all. Today, I would like to query the Government on the progress of and staff establishment for this programme — this in essence boils down to the problem of resources.

First, I have to point out that there is only one practical school in Hong Kong. Even though there will be three more to come on stream as proposed, the total number of places provided is only 1 800. This number is estimated according to the number of school drop-outs between 1983 and 1985. The Government then thinks that this is the number of students who need to go, and are suitable for going, into practical schools. Yet, everything changes over 10 years of time. Today, the number of drop-outs rises to over 5 000. It is indeed necessary for the Government to be pragmatic, to re-estimate the demand for practical schools so as to tie in with the actual social situation. Otherwise, the Government is simply burying its head in the sand to deceive itself and others as well.

The estimate of 1 800 unmotivated children is of course unrealistic. Yet what is more questionable is that the Practical School Scheme, which should be implemented as soon as possible, was proposed in 1990 but has to wait till 1997 for full implementation. In other words, the Government has to spend as long as seven years to provide the 1 800 places. Such a snail-like progress not only causes great disappointment, but at the same time reflects the lack of sincerity on the part of the Government in solving problems.

The Government once again shows its lack of sincerity by adopting a miserly approach with regard to the staff establishment of practical schools. As present, there are 30 students in each class of the practical school, which is only five persons less than that of general secondary schools. For a school which aims at individual counselling, a teacher has to have the skill of the Monkey King — who, by plucking a hair and blowing it, can clone numerous doubles of his own self — before he can look after 30 students at the same time. Otherwise, to maintain classroom discipline is already a very difficult problem, let alone individual counselling which requires more contact between teacher and student.

Not only must the Government address the problem of class size, but it must also make appropriate improvements in social worker staffing. At present, the Hong Kong Sea School has three social workers to look after 450 students. Each social worker has to deal with 100 cases and to carry out follow-up work one year following the students' graduation as required. According to the preliminary estimate of the practical school's social workers, about 40% of their students come from single-parent families. They need to take care of students who have very complicated backgrounds, spending much time on family visit, employment counselling and even attending court hearings. We can indeed imagine how strenuous their work is. The ratio of school social workers to students in special schools is, at the moment, 1:70, while that in practical schools is twice as worse. In the circumstances, the social workers can only deal with urgent and serious cases but can do nothing to carry out preventive work. The staff establishment of social workers in practical schools should indeed be the same as that in special schools.

One cannot make bricks without straw. If there are no adequate resources and manpower to implement a reasonable policy, how can we be optimistic about this policy and the programme arising from it? And how can we then expect parents and students to have confidence in the practical schools?

I do not want to see the Government turning the Practical School Scheme into idle talk.

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

MR HOWARD YOUNG (in Cantonese): Mr President, I find Mrs Elsie TU's motion today which urges the Administration to provide practical schools on an extensive basis very timely and appropriate. It also reflects Mrs TU's profound insight into the future development of Hong Kong's education system. Mrs TU has described just now the situation when she was a teacher in Britain several decades ago. Britain has a very good education system. But as far as I know, it has also undergone tremendous changes in recent years to the effect that people have now changed their concept that it is best for students to attend grammar schools. In fact, children may not necessarily follow the path of going through primary school, secondary school and then university. I know that in Britain many secondary school graduates choose to study courses in industrial technology offered by the polytechnics. Some even ask their parents to let them suspend their studies for a year in order to do some travelling to see the world, or to start to work so as to gain more experience of life. It can therefore be seen that people's views about the true essence of education are changing. What about the situation in Hong Kong? In the past, due to the shortage of university places, not every secondary school student could enter the university. But the situation has now improved, and many parents and students have also changed their ideas about education. Although people have not completely repudiated the old concepts that "with a good knowledge of Chinese, English, Mathematics, Physics and Chemistry, you need not be afraid wherever you go" or "if you are good at Literature, History and geography, you can always earn a living", their attitudes have been gradually changing.

Hong Kong is a diversified society and we need all sorts of talents. Many students perform badly in schools not because of any deficiency in their intelligence nor any faults on the part of their teachers, but because some of the subjects simply cannot arouse their interest. I think that what is most important in a learning process is an interest in that subject. Only with interest can one's potential be brought into play.

Recently, some 20 secondary schools have introduced the subject of tourism. This is, I think, the right way forward because Hong Kong really needs people who are trained in this aspect. This kind of subject is also very beneficial to the career prospect of the students taking the subject. Some students may not be interested in subjects like mathematics, physics or chemistry, but they may have great potential in art and design. So I think if

secondary schools can provide more practical subjects like these, allowing students to choose to study subjects in which they are interested, it will not only be extremely helpful in developing the strong points and talents of the students, but will also bring benefits to society, the students, the parents and also the various trades and industries in need of different kinds of trained personnel.

With these remarks, Mr President, I support Mrs Elsie TU's motion.

DR TANG SIU-TONG (in Cantonese): Mr President, on the occasion of the motion debate today, I will speak for myself and for members of the public our discontent with the flaws in the current education policy. It is hoped that the Government will expeditiously take corrective action to improve its policy on secondary education and to address the social ills and youth problems arising from its erroneous policy. It is incumbent on the Government to provide good universal education to the public; on the part of members of the public, they will later repay society. Such is the cause-and-effect relationship. Education is therefore an important asset of our society. The Government must never treat it lightly.

Much of the current education policy needs to be reviewed. The nine-year compulsory education programme is a particularly serious mistake. Under such a programme, many schools crazily pursue the honour of being a prestigious school and close their doors on students who do not meet their elitist standards. This is in violation of the basic spirit of education, which is that education should be available to everybody without any discrimination. It also denies many students an opportunity to receive a good education. According to the materials released by the Education Department, 10 047 students dropped out of junior secondary schools during the three academic years from 1990 to 1993. This means an unusually high average of 3 349 junior secondary school drop-outs in each of those three academic years. It is also revealed that subsidized secondary schools advised 1 165 of their students to leave in 1989-90 and that the number increased to 1 214 in 1990-91. From these figures, we have reasons to believe that a significant number among the 10 000-plus drop-outs during the past three academic years were the victims of the elitist education policy. During the five months from May to September last year, my ward office received more than 80 requests for my assistance to find school places for some youngsters. A third of those youngsters were drop-outs. I believe that the same thing is happening in other districts.

It is basically an educational problem where school drop-outs are concerned. As some of the drop-outs have not yet reached the legal age for employment or are unable to go back to school, most of them simply idle their time away. Chances are that, if they are not careful, they may go astray and become problem youths. It is therefore very likely that such an educational problem may develop into a social problem.

The overall crime rate last year dropped by 1.6% compared with the year before last, but the youth crime rate involving youngsters under 21 years of age rose by 5%. The number of drug possession cases involving youths went up by 152%. The number of burglary cases involving youths rose by 105%. The number of serious assault cases involving youths rose by 24%. There were 4 158 drug abuse cases last year, up by about a third from the year before last. The number of drug abuse cases involving youths between 11 and 17 years of age increased by more than 50%.

A friend of mine on the Fight Crime Committee told me that a vast majority of the youth crime and drug abuse cases involved junior secondary school drop-outs. This shows what serious problems will arise when school drop-outs turn to crime. The Government must never turn a blind eye to this development. I think that extending the term of compulsory education from nine to 11 years will help prevent the problems of massive school drop-outs. At the same time, suitable practical secondary education should be made available, as an alternative, to junior secondary school students who show no interest in, or cannot adjust to, the standard curriculum. This will help mitigate the problems.

Mr President, though it has accepted the recommendation of Education Commission Report No. 4 (ECR4) to set up practical schools, the Government should be taken to task over its moving at a snail's pace to carry out the recommendation, which so far has not been fully implemented. The Hong Kong Sea School became Hong Kong's first practical school in September 1990. This school has in fact existed for over 20 years. The Government merely joined the school in co-sponsoring certain introductory courses. It tried to find the easy way out by making use of the school's facilities. Then it could tell the public that it has done its part. It was not until 1992 that the Hong Kong Sea School introduced hotel courses, commercial courses and technical courses and thereby laid the foundation for developing into a practical school. The second practical school, converted from an a vacant secondary school at Au Tau, Yuen Long, will open in September this year. The other two will not open until 1997 and 1998 respectively. That is to say, it will take 10 years for ECR4's recommendation to be fully implemented. Does it really have to take so long or does the Government lack sincerity? I do not want to speculate. I just hope that the Government will make all due haste.

In addition, I hope that the Government will educate members of the public the right attitude towards practical schools. Practical schools are different from regular secondary schools only in curricula; their students are not different in academic attainment or in quality. As far as I know, when the Yuen Long District Board was discussing whether to accept a practical school in their district, some members raised objection to this idea on the ground that they did not want to set up another school to admit Band 5 students. In this Council, too, some colleagues said that they did not want practical schools to

degenerate into "collection stations for education waste". Therefore, on top of building up a proper image for practical schools, the Government must be careful in handling the admission of students into practical schools. It must take care not to cause students of practical schools to feel inferior. The four practical schools will provide a total of 1 800 school places. I think that the Government should not be overly restrictive. In the light of the large number of school drop-outs during the past two or three years, I am afraid that the 1 800 school places probably will not be able to meet the demand. The Government should make a new assessment so as to forestall any shortage of school places later on.

Mr President, with these remarks, I support Mrs Elsie TU's motion.

MR WONG WAI-YIN (in Cantonese): Mr President, Education Commission Report No. 4 (ECR4) recommends that practical schools should be set up for about 1 800 unmotivated students and four such schools should be set up, one on Hong Kong Island, one in Kowloon, one in New Territories East and one in New Territories West. The Hong Kong Sea School on Hong Kong Island is one of them. The second practical school will be set up at Au Tau, Yuen Long, in September.

Many colleagues have already talked about the aims and functions of practical schools. Rather than going over the same grounds again, I just wish to raise one very important question which seems to have escaped the attention of many colleagues, namely, the relationship between practical schools and their dormitories or how important a dormitory is to a practical school. Mr James TO was the only one who had expressed the view that there should be more dormitory places. I remember that the Education Department, towards the end of last year, sent a paper in an urgent manner to the Yuen Long District Board, advising that a practical school would be set up on a refurbished school building at Au Tau and requesting that the District Board quickly gave its support to the idea so that the Education Department could ask the Legislative Council's Finance Committee to appropriate the necessary funds to enable the practical school to open in September this year. ECR4's recommendation was made in 1990. Why did the Education Department wait so long before rushing a paper to the Yuen Long District Board for discussion? What then happened was that the Yuen Long District Board could not find time for discussing the paper and the matter was referred to a special meeting of the District Board's social services and publicity committee, which I chaired. The committee held an extraordinary meeting to discuss this proposal of setting up a practical school at Au Tau. All members of the committee, including the co-opted members, were absolutely in favour of a practical school. Yet they criticized the proposal for too late in coming. On the other hand, many members and co-opted members were unhappy to find that the proposed practical school at Au Tau would not have a dormitory as recommended in ECR4. We were of the view that a dormitory as recommended in ECR4 was most important to a practical school. Officials from the Education Department present at the meeting also supported

and agreed that a dormitory was important to a practical school, but they regretted that the Education Department had neither the land nor the financial resources for building the dormitory. Members and co-opted members took issue with this. We argued back and forth for more than two hours but the Education Department still failed to commit itself to a timetable for the dormitory.

We appreciated that the Education Department could not provide a dormitory right away. But we hoped that the Department would commit itself to a timetable. It might be, say, two years, three years or even five years. The point was that we wanted a specific timetable for the dormitory. We did not want to have to wait indefinitely. It would be undesirable to see the school operate for, say, 10 years and there still would be no dormitory. In the end, the committee made a painful decision. If the Education Department failed to provide a timetable for the dormitory, we would not support the proposal to set up the practical school in Yuen Long. This did not mean that we would not support the school *per se* or the spirit or the principle involved. One must not lose sight of the fact that Au Tau, Yuen Long, is situated in a remote place. It is not easily accessible. The proposed school would admit students not only from nearby Yuen Long and Tuen Mun but also from Kowloon and even Hong Kong Island. The conditions of Tuen Mun Road and other relevant road network would be a headache to the unmotivated students from far away as they would have to get up very early in the morning and then brave traffic jams to get to Yuen Long. We were worried because these students were already showing no interest in going to school and some of them often played truant as they were from single-parent families or not in good terms with their families or their parents. It would be difficult or beyond imagination to induce these unmotivated students to travel all the way to go to the practical school at Au Tau, Yuen Long, in the morning and again to make the same long journey to go home after school. That was why I insisted on there being a dormitory. Fortunately, our decision was supported by the Yuen Long District Board at a general meeting. It also put pressure on the Education and Manpower Branch

At the beginning of this year, we were glad to learn that the Education and Manpower Branch finally agreed to seek the necessary funds from the Finance Committee. It was also disclosed that the dormitory would be built next year, that is one year behind schedule. I am grateful to all parties concerned for their support. The incident also shows the Government's frame of mind as far as practical schools are concerned and how much importance the Government attaches to practical schools as part of our education system.

Many colleagues noted critically a moment ago that the Government did not provide enough resources to speed up the establishment of practical schools. It is plain for everyone to see. Worse still, when it planned to set up a practical school, the Government failed to ensure that it would be complete with a dormitory which is an important part of the school. This also shows the Government's attitude towards practical schools. The Government simply disregards the interests of the unmotivated students. I hope that the two

practical schools yet to be set up in Kowloon and New Territories East respectively will be complete with dormitories. I hope that, in his reply later, the Secretary for Education and Manpower will promise to find suitable sites for the building of dormitories. From the answers already given by officials of the Education Department, we know that, in one case, a site had originally been set aside for building a dormitory for a practical school, but the site was subsequently auctioned off because it was too valuable and now the Government is looking for a replacement site. I hope that, in his reply later, the Secretary for Education and Manpower will make a serious promise to provide dormitories so that practical schools could be most effectively serving its purpose.

Mr President, with these remarks, I support Mrs Elsie TU's motion.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, first of all, I should like to thank the Honourable Members who have spoken in this evening's debate. They have put forward many useful and positive opinions. I also welcome this opportunity to account for the Government's policy in respect of practical schools and what have been and will be done about it.

Members who spoke earlier in this debate have already had a full grasp of the background, policy orientation and actual curriculum arrangements for practical schools. I therefore do not intend to spend time on further explaining the arrangements for various aspects of practical schools. I believe the best way is for me to sum up the many points raised by Members and then offer explanations point by point. At the same time, I will account to Members what we have done and what we will do in these areas.

I believe Members' comments can be summed up into seven topics as follows:

First, the speed of school construction; second, demand for practical school places; third, method of referral to practical schools; fourth, educating parents and publicity; fifth, curriculum arrangement; sixth, resources and seventh, boarding places.

First, the speed of school construction. In essence, as far as the Government's process of setting up practical schools is concerned, the present speed with which we build these schools falls in line with our initially perceived speed. We initiated a pilot study with the Sea School in 1990. Right from the very beginning, we intended to move on with the second step only after we have evaluated the effectiveness of the curriculum after the three-year pilot study is completed with the Sea School. This is very important as we wish to conduct a more comprehensive evaluation, by way of the three-year curriculum, on the effectiveness and curriculum of practical schools and the school facilities before deciding whether or not we should commit resources fully to practical schools.

Right after the first batch of students graduated in 1993, the Education Department made an evaluation expeditiously. The results have been encouraging. We found that students enrolled at the first practical school generally feel more interested in the curriculum than in the old, particularly so in practical subjects such as computing.

Also, the great majority of the enrolled students continued their study in the Sea School until they reached 15 and took up employment or until graduation at Secondary III, while quite a number of them continued with further studies (as pointed out by Members just now). Some 17% of the graduated students went on to study in Secondary IV of ordinary grammar schools, while nearly 80% continued their study in technical institutes. These results are really encouraging.

Moreover, the response from teachers or parents generally indicated that there have been improvements in these students' behaviour and their relationship with schools and parents. The students are also reported to have higher morale in learning. Given the encouraging results of the evaluation, we then set in motion the process for the construction of the second Practical School at Au Tau. The Finance Committee of this Council approved the necessary funds for the renovation and the school is expected to receive its first intake of students in September this year. While it has been only one short year from evaluation to the first intake of students by the second practical school, I believe such a pace by the Government should not be criticized as "a snail's pace". Meanwhile, we do not stop with the second practical school for in fact we are actively planning for the third and fourth practical school respectively in Sham Shui Po and New Territories East.

Second, the demand for practical school places. Quite a number of Members mentioned, and quoted recent press reports in doing so, that there were some 8 000 school drop-outs in 1992-93. Does it mean that the Education Commission's assessed demand in 1990 has fallen short of the actual situation? In fact, we must analyse these more than 8 000 cases carefully. Since practical schools are targeted at junior secondary students aged 12 to 15, if we take away 30% who have transferred schools, a further 20% who have left Hong Kong for various reasons and another 20% who have reached 15 and decided to take up employment from the more than 5 000 secondary school drop-out cases, we found that, upon the re-assessment in 1992-93, the actual demand for Secondary I places in Practical Schools has maintained at about 600 places. Multiplying this figure by a factor of three, then the overall demand for practical school places will still maintain at about 1 800 — a figure basically the same as the one assessed by the Education Commission at that time. The number of practical schools currently under planning therefore remains at four.

The method of referral is a question we consider very important. We absolutely, absolutely do not wish to see practical schools turned into "refuse collection points". Therefore, all cases of referral, either by schools or social workers, must be assessed by an assessment committee. The committee,

comprising educational psychologists and school inspectors, carries out a very stringent assessment process for each and every case. At the same time, parents will be fully consulted before their children are referred to a practical school upon their agreement. There is therefore no question of indiscriminate referral or placement. Indeed this is a very elaborate and extremely cautious process of referral. I hope Members may well trust this referral method.

Fourth, we also attach great importance to educating parents on a correct concept about this facility and publicizing the concept. For the pilot study at the Sea School in Stanley, we organized visits, media coverage and the like in order to enhance the public's understanding about the actual life of the enrolled students. Prior to commencing the recruitment and enrolment of students for the Au Tau Practical School, we will continue our publicity effort in this respect more vigorously. Parents may need a long time to understand practical schools, or even to do so through personal experience. The experience we get from the first practical school, that is, the Sea School has indicated that many children did have a certain degree of improvement as a result of studying in this school. Therefore, generally speaking, the parents' response has been encouraging.

Fifth, the question of curriculum arrangements. We absolutely agree with some Members' opinion that curriculum arrangements must be flexible. In fact, with the Stanley experience we have already adopted such a flexible approach. Initially we would design a curriculum and when we discover that some students are especially interested in certain art and craft subjects or, with the change in trend, some relatively more trendy subjects such as fashion design, hairstyling and even facial care, we would then introduce such subjects. We are therefore keeping an open and flexible attitude towards this. However, here I must stress that we do not wish to turn practical schools into a cul de sac. We hope that students of practical schools, given the aptitude and interest, can keep their options open so that on graduating from Secondary III, they may transfer to ordinary schools or technical institutes. We must therefore retain a certain number of academic subjects such that students can be prepared for bridging with the ordinary secondary school curriculum while we cultivate among them sufficient interest and ability.

Sixth, resources. Resources are indeed not our biggest problem. What is important is our hope that resources be suitably utilized to achieve our perceived goals. The first practical school proved that we have utilized the resources appropriately, and that is why we are now prepared to progressively commit resources to the second, third and fourth practical school.

Finally, the question of boarding places. I should like to thank Mr WONG for his opinions expressed earlier. They reminded us of some areas which warrant a certain degree of improvement when we plan the practical school at Au Tau. As far as the provision of boarding facilities is concerned, we are currently planning on basis of the 25% assessed demand. We do not want all practical school students to live in the school as it would be better for them if they could return home after school (perhaps the parents may want them to

return home as well). However, according to our estimation, around a quarter of the students might more suitably stay at the school for their study due to various problems with their family. Under such circumstances, we would provide boarding facilities to these students. The 25% was exactly calculated on this basis. We would include this 25% boarding arrangement in our planning proposal when we set about planning for the third and fourth such school.

I have just now responded briefly to the various concerns raised by Honourable Members. But I wish to make one further point that practical schools cannot be the only, nor is it the best, way to resolve the behavioural and learning problems of students. In addition to practical schools, we have a series of other measures to enhance the provision of counselling service which include the provision of more guidance teachers in ordinary secondary schools and a progressive increase in the number of school social workers. Beginning with this year, the Education Department has set up a special team, working to plan for a modified curriculum tailored specifically to cater for the low achievers in schools (that is, the commonly known Band 5 students). Moreover we are also planning for the programme of Skills Opportunities Schools which will be targeted at broadly the bottom 0.9% of students who have severe learning difficulties. The Administration wishes to help students who need assistance by means of introducing gradually the various measures mentioned above.

Mr President, I have this evening outlined the efforts which the Administration has and will put into practical schools. I hope this has convinced Honourable Members of the Administration's sincerity in this policy.

For the reasons I have given in the above, Mr President, the Administration supports the motion.

PRESIDENT: Mrs Elsie TU, you may reply and you have four minutes 18 seconds.

MRS ELSIE TU: Yes, I will be very short. I find the reply from the Administration extremely complacent. We have simply been told things that we have known all along. The Sea School has been there for a long, long time and we know about its success, and that is why we are asking for more of the same thing, or even better.

I want to thank my colleagues for their support. They have given many practical ideas for practical schools and many additional ideas which I hope will be put into practice. I do not think it is of any use telling us that there are not so many students now, that there are only 1 800, the same as in 1983.

I have been in school for 40 years in Hong Kong, and I have seen the conduct of the students getting worse simply because they cannot cope with the

syllabus. It is not because the children are bad. It is because they simply are not interested in a syllabus with which they cannot cope.

I think that it is time for the Education Department to take a look at what the actual facts are and talk to the teachers instead of just talking about theories and ideas that are already out of date. I am sure the number of drop-outs must be in the thousands and not just 1 800.

I find that the students' behaviour has become worse for another reason. When there was no schooling for them that was bad enough, but at least at the age of 13, 14, 15 they could go to work and do a small job and keep them out of mischief. Now, they have nothing to do. They are not allowed to go and work and they are left in school or at home, or on the street doing nothing, and this is what is causing — I would not say it is the only cause of — bad behaviour and moral deterioration, but it is one of the causes. And I do not think the Education Department or the Government in general is facing up to this problem, and I am urging them to do so.

Mr President, I would like to impress upon the Government that I at least am, and I am sure my colleagues are, not satisfied with the answer.

Question on Mrs Elsie TU's motion put and agreed to.

Adjournment and Next Sitting

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 4 May 1994.

Adjourned accordingly at twenty-two minutes to Eleven o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Supply of Services (Implied Terms) Bill, Unconscionable Contracts Bill and Bedspace Apartments Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

WRITTEN ANSWERS**Annex I****Written answer by the Secretary for Security to Dr LEONG Che-hung's supplementary question to Question 2**

Staff of the British Embassy in Manila last visited Mr AU on 9 March. He was cheerful and, although he claimed to have lost weight, he appeared to be in good health. Mr WONG was also asked to be present, but he did not show up; he was last seen by British Embassy staff in December. In response to enquiries on 7 May, the prison infirmary advised the British Embassy that neither Mr AU nor Mr WONG had sought medical attention.

Annex II**Written answer by the Secretary for Recreation and Culture to Mr Marvin CHEUNG's supplementary question to Question 5**

According to information provided by the Urban Services Department, Wembley International presented a paper concerning noise issues at the new Stadium to the Urban Council Board of Governors meeting on 22 February 1994. The Environmental Protection Department's objections, as detailed in its letter dated 3 February 1994, were annexed to that paper for the information of the Board of Governors. In the paper, Wembley undertook to continue to liaise with the Environmental Protection Department with a view to operating large-scale pop concerts at noise levels acceptable to all interested parties.

Annex III**Written answer by the Secretary for Planning, Environment and Lands to Mr Frederick FUNG's supplementary question to Question 5**

The Director of Urban Services has advised that a diary covering all the major events between April 1990 and April 1994 was sent to the Honourable Frederick FUNG on 29 April 1994.

WRITTEN ANSWERS — *Continued***Annex IV****Written answer by the Secretary for Planning, Environment and Lands to Mr Moses CHENG's supplementary question to Question 5**

The Secretary for Recreation and Culture wrote to the Chairman of the Urban Council on 11 April 1992 setting out the Government's position on the future management of the new stadium. No reference was made to the noise problem as the discussion then was about how the stadium should be run.

The Environmental Protection Department raised the matter of noise on 4 May 1992. Its concern was conveyed to the Urban Services Department (USD) by the Architectural Services Department on 6 May 1992. The Urban Council was not briefed about the noise problem at the time as the USD's view was that the noise problem was not a policy issue but primarily a technical/operational matter which should be addressed by experts in the field. The matter was subsequently taken up by Wembley International (HK) Limited after its appointment as Stadium Manager in early 1993.

The Urban Council Working Group on the Redevelopment of the Hong Kong Stadium agreed on 29 June 1992 to recommend to the Council that it should take over the management of the new stadium, and this recommendation was accepted by the Standing Committee of the Whole Council on 7 July 1992.

Annex V**Written answer by the Secretary for Recreation and Culture to Mr TIK Chi-yuen's supplementary question to Question 5**

The Urban Services Department has advised that Wembley International, being the Manager of the Stadium appointed by the Urban Council, were given authority to accept bookings for the use of the stadium. The enquiry from the promoter of the Alan TAM Concert was made in October 1993 and the booking was confirmed by Wembley International in February 1994, that is, before the stadium opening. Wembley International informed the Urban Council that they had accepted the booking for this concert in their monthly report dated 1 March 1994.

At its meeting held on 19 April 1994, the Board of Governors, in view of the various noise-abatement measures introduced by the stadium and the promoter and the uncertainty at the time that the Alan TAM Concert would violate the noise limits, recommended to the full Urban Council that the Alan TAM Concert should be allowed to proceed on 22 to 24 April. In considering

WRITTEN ANSWERS — *Continued*

this recommendation, the full Urban Council decided on 19 April 1994 to allow Day 1 (April 22) of the concert to proceed, but to review on 23 April (Saturday) morning whether the Day 2 and Day 3 concerts (23 and 24 April) should go on. At the same time, the promoter was reminded by Wembley International to meet the noise requirements.

At a special meeting of the Whole Urban Council held on Saturday morning (23 April 1994), the Urban Council decided to allow the concerts to continue on 23 and 24 April 1994. In reaching this decision (voting was 18 for, none against, and three abstentions), the Urban Council took account of the following factors:

- (a) readings of the noise levels generated at the 22 April 1994 concert;
- (b) the interests of ticket holders (numbering almost 70 000 who had paid some \$14 million);
- (c) the concern of nearby residents;
- (d) legal and financial implications for the Council;
- (e) the Council's overall responsibilities and the possible public order implications of cancelling the 23 and 24 April concerts at short notice; and
- (f) the promoter's efforts to abate the noise.

